JOURNAL

of the

MICRONESIAN CONSTITUTIONAL CONVENTION



of 1975

VOLUME I

J O U R N A L

OF THE

MICRONESIAN CONSTITUTIONAL CONVENTION

OF

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VOLUME I

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FOREWORD

The Micronesian Constitutional Convention was held in Saipan, Mariana Islands, commencing on July 12, 1975, and adjourning sine die on November 8, 1975, with a total of thirty days of recess. The Convention was composed of sixty delegates from a wide cross-section of the Micronesian population, including traditional leaders, members of the Congress of Micronesia, and government officials both from the Executive and Judicial branches of the Government, as well as private citizens. The success of the Convention in writing the Constitution for the Federated States of Micronesia marks a significant step toward self-government for Micronesia in the course of a 30-year period as a United Nations Trust Territory administered by the United States of America.

As created by Public Law No. 5-60, enacted by the Fifth Congress of Micronesia and approved by Deputy High Commissioner Peter T. Coleman on March 26, 1974, the Convention received its funding from both the United States Congress and the Fifth and Sixth Congresses of Micronesia.

The following pages represent the documentation of the official records and activities of the Micronesian Constitutional Convention, compiled in a two-volume Journal.

Volume I starts with a signed copy of the Constitution for the Federated States of Micronesia as it was approved by the Convention on November 8, 1975. Also contained in this volume are listings of the Convention officers, delegates in alphabetical order, memberships of Standing and Special Committees, as well as the Convention staff by names and titles. Recorded on pages 1 to 603 are the verbatim minutes of the daily proceedings of the Convention's Plenary Sessions.

Volume II contains the summary minutes of the Committee of the Whole debates and deliberations; Standing and Special Committee Reports; Committee Proposals; Miscellaneous Communications and Communications from the Trust Territory Government, and Petitions and Memorials. Also included in this volume are the Convention's Official Rules of Procedure; enabling legislation (P.L. 5-60, as amended, together with appropriation laws); Resolutions adopted by the Convention; Roll Call Votes on final actions on Committee Proposals, and the Status Table. Appearing from page 1058 onward is a Cross-Reference Index designed to aid users of the Convention Journal in looking up and double-checking major topics which were discussed and deliberated on by the Convention. Entries in the Index are arranged in alphabetical order by subject matter and by delegates' names. No cross-indexing was done in reference to the Status Table which itself serves as an index in that it cites by short titles, introducers, dates of introduction and Committee assignments all Delegate Proposals submitted by individual delegates or groups of delegates. The Status Table also contains short titles of Committee Proposals and designations of Standing or Special Committees submitting them, together with dates and Committee Report designations, as well as all floor actions taken on any given Committee Proposal. The various Resolutions, whether adopted by the Convention or not, also appear in the Status Table in order of introduction and by introducer.

A word of acknowledgment and gratitude is due to the following Convention staff for their contributions to the overall compilation of the Convention Journal: Asterio Takesy, Clerk of the House of Representatives of the Congress of Micronesia, who alternated with the Secretary in checking over the daily session journals before submission to the Convention for adoption; Connie Rogers, for overseeing the final compilation; Joan Boileau, who in addition to taking daily verbatim minutes, did the bulk of the typing work; Stacey Pounds and Janet Craley, who together with Joan Boileau and Evalyna Akimoto, served as the Convention's Journal Clerks; Helen Di Stephano and Marina Earl for their typing assistance; Norma Beadles and Helen Callison for proofreading the entire document; and Scott Stege for working meticulously on the entries to the Cross-Reference Index.

This Convention Journal is dedicated to the future Government of the Federated States of Micronesia, whose foundation is set forth in the provisions of the Constitution for the Federated States of Micronesia adopted by the Micronesian Constitutional Convention on November 8, 1975.

January, 1976

Victorio Uherbelau
Convention Secretary

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CONSTITUTION OF THE FEDERATED STATES OF MICRONESIA

PREAMBLE

WE, THE PEOPLE OF MICRONESIA, exercising our inherent sovereignty, do hereby establish this Constitution of the Federated States of Micronesia.

With this Constitution, we affirm our common wish to live together in peace and harmony, to preserve the heritage of the past, and to protect the promise of the future.

To make one nation of many islands, we respect the diversity of our cultures. Our differences enrich us. The seas bring us together, they do not separate us. Our islands sustain us, our island nation enlarges us and makes us stronger.

Our ancestors, who made their homes on these islands, displaced no other people. We, who remain, wish no other home than this. Having known war, we hope for peace. Having been divided, we wish unity. Having been ruled, we seek freedom.

Micronesia began in the days when man explored seas in rafts and canoes. The Micronesian nation is born in an age when men voyage among stars; our world itself is an island. We extend to all nations what we seek from each: peace, friendship, cooperation, and love in our common humanity. With this Constitution we, who have been the wards of other nations, become the proud guardian of our own islands, now and forever.

ARTICLE I

TERRITORY OF MICRONESIA

Section 1. The territory of the Federated States of Micronesia is comprised of the Districts of the Micronesian archipelago that ratify this Constitution. Unless limited by international treaty obligations assumed by the Federated States of Micronesia, or by its own act, the waters connecting the islands of the archipelago are internal waters regardless of dimensions, and jurisdiction extends to a marine space of 200 miles measured outward from appropriate baselines, the seabed, subsoil, water column, insular or continental shelves, airspace over land and water, and any other territory or waters belonging to Micronesia by historic right, custom, or legal title.

Section 2. Each state is comprised of the islands of each District as defined by laws in effect immediately prior to the effective date of this Constitution. A marine boundary between adjacent states is determined by law, applying the principle of equidistance. State boundaries may be changed by Congress with the consent of the state legislatures involved.

Section 3. Territory may be added to the Federated States of Micronesia upon approval of Congress, and by vote of the inhabitants of the area, if any, and by vote of the people of the Federated States of Micronesia. If the territory is to become part of an existing state, approval of the state legislature is required.

Section 4. New states may be formed and admitted by law, subject to the same rights, duties, and obligations as provided for in this Constitution.

ARTICLE II

SUPREMACY

Section 1. This Constitution is the expression of the sovereignty of the people and is the supreme law of the Federated States of Micronesia. An act of the Government in conflict with this Constitution is invalid to the extent of conflict.

ARTICLE III

CITIZENSHIP

Section 1. A person who is a citizen of the Trust Territory of the Pacific Islands immediately prior to the effective date of this Constitution and a domiciliary of a District ratifying this Constitution is a citizen and national of the Federated States of Micronesia.

Section 2. A person born of parents one or both of whom are citizens of the Federated States of Micronesia is a citizen and national of the Federated States by birth.

Section 3. A citizen of the Federated States of Micronesia who is recognized as a citizen of another nation shall, within 3 years of his 18th birthday, or within 3 years of the effective date of this Constitution, whichever is later, register his intent to remain a citizen of the Federated States and renounce his citizenship of another nation. If he fails to comply with this Section, he becomes a national of the Federated States of Micronesia.

Section 4. A citizen of the Trust Territory of the Pacific Islands who becomes a national of the United States of America under the terms of the Covenant to Establish a Commonwealth of the Northern Mariana Islands may become a citizen and national of

the Federated States of Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months of the date he became a United States national.

Section 5. A domiciliary of a District not ratifying this Constitution who was a citizen of the Trust Territory of the Pacific Islands immediately prior to the effective date of this Constitution, may become a citizen and national of the Federated States of Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months after the effective date of this Constitution or within 6 months after his 18th birthday, whichever is later.

Section 6. This Article may be applied retroactively.

ARTICLE IV

DECLARATION OF RIGHTS

Section 1. No law may deny or impair freedom of expression, peaceable assembly, association, or petition.

Section 2. No law may be passed respecting an establishment of religion or impairing the free exercise of religion, except that assistance may be provided to parochial schools for non-religious purposes.

Section 3. A person may not be deprived of life, liberty, or property without due process of law, or be denied the equal protection of the laws.

Section 4. Equal protection of the laws may not be denied or impaired on account of sex, race, ancestry, national origin, language, or social status.

Section 5. The right of the people to be secure in their persons, houses, papers, and other possessions against

unreasonable search, seizure, or invasion of privacy may not be violated. A warrant may not issue except on probable cause, supported by affidavit particularly describing the place to be searched and the persons or things to be seized.

Section 6. The defendant in a criminal case has a right to a speedy public trial, to be informed of the nature of the accusation, to have counsel for his defense, to be confronted with the witnesses against him, and to compel attendance of witnesses in his behalf.

Section 7. A person may not be compelled to give evidence that may be used against him in a criminal case, or be twice put in jeopardy for the same offense.

Section 8. Excessive bail may not be required, excessive fines imposed, or cruel and unusual punishments inflicted. The writ of habeas corpus may not be suspended unless required for public safety in cases of rebellion or invasion.

Section 9. Capital punishment is prohibited.

Section 10. Slavery and involuntary servitude are prohibited except to punish crime.

Section 11. A bill of attainder or ex post facto law may not be passed.

Section 12. A citizen of the Federated States of Micronesia may travel and migrate within the Federated States.

Section 13. Imprisonment for debt is prohibited.

ARTICLE V

TRADITIONAL RIGHTS

Section 1. Nothing in this Constitution takes away a role or function of a traditional leader as recognized by custom and

tradition, or prevents a traditional leader from being recognized, honored, and given formal or functional roles at any level of government as may be prescribed by this Constitution or by statute.

Section 2. The traditions of the people of the Federated States of Micronesia may be protected by statute. If challenged as violative of Article IV, protection of Micronesian tradition shall be considered a compelling social purpose warranting such governmental action.

Section 3. The Congress may establish, when needed, a Chamber of Chiefs consisting of traditional leaders from each state having such leaders, and of elected representatives from states having no traditional leaders. The constitution of a state having traditional leaders may provide for an active, functional role for them.

ARTICLE VI

SUFFRAGE

Section 1. A citizen 18 years of age may vote in national elections. The Congress shall prescribe a minimum period of local residence and provide for voter registration, disqualification for conviction of crime, and disqualification for mental incompetence or insanity. Voting shall be secret.

ARTICLE VII

LEVELS OF GOVERNMENT

Section 1. The three levels of government in the Federated States of Micronesia are national, state, and local. A state is not required to establish a new local government where none exists on the effective date of this Constitution.

Section 2. A state shall have a democratic constitution.

ARTICLE VIII

POWERS OF GOVERNMENT

Section 1. A power expressly delegated to the national government, or a power of such an indisputably national character as to be beyond the power of a state to control, is a national power.

Section 2. A power not expressly delegated to the national government or prohibited to the states is a state power.

Section 3. State and local governments are prohibited from imposing taxes which restrict interstate commerce.

ARTICLE IX

LEGISLATIVE

Section 1. The legislative power of the national government is vested in the Congress of the Federated States of Micronesia.

Section 2. The following powers are expressly delegated to Congress:

(a) to provide for the national defense;

(b) to ratify treaties;

(c) to regulate immigration, emigration, naturalization, and citizenship;

(d) to impose taxes, duties, and tariffs based on imports;

(e) to impose taxes on income;

(f) to issue and regulate currency;

(g) to regulate banking, foreign and interstate commerce, insurance, the issuance and use of commercial paper and securities, bankruptcy and insolvency, and patents and copyrights;

(h) to regulate navigation and shipping except within lagoons, lakes, and rivers;

(i) to establish usury limits on major loans;

(j) to provide for a national postal system;

(k) to acquire and govern new territory;

(l) to govern the area set aside as the national capital;

(m) to regulate the ownership, exploration, and exploitation of natural resources within the marine space of the Federated States of Micronesia beyond 12 miles from island baselines;

(n) to establish and regulate a national public service system;

(o) to impeach and remove the President, Vice-President, and justices of the Supreme Court;

(p) to define major crimes and prescribe penalties, having due regard for local custom and tradition; and

(q) to override a Presidential veto by not less than a 3/4 vote of all the state delegations, each delegation casting one vote.

Section 3. The following powers may be exercised concurrently by Congress and the states:

(a) to appropriate public funds;

(b) to borrow money on the public credit;

(c) to promote education and health; and

(d) to establish systems of social security and public welfare.

Section 4. A treaty is ratified by vote of 2/3 of the members of Congress, except that a treaty delegating major powers of government of the Federated States of Micronesia to another government shall also require majority approval by the legislatures of 2/3 of the states.

Section 5. National taxes shall be imposed uniformly. Not less than 50% of the revenues shall be paid into the treasury of the state where collected.

Section 6. Net revenue derived from ocean floor mineral resources exploited under Section 2 (m) shall be divided equally between the national government and the appropriate state government.

Section 7. The President, Vice-President, or a justice of the Supreme Court may be removed from office for treason, bribery, or conduct involving corruption in office by a 2/3 vote of the members of Congress. When the President or Vice-President is removed, the Supreme Court shall review the decision. When a justice of the Supreme Court is removed, the decision shall be reviewed by a special tribunal composed of one state court judge from each state appointed by the state chief executive. The special tribunal shall meet at the call of the President.

Section 8. The Congress consists of one member elected at large from each state on the basis of state equality, and additional members elected from congressional districts in each state apportioned by population. Members elected on the basis of state equality serve for a 4-year term, and all other members for 2 years.

Each member has one vote, except on the final reading of bills. Congressional elections are held biennially as provided by statute.

Section 9. A person is ineligible to be a member of Congress unless he is at least 30 years of age on the day of election and has been a citizen of the Federated States of Micronesia for at least 15 years, and a resident of the state from which he is elected for at least 5 years. A person convicted of a felony by a state or national government court is ineligible to be a member of Congress. The Congress may modify this provision or prescribe additional qualifications; knowledge of the English language may not be a qualification.

Section 10. At least every 10 years Congress shall reapportion itself. A state is entitled to at least one member of Congress on the basis of population in addition to the member elected at large. A state shall apportion itself by law into single member congressional districts. Each district shall be approximately equal in population after giving due regard to language, cultural, and geographic differences.

Section 11. A state may provide that one of its seats is set aside for a traditional leader who shall be chosen as provided by statute for a 2-year term, in lieu of one representative elected on the basis of population. The number of congressional districts shall be reduced and reapportioned accordingly.

Section 12. A vacancy in Congress is filled for the unexpired term. In the absence of provision by law, an unexpired term is filled by special election, except that an unexpired term of less than one year is filled by appointment by the state chief executive.

Section 13. A member of Congress may not hold another public office or employment. During the term for which he is elected and 3 years thereafter, a member may not be elected or appointed to a public office or employment created by national statute during his term. A member may not engage in any activity which conflicts with the proper discharge of his duties. The Congress may prescribe further restrictions.

Section 14. The Congress may prescribe an annual salary and allowances for members. An increase of salary may not apply to the Congress enacting it.

Section 15. A member of Congress is privileged from arrest during his attendance at Congress and while going to and from sessions, except for treason, felony, or breach of the peace. A member answers only to Congress for his statements in Congress.

Section 16. The Congress shall meet in regular, public session as prescribed by statute. A special session may be convened at the call of the President of the Federated States of Micronesia, or by the presiding officer on the written request of 2/3 of the members.

Section 17. (a) The Congress shall be the sole judge of the elections and qualifications of its members, may discipline a member, and, by 2/3 vote, may suspend or expel a member.

(b) The Congress may determine its own rules of procedure and choose a presiding officer from among its members.

(c) The Congress may compel the attendance and testimony of witnesses and the production of documents or other matters before Congress or any of its committees.

Section 18. A majority of the members is a quorum, but a smaller number may adjourn from day to day and compel the attendance of absent members.

Section 19. The Congress shall keep and publish a journal of its proceedings. A roll call vote entered on the journal shall be taken at the request of 1/5 of the members present. Legislative proceedings shall be conducted in the English language. A member may use his own language if not fluent in English, and Congress shall provide translation.

Section 20. To become law, a bill must pass 2 readings on separate days. To pass first reading a 2/3 vote of all members is required. On final reading each state delegation shall cast one vote and a 2/3 vote of all the delegations is required. All votes shall be entered on the journal.

Section 21. (a) The Congress may make no law except by statute and may enact no statute except by bill. The enacting clause of a bill is: "BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:". A bill may embrace but one subject expressed in its title. A provision outside the subject expressed in the title is void.

(b) A law may not be amended or revised by reference to its title only. The law as revised or section as amended shall be published and re-enacted at full length.

Section 22. A bill passed by Congress shall be presented to the President for approval. If he disapproves of the bill, he shall return it with his objections to Congress within 10 days. If Congress has 10 or less days remaining in its session, or has adjourned, he shall return the bill within 30 days after presentation. If the President does not return a bill within the appropriate period, it becomes law as if approved.

ARTICLE X

EXECUTIVE

Section 1. The executive power of the national government is vested in the President of the Federated States of Micronesia. He is elected by Congress for a term of four years by a majority vote of all the members. He may not serve for more than 2 consecutive terms.

Section 2. The following powers are expressly delegated to the President:

(a) to faithfully execute and implement the provisions of this Constitution and all national laws;

(b) to receive all ambassadors and to conduct foreign affairs and the national defense in accordance with national law;

(c) to grant pardons and reprieves, except that the chief executive of each state shall have this power concurrently with respect to persons convicted under state law; and

(d) with the advice and consent of Congress, to appoint ambassadors; all judges of the Supreme Court and other courts prescribed by statute; the principal officers of executive departments in the national government; and such other officers as may be provided for by statute. Ambassadors and principal officers serve at the pleasure of the President.

Section 3. The President:

(a) is head of state of the Federated States of Micronesia;

(b) may make recommendations to Congress, and shall make an annual report to Congress on the state of the

nation; and

(c) shall perform such duties as may be provided by statute.

Section 4. A person is ineligible to become President unless he is a member of Congress for a 4-year term, a citizen of the Federated States of Micronesia by birth, and a resident of the Federated States of Micronesia for at least 15 years.

Section 5. After the election of the President, the Vice-President is elected in the same manner as the President, has the same qualifications, and serves for the same term of office. He may not be a resident of the same state. After the election of the President and the Vice-President, vacancies in Congress shall be declared.

Section 6. If the office of the President is vacant, or the President is unable to perform his duties, the Vice-President becomes President. The Congress shall provide by statute for the succession in the event both offices are vacant, or either or both officers are unable to discharge their duties.

Section 7. The compensation of the President or Vice-President may not be increased or reduced during his term. They may hold no other office and may receive no other compensation from the Federated States of Micronesia or from a state.

Section 8. Executive departments shall be established by statute.

Section 9. (a) If required to preserve public peace, health, or safety, at a time of extreme emergency caused by civil disturbance, natural disaster, or immediate threat of war, or insurrection, the President may declare a state of emergency and issue appropriate decrees.

ARTICLE XI

JUDICIAL

Section 1. The judicial power of the national government is vested in a Supreme Court and inferior courts established by statute.

Section 2. The Supreme Court is a court of record and the highest court in the nation. It consists of a Chief Justice and not more than 5 associate justices. Each justice is a member of both the trial division and the appellate division, except that sessions of the trial division may be held by one justice. No justice may sit with the appellate division in a case heard by him in the trial division. At least 3 justices shall hear and decide appeals. Decision is by a majority of those sitting.

Section 3. The Chief Justice and associate justices of the Supreme Court are appointed by the President with the approval of 2/3 of Congress. Justices serve during good behavior.

Section 4. If the Chief Justice is unable to perform his duties he shall appoint an associate justice to act in his stead. If the office is vacant, or the Chief Justice fails to make the appointment, the President shall appoint an associate justice to act as Chief Justice until the vacancy is filled or the Chief Justice resumes his duties.

Section 5. The qualifications and compensation of justices and other judges may be prescribed by statute. Compensation of judges may not be diminished during their terms of office unless all salaries prescribed by statute are reduced by a uniform percentage.

Section 6. (a) The trial division of the Supreme Court has original and exclusive jurisdiction in cases affecting officials of foreign governments, disputes between states, admiralty or maritime

(b) A civil right may be impaired only to the extent actually required for the preservation of peace, health, or safety. A declaration of emergency may not impair the power of the judiciary except that the declaration shall be free from judicial interference for 30 days after it is first issued.

(c) Within 30 days after the declaration of emergency, the Congress of the Federated States of Micronesia shall convene at the call of its presiding officer or the President to consider revocation, amendment, or extension of the declaration. Unless it expires by its own terms, is revoked, or extended, a declaration of emergency is effective for 30 days.

cases, and in cases in ich the national government is a party except where an interest in land is at issue.

(b) The national courts, including the trial division of the Supreme Court, have concurrent original jurisdiction in cases arising under this Constitution; national law or treaties; and in disputes between a state and a citizen of another state, between citizens of different states, and between a state or a citizen thereof, and a foreign state, citizen, or subject.

(c) When jurisdiction is concurrent, the proper court may be prescribed by statute.

Section 7. The appellate division of the Supreme Court may review cases heard in the national courts, and cases heard in state or local courts if they require interpretation of this Constitution, national law, or a treaty. If a state constitution permits, the appellate division of the Supreme Court may review other cases on appeal from the highest state court in which a decision may be had.

Section 8. When a case in a state or local court involves a substantial question requiring the interpretation of the Constitution, national law, or a treaty, on application of a party or on its own motion the court shall certify the question to the appellate division of the Supreme Court. The appellate division of the Supreme Court may decide the case or remand it for further proceedings.

Section 9. The Chief Justice is the chief administrator of the national judicial system and may appoint an administrative officer who is exempt from civil service. The Chief Justice shall make and publish and may amend rules governing national courts, and

by rule may:

(a) divide the inferior national courts and the trial division of the Supreme Court into geographical or functional divisions;

(b) assign judges among the divisions of a court and give special assignments to retired Supreme Court justices and judges of state and other courts;

(c) establish rules of procedure and evidence;

(d) govern the transfer of cases between state and national courts;

(e) govern the admission to practice and discipline of attorneys and the retirement of judges; and

(f) otherwise provide for the administration of the national judiciary.

Judicial rules may be amended by statute.

Section 10. The Congress shall contribute to the financial support of state judicial systems and may provide other assistance.

Section 11. Court decisions shall be consistent with this Constitution, Micronesian customs and traditions, and the social and geographical configuration of Micronesia.

ARTICLE XII

FINANCE

Section 1. (a) Public money raised or received by the national government shall be deposited in a General Fund or special funds within the National Treasury. Money may not be withdrawn from the General Fund or special funds except by law.

(b) Foreign financial assistance received by the national government shall be deposited in a Foreign Assistance

Fund. Except where a particular distribution is required by the terms or special nature of the assistance, each state shall receive a share equal to the share of the national government and to the share of every other state.

Section 2. (a) The President shall submit an annual budget to Congress at a time prescribed by statute. The budget shall contain a complete plan of proposed expenditures, anticipated revenues, and other money available to the national government for the next fiscal year, together with additional information that Congress may require. The Congress may alter the budget in any respect.

(b) No appropriation bills, except those recommended by the President for immediate passage, or to cover the operating expenses of Congress, may be passed on final reading until the bill appropriating money for the budget has been enacted.

(c) The President may item veto an appropriation in any bill passed by Congress, and the procedure in such case shall be the same as for disapproval of an entire bill by the President.

Section 3. (a) The Public Auditor is appointed by the President with the advice and consent of Congress. He serves for a term of 4 years and until a successor is confirmed.

(b) The Public Auditor shall inspect and audit accounts in every branch, department, agency or statutory authority of the national government and in other public legal entities or nonprofit organizations receiving public funds from the national government. Additional duties may be prescribed by statute.

(c) The Public Auditor shall be independent of administrative control except that he shall report at least once a year to Congress. His salary may not be reduced during his term of office.

(d) The Congress may remove the Public Auditor from office for cause by 2/3 vote. In that event the Chief Justice shall appoint an acting Public Auditor until a successor is confirmed.

ARTICLE XIII

GENERAL PROVISIONS

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

Section 2. Radioactive, toxic chemical, or other harmful substances may not be tested, stored, used, or disposed of within the jurisdiction of the Federated States of Micronesia without the express approval of the national government of the Federated States of Micronesia.

Section 3. It is the solemn obligation of the national and state governments to uphold the provisions of this Constitution and to advance the principles of unity upon which this Constitution is founded.

Section 4. A noncitizen, or a corporation not wholly owned by citizens, may not acquire title to land or waters in Micronesia.

Section 5. An agreement for the use of land for an indefinite term is prohibited. An existing agreement becomes void 5 years after the effective date of this Constitution. Within that time, a new agreement shall be concluded between the parties. When the national government is a party, it shall initiate negotiations.

Section 6. The national government of the Federated States of Micronesia shall seek renegotiation of any agreement for the use

of land to which the Government of the United States of America is a party.

Section 7. On assuming office, all public officials shall take an oath to uphold, promote, and support the laws and the Constitution as prescribed by statute.

ARTICLE XIV

AMENDMENTS

Section 1. An amendment to this Constitution may be proposed by a constitutional convention, popular initiative, or Congress in a manner provided by law. A proposed amendment shall become a part of the Constitution when approved by 3/4 of the votes cast on that amendment in each of 3/4 of the states. If conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number of affirmative votes shall prevail to the extent of such conflict.

Section 2. At least every 10 years, Congress shall submit to the voters the question: "Shall there be a convention to revise or amend the Constitution?". If a majority of ballots cast upon the question is in the affirmative, delegates to the convention shall be chosen no later than the next regular election, unless Congress provides for the selection of delegates earlier at a special election.

ARTICLE XV

TRANSITION

Section 1. A statute of the Trust Territory of the Pacific Islands continues in effect except to the extent it is inconsistent with this Constitution, or is amended or repealed. A writ, action,

suit, proceeding, civil or criminal liability, prosecution, judgment, sentence, order, decree, appeal, cause of action, defense, contract, claim, demand, title, or right continues unaffected except as modified in accordance with the provisions of this Constitution.

Section 2. A right, obligation, liability, or contract of the Government of the Trust Territory of the Pacific Islands is assumed by the Federated States of Micronesia except to the extent it directly affects or benefits a government of a District not ratifying this Constitution.

Section 3. An interest in property held by the Government of the Trust Territory of the Pacific Islands is transferred to the Federated States of Micronesia for retention or distribution in accordance with this Constitution.

Section 4. A local government and its agencies may continue to exist even though its charter or powers are inconsistent with this Constitution. To promote an orderly transition to the provisions of this Constitution, and until state governments are established, Congress shall provide for the resolution of inconsistencies between local government charters and powers, and this Constitution. This provision ceases to be effective 5 years after the effective date of this Constitution.

Section 5. The Congress may provide for a smooth and orderly transition to government under this Constitution.

Section 6. In the first congressional election, congressional districts are apportioned among the states as follows: Kusaie - 1; Marianas - 2; Marshalls - 4; Palau - 2; Ponape - 3; Truk - 5; Yap - 1. If Kusaie is not a state at the time of the first election, 4 members shall be elected on the basis of population in Ponape.

ARTICLE XVI

EFFECTIVE DATE

Section 1. This Constitution takes effect 1 year after ratification unless the Congress of Micronesia by joint resolution specifies an earlier date. If a provision of this Constitution is held to be in fundamental conflict with the United Nations Charter or the Trusteeship Agreement between the United States of America and the United Nations, the provision does not become effective until the date of termination of the Trusteeship Agreement.

SIGNATURES

Toshiwo Nakayama, President

Petrus Tun

Samuel Falanruw

Belarmino Hathey

Francisco Iuktun

Hilary Tachelliol

Luke M. Tman

Chutomu Nimwes

Chiro Albert

Fichita Bossy

Soukichi Fritz

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Kotaro Heldart

Kintoky Joseph

Saiter Mweleg

Frank Nifon

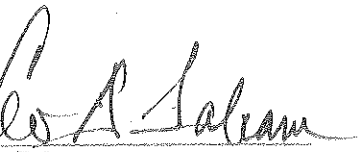
Maketo Robert

Iskia Sony

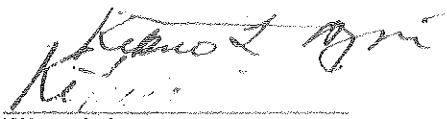
Manuel Sound

Tatasy Wainit

Jane Wiliander



o Falcam



Kikuo Apis



liam Eperiam



Heinrich Irjarte



Irjarte



Apinel Mateak



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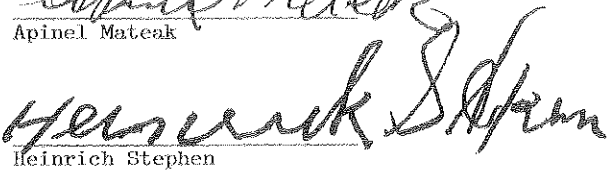

Heinrich Stephen



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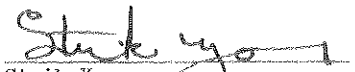

Strik Yoma



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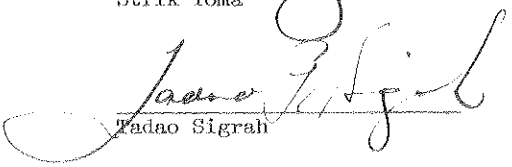
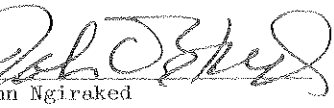


Tadao Sigrah



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Ibedul Gibbons



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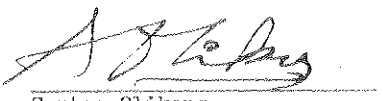

Santos Olikong



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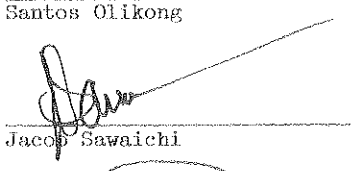

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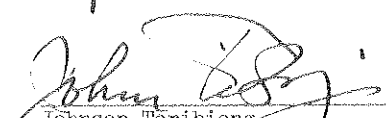
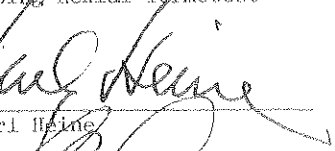


Johnson Toribiong



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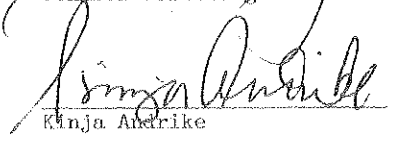

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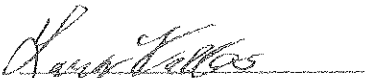

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THE MICRONESIAN CONSTITUTIONAL CONVENTION
JULY 12 - NOVEMBER 8, 1975
SAIPAN, MARIANA ISLANDS

RESOLUTION NO. 32

A RESOLUTION

Relating to the traditional leaders of Micronesia.

WHEREAS, in establishing the government for the new Federated States of Micronesia, and making provision for the governing of the various states, the question has arisen over whether this affects the traditional leaders of Micronesia. It is not the intention of the Delegates to the Micronesian Constitutional Convention to affect adversely any of the relationships which prevail between traditional leaders and the people of Micronesia, nor to diminish in any way the full honor and respect to which they are entitled; now, therefore,

BE IT RESOLVED by the Micronesian Constitutional Convention of 1975 that it is the consensus of this Convention that all due honor and respect continue to be accorded the traditional leaders of Micronesia, and nothing in the Constitution of the Federated States of Micronesia is intended in any way to detract from the role and function of traditional leaders in Micronesia or to deny them the full honor and respect which is rightfully theirs; and

BE IT FURTHER RESOLVED that upon the signing of the Constitution, this Resolution be included with all duplications of the Constitution so that the intent of the Delegates may be evident to all who read the Constitution of the Federated States of Micronesia.

Adopted: October 24, 1975

Certified by: Victorio Uherbelau
Victorio Uherbelau
Convention Secretary

Attested to: Asterio R. Takesy
Asterio R. Takesy
Assistant Convention Secretary

Date: November 18, 1975

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Leo A. Falcam
Heinrich Iriarte
Kahnmwarki Max Iriarte +
Hirosi Ismael
Apinel Mateak
Bailey Olter
Tadao P. Sigrah
Nahniken Heinrich Stephen +
Daro Weital
Strik Yoma

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Soukichi Fritz
Sasauo Haruo
Kotaro Heldart
Chief Kintoky Joseph
Soiter Mwety
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Chutomu Nimwes
Maketo Robert
Iskia Sony
Manuel Sound
Tatasy Wainit
Hans Williander

Yap District

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Chief Belarmino Hathey
Chief Francisco Luktun
Hilary Tacheliol
Luke M. Tman
Petrus Tun

*Resigned

+ These are the preferred spellings of these Ponapean titles; however, throughout the remainder of the Journal, the variant spellings "Namwarki" and"Naniken" are used.

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Ponape . . . . . .Halvorsen Johnny, Thomas Naron
Truk . . . . . .Fermin Likiche
Yap. . . . . Martin Gargog, Cornelius Yalbuu
District Aide
Mariana Islands. . . . . Gregorio Sablan

C E R T I F I C A T I O N

We hereby certify that the Journal for each day's session, having been either adopted by the whole Convention or approved by the President after the adjournment, as the same appears in this Journal of the Micronesian Constitutional Convention of 1975, is true and correct and that the original thereof has been duly signed by the Convention Secretary of the Micronesian Constitutional Convention of 1975, and is on file at the Congress of Micronesia.

Tosiwo Nakayama, President
Micronesian Constitutional Convention

Victorio Uherbelau
Convention Secretary
Micronesian Constitutional Convention

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MICRONESIAN CONSTITUTIONAL CONVENTION

CONVENTION JOURNAL

FIRST DAY
Saturday, July 12, 1975

In accordance with Public Law No. 5-60, as amended, the Micronesian Constitutional Convention was begun with formal ceremonies at 1:45 p.m.

Acting President was Tosiwo Nakayama, President of the Senate, Congress of Micronesia.

Acting Secretary was Victorio Uherbelau.

Master of Ceremonies for the formal ceremonies was the Acting Secretary, Victorio Uherbelau.

Acting Secretary Uherbelau: We will now begin. Fr. Paulino Cantero is going to give the invocation. Father Cantero is known throughout Micronesia for being the first Micronesian to become a Catholic priest, and also for being the first to join the Society of Jesus. Today Father Cantero is Assistant Pastor in Kolonia, Ponape District. Will everybody please rise for the invocation.

Fr. Paulino Cantero: Our Father who art not only in heaven, but also in all creation, by Thy presence and power, we the people of Micronesia through our representatives to the Constitutional Convention are gathered here to implore Thy divine assistance.

We wish to establish for Micronesia a government that shall embody our ideals, promote the general welfare, conserve and develop the heritage of our ancestors, and secure to ourselves and our posterity the blessings of a democracy under a regime of justice, peace, liberty and equality.

Therefore, humbly acknowledging our human feebleness, and Thy supreme dominion over all of us, we pray Thy assistance to make the deliberations of our Constitution worthy of Thy heavenly blessing.

We understand the great importance of this task. We understand how difficult and challenging is the drafting of a new Constitution. The Delegates are ready, with all that is in their power, to start this task with generous hearts and minds. Their concern, as our Bishop says in a letter to all the people of his Vicariate, "should be to create the foundation of a society where economic growth is possible but where it will be shared by all; where technological progress will continue but not at the expense of human values; where true advancement is possible, not as a gift from outside Micronesia, but as planned and achieved freely by the people themselves."

We beseech Thee to bless all the Delegates from all the Districts of Micronesia to the drafting of the new Constitution. Keep them ever mindful of the sacred dignity of every human being and of every human home. Fill them with the sincerity of godliness with charity that respects Thy divine rights and the rights of men and with the courage to recognize, to speak and to live the Truth.

Give unto all the grace to follow Thy injunction, "Turn away from evil and do good; seek after peace and pursue it." Free them from all individual and national selfishness. Give unto them a sacred consecration to the welfare of all Micronesians and to Thy honor and glory.

Keep them mindful of their inescapable responsibility to the people of Micronesia who look to their work for realization of their hopes for their national freedom. Help these Delegates to be humble in Thy presence and aware of their need for Thy divine assistance. Permit them not to forget

the intelligence of Thy divine law, given by Thy love for the unity, happiness and peace of all Micronesians. Restrain them at times lest laudable differences of opinion become division in which Thy Omniscience and Omnipotence are ignored.

Grant them all unremitting respect for Thy divine instructions, "Much peace have they, that love Thy law, and to them there is no stumbling block."

Finally, Lord, our Father, we beseech Thee to direct all their efforts and all their actions by Thy holy inspirations and carry them on by Thy gracious assistance; let Thy wisdom guide them, your love unite them, so that the outcome of their discussions and deliberations may insure greater human development in them and in all the people of Micronesia.

We ask these in the name of you, our Father, and of the Son, Jesus Christ, and of the Holy Spirit.

Amen.

Acting Secretary Uherbelau: Will everybody please be seated. Thank you very much, Father Cantero, for the invocation. Now, the Honorable Senator Tosiwo Nakayama, President of the Senate, Congress of Micronesia, who by law is designated as the Acting President of the Constitutional Convention, will give his opening address.

Acting President Nakayama: High Commissioner Johnston, honored guests, fellow Delegates:

The writing of a constitution is an important event in the history of any land. To be brought together like this, to draft the supreme law of the land, to plan our future, to know that our success or our failure may follow us for the rest of our lives--all this makes the writing of a constitution a crucial event. In Micronesia, however, the writing of a constitution becomes even more important--it becomes a matter of national life or death.

Many people have commented on the problems facing this convention. There are old problems and new, problems of unity, of political status. We all know what these problems are--we have been living with them. They make it all the more important for us to do our job as best we can. There are some who expect that we will fail here. And the consequences of such failure would be profound. If we fail, the idea of Micronesia may die. If we do not produce a constitution, or if the constitution we produce is a meaningless piece of paper, this failure will echo in these islands for decades to come.

Now, having described the problems we face, having discussed the consequences of failure, it is only fair to discuss the consequences of success. If, against heavy odds, we can work together here and produce a constitution which works for Micronesia, then the idea of Micronesian unity will be given new life. If this convention, day by day, meeting by meeting, issue by issue, detail by detail, can build a constitution in which we believe and in which our people believe, then we can have renewed faith in the future of Micronesia.

We have a long ninety days before us. After these ceremonies are over, after our officers have been elected, after we have all made speeches, there will be weeks and weeks of hard work. As we go about our work, let us keep one main thought in mind: That we are writing a constitution for Micronesia. No matter who has guided us in the past, no matter who assists us now, this is to be a Micronesian constitution. If we face problems, we should solve them in a Micronesian way, searching our own traditions and resources for the answers we need. We can accept help when we feel we need it, we can work with outsiders, but we must remember that what we do here, we do as Micronesians for Micronesia. We will be living with this constitution when our friends are gone. Our Micronesian children will be living with this constitution when we ourselves have departed.

What is Micronesia? It began as an accidental discovery by outside explorers. Then it was a proving ground for outside missionaries and traders. After that it was an arrangement for the convenience of outside administrators, Japanese and American. Thus, until very recently, the idea of Micronesia has been a foreign-imposed idea. It will be the task of this convention to decide whether this idea of Micronesia is an idea which our own people can live with. Now is the time of testing for Micronesia. Not just testing, but final examination. It is now--or never--for Micronesia. Let it be now. Thank you.

Acting Secretary Uherbelau: Thank you very much, President Nakayama. We will have Honorable Vicente D. Sablan, Mayor of Saipan, to give his welcoming remarks. Mayor Sablan has been the Mayor of Saipan for 13 years, beginning in June of 1962. He is amongst the most prominent political leaders in the Marianas, and he has been elected consistently since 1962, succeeding the late Judge Benavente. Mayor Sablan.

Mayor Sablan: High Commissioner Johnston, Father Cantero, President Nakayama, members of this Constitutional Convention, ladies and gentlemen: On behalf of the people of Saipan and myself, we take this great opportunity to wish all the members of the Micronesian Constitutional Convention from the other districts our buen benido and welcome to Saipan. We also wish that the purpose of your activities here in Saipan will result in the best interests of all people concerned. We sincerely hope that your sojourn in Saipan will be a happy and enjoyable one. Please make yourselves at home and we will be on the standby to render our assistance in any manner possible. We wish you again the best of time and in your accomplishment, a great success. Thank you.

Acting Secretary Uherbelau: Thank you very much, Mayor Sablan. Now we will have the Honorable Edward E. Johnston, High Commissioner, to give his address.

High Commissioner Johnston: President Nakayama, Mayor Sablan, distinguished Delegates to Micronesia's First Constitutional Convention, ladies and gentlemen:

As we gather here today on the Tenth Anniversary of the founding of the Congress of Micronesia and the opening day of Micronesia's First Constitutional Convention, my remarks will be brief, because I fully realize that it is not what anyone says here today which will make history, but, rather, what you will accomplish here in the days and weeks ahead.

Certainly no one here present will underestimate the historic importance of the mission on which you embark today. Possibly no people in the world have a longer or more varied record of domination by foreign powers--of having decisions made for them rather than by them. And, certainly, there was never even a thought of granting you the privilege of drafting your own Constitution under the Spanish, German or Japanese rule of Micronesia.

But now, beginning today, you have the blessing, and even the financial assistance of the administering authority under your United Nations Trusteeship to create the form of government which you feel will best suit Micronesians of this and all future generations.

You must fashion a government which is in accord with your customs, traditions, ideals and principles--but also one which is practical and which you can afford to maintain. Although a Constitution is not a body of specific legislation, it will be the framework under which your future government must grow and prosper. Even at this point in time--or, perhaps, especially at this point in time--you might well consider, as you draft this permanent framework of your government, a statement which I have displayed in my office for many years, made by one of America's greatest Presidents--Abraham Lincoln:

> "The legitimate object of government is to do for a community of people whatever they need to have done, but cannot do at all, or cannot so well do, for themselves--in their separate and individual capacities. In all that the people can individually do as well for themselves, government ought not to interfere."

It seems to me that you have not only the opportunity, but the necessity, to adopt a constitution at the earliest possible time. It has occurred to me many times during these past six years that probably nowhere else in the free world today are a people governed under a less permanent or more instantly and easily changeable basic document. The Secretarial Order--a part of the Manual of Administration of a department of the administering authority, is certainly no substitute for a constitution, even though, at the present time, the Trust Territory is making substantial progress in virtually every area of concern prior to the termination of the United Nations Trusteeship.

We should all welcome the recent appointment by President Ford of former Governor Stanley K. Hathaway as Secretary of the Interior and his subsequent appointment of Mr. Fred M. Zeder as the new Director of the Office of Territorial Affairs. Both are men with considerable experience in facing challenges and making important decisions, and will not only understand but assist in solving the many problems of this vast area, as we move toward the termination of the Trusteeship and approach the dawn of true self-government.

Unfortunately, it was not possible for either Secretary Hathaway or Mr. Zeder to be here with us today, although Mr. Zeder is in the Trust Territory--on Yap--at the present time. Just this morning I received a message from Secretary Hathaway and he asked that I read it to the Delegates of this Convention on this historic occasion. It reads as follows:

> "It is with a sense of satisfaction and anticipation that I today take note of the formal opening of the Micronesian Constitutional Convention. I am especially pleased to recall to the Delegates' attention that both the Congress of the United States and the Congress of Micronesia have made funding available for the functioning of this historic convocation. What you in attendance today will do over the course of the next few months in the furtherance of your mandated duties will impact significantly on the lives of Micronesians today and in the future. It goes without saying that you have accepted your responsibilities seriously and will, to the very best of your abilities, serve the needs and aspirations of the people of Micronesia who are depending on you. I and the Department of the Interior wish you the wisdom and fortitude to make the difficult and important decisions which lie ahead."

The task you face is far from an easy one. In fact, the obstacles in the path leading to a united Micronesia under its own constitutional government may, at times, seem almost overwhelming. But you are, I believe, off to a good start.

First of all, the Congress of Micronesia has created a good basic structure by establishing the Constitutional Convention with a broad base of representation from every segment of Micronesian society; secondly, the voters throughout our six districts have chosen wisely from among your best minds and strongest leaders to join together in this First Constitutional Convention. Included among the 60 Delegates to this Convention are teachers, farmers, businessmen, lawyers, doctors, policemen, along with elected, appointed and traditional leaders from the various echelons of your present government. Forty-three have attended institutions of higher learning outside the Trust Territory, including 29 who are college graduates (nine of whom have pursued additional graduate studies); and, thirdly, your pre-Convention Committee has chosen an excellent staff with experience and vision to assist you in your work.

In the days that lie ahead, I shall watch with interest, along with the rest of the world, the progress of your deliberations. My staff and I, along with the various departments of the United States Government as the administering authority, will assist in every way possible when called upon. But you, and you alone, can and must accomplish the monumental task which lies ahead of you. The ultimate product of this Convention must be, and I am sure will be, in every respect, your Constitution, carefully created by you Delegates as free men and women in a free world.

May God bless you in your work and may He grant you the wisdom and courage which you will most surely need as you embark today on this all-important step along the path toward self-government.

Thank you.

Acting Secretary Uherbelau: Thank you very much, High Commissioner Johnston. Rev. Billy Kuartei will give the benediction. Rev. Billy Kuartei is the first Micronesian to become a minister of the Baptist Church. He comes from Palau and is Temporary Minister of the Community Church here in Saipan for the summer. Will everyone please rise.

Rev. Kuartei: Let us pray. Almighty God, creator of all that is in existence and creator of man, we stand before You this day and we truly acknowledge Your presence. Almighty God, we agree in our hearts that You created man, regardless of who he is, where he is from, for all are equal in Your sight. We recognize that we have come here together to have a task before us. We thank You for these representatives who have come from a beautiful tapestry of culture to represent their fellow men. We recognize, Heavenly Father, their limitations, but also their potentials, and we pray that Your blessings shall be upon this conference. We pray that the days to come and the weeks may be days in which they will seek Your wisdom and justice in their work. As Micronesians we pray for the years to come, as the result of this, that we will live in harmony and unity and preserve justice and freedom on all our borders. We pray that justice will reign in all our lives because You created us equal and free, and to stay free. Heavenly Father, help us to look in our freedom not as a license to do what we want, but with equal responsibility. We pray that we shall all be accountable before Thy sight as we present these, the Delegates, before You. So, Almighty God, we pray that they will work for You first and for their fellow men. As Micronesians we stand here and pledge that we shall unite together, we shall sing a song of harmony among these islands. We pray for all those people we represent, that we shall do so with good conscience because we have tried our best. Almighty God, bless these men, and may Your holiness abide in them, for we pray all these things in the name of God the Father, God the Son, and God the Holy Spirit. Amen.

Acting Secretary Uherbelau: Thank you very much, Reverend Kuartei.

The Acting Secretary declared the Convention to be in recess, subject to the call of the Chair, at 2:35 p.m.

RECESS

The Convention reconvened at 3:25 p.m.

Acting President Nakayama: The Micronesian Constitutional Convention is hereby called to order. At this time I would like to ask Mr. Leo Falcam, who is Vice Chairman of the Pre-Convention Committee, to present to the Convention a Credentials Committee report

Vice Chairman Falcam: Mr. President, the report from the Credentials Committee is completed at this time. I would like to present that report to the Convention. Thank you.

Acting Secretary Uherbelau read the report of the Pre-Convention Committee to the Constitutional Convention with regard to the seating of Delegates.

The Chair called on the Chairman of the Yap Delegation, Petrus Tun, to present a report from his delegation.

Chairman Tun stated that he was not aware of any question as to the members of his delegation and recommended that they be seated.

The Chair called on the Chairman of the Truk Delegation, Chutomu Nimwes, to present a report from his delegation.

Chairman Nimwes reported that the Truk Delegation was organized and recommended that the delegation be seated.

The Chair called on the Chairman of the Ponape Delegation, Leo A. Falcam, to present a report from his delegation.

Chairman Falcam reported that the Ponape Delegation was duly organized and present at the Convention Hall. He recommended that they be seated.

The Chair called on the Chairman of the Palau Delegation, John O. Ngiraked, to present a report from his delegation.

Chairman Ngiraked: Mr. President, there is some peculiarity concerning the report submitted by the Credentials Committee. I am sorry to report that one of the traditional chiefs from Palau designated to come to this Convention is recuperating from illness and is unable to attend. Therefore, pursuant to law and the Palauan tradition, his representative has been designated to come in his stead. His name is Acting Reklai Temeteet and he is recognized as the official representative of the High Chief Ibedul. Therefore, with that amendment to the report submitted by the Credentials Committee, I recommend that the Palau Delegation take their seats in the Convention.

The Chair called on the Chairman of the Marshalls Delegation, Carl Heine, to present a report from his delegation.

Chairman Heine: Thank you, Mr. President. As reflected in the report of the Credentials Committee, there is some explanation to be made of the members of the delegation from the Marshalls. Eight of the nine elected Delegates to this Convention are in the Convention Hall at this time---one is excused, Nemos Jack. He should be here by Wednesday of next week. With respect to the traditional leaders from the Marshalls District, I deeply regret to report to this Convention that the Marshalls District traditional leaders have not been able to get themselves organized and elected to this Convention. Circumstances beyond my control and their control have prevented them from making that selection. For that much, I deeply regret. At this time, Mr. President, I wish to place before this Convention for consideration for the Marshalls Congressional Delegate the nomination of Senator Wilfred Kendall and I request that he be seated. There are ample documents which I received yesterday. I hope that you will be able to take them into consideration. At this time, Mr. President, I am pleased to say that the nine elected Delegates will be in Saipan, and I request that they be seated. I also strongly request that this Convention consider seating Senator Kendall as a member of the delegation representing the Congressional delegation. Thank you, Mr. President.

The Chair called on the Chairman of the Marianas Delegation, Lorenzo LG. Cabrera, to present a report from his delegation.

Chairman Cabrera: Thank you, Mr. President. I should like to report that the Marianas Delegation was duly organized following the election. I do want to point out a number of things. There presently is a question with respect to the status of an appointed Delegate by the District Administrator. There are efforts to resolve this question and, therefore, I ask that the Delegates have patience and that the Credentials Committee consider the question when it is brought before it. Mr. President, I regret to report, however, that of the seven members of my delegation, only three are present. They are Senator Olympio Borja, Luis Limes and myself. Absent with leave are Jose Cruz, who is off island, and Benjamin Manglona who is ill and who was evacuated to the Naval Hospital on Guam. Delegate Joaquin Pangelinan is absent without leave. Thank you, Mr. President.

Delegate-elect Falcam: Mr. President, I move that the report of the Pre-Convention Committee be accepted and that all Delegates-elect and all Delegates-select, excluding those named by the respective delegation chairmen as having vacated their positions, be seated.

Delegate-elect Cabrera seconded the motion.

Delegate-select Borja: Mr. President, I would like to know whether or not the changes that have been made by the chairmen of the respective delegations, such as the change in the traditional leaders and also as to the confusion that seems to have appeared with regard to our delegation, as reported by the chairman, should be taken into consideration and also whether or not those changes will be in accord with the Public Law with regard to the Constitutional Convention. I would like to be clarified on this before I cast my vote.

The Chairman asked for an answer from the floor to the inquiry of Delegate-select Borja. There was no response.

Delegate-elect Apis: Mr. President, before I cast my vote, I would like to ask a question with regard to our accepting the credentials of the Delegates. If we accept this report of all the Delegates, and I am referring to the Delegates from the Marianas, will this not mean to the people of the Northern Marianas that we are passing an injustice on them since two incidents have occurred that I would like to mention where they have expressed their will--the freedom of expression--in the June 17 election and also the July 8 referendum. I understand that many people refused to vote because they feel they have selected what they want. By seating these Delegates, would it not be an injustice to the people of the Northern Marianas?

Delegate-select Borja: Mr. President, first of all I thank the Delegate-elect who has spoken on the matter of the Marianas Delegation, and I would like to clarify our position, which has been clarified already by Chairman Cabrera. We in the Marianas, who have been participating legally and who have been selected as Delegates and also those who are here, as reported by our chairman, feel that if the motion is carried and we become full-fledged Delegates to this Constitutional Convention, that we should be recognized as full-fledged Delegates since there are no proclamations or no Secretarial Order issued to the effect that our membership in this Convention here would be affected in any way. Until that time I presume that there would not be any confusion and that we would all be happy to work together in the new Constitutional Convention for our future in Micronesia. Thank you, Mr. President.

The motion carried to accept the report of the Pre-Convention Committee with regard to the seating of Delegates.

Delegate-elect Falcam: Mr. President, I would like to move that those Delegates whose credentials are in order be seated at this Convention.

The motion was seconded by Delegate-elect Cabrera.

There being no discussion, voice vote was taken and the motion carried.

Acting President Nakayama: The Delegates are seated. I will now appoint a Special Credentials Committee to review the credentials of those who have arrived late and whose credentials were not reviewed by the Credentials Committee that was created prior to the convening of this Convention. Appointed are Delegate-elect Fritz as Chairman, Delegate-elect Tacheliol and Delegate-elect Limes as members. The Chair requests that they review the credentials of those presented and report back to the Convention after the recess.

There being no objections, the Convention recessed, subject to the call of the Chair, at 3:45 p.m.

RECESS

The Convention reconvened at 4:10 p.m.

Acting President Nakayama called the meeting to order and requested the report of the Special Credentials Committee.

Delegate Fritz: Your Special Credentials Committee has examined the credentials of those newly-appointed Delegates who have come to our attention this afternoon. The Committee decided that we should admit or let those appointed Delegates be seated in this Convention. The report of this Committee is prepared. I will submit it to the Clerk who will read the report for the information of the Delegates.

The Acting Convention Secretary read the report of the Special Credentials Committee:

"Dear Mr. Acting President:

"Your Special Credentials Committee has met and considered the credentials of those persons whose names were submitted to this Committee for review and recommendation on seating in the Micronesian Constitutional Convention. The recommendations of this Committee are listed below in the order in which names were received:

"1. Acting Reklai Eusevio Termeteet

The report of the Credentials Committee established by Public Law No. 6-24, recommended that Reklai Lomisang be seated in the Convention. The Pre-Convention Committee accepted that report. However, Reklai Lomisang is presently recuperating from an illness and is not able to attend. Public Law No. 5-60, as amended, Section 4 (4)(d) states that "incapacity of a delegate by reason of illness, upon a finding of the same by the Convention..." is to be considered a vacancy and a new appointment is to be made "in the same manner as the original appointment." (Section 4, (3)) Acting Reklai Termeteet was selected to fill the vacancy caused by Reklai Lomisang's illness. The chairman of the Palau Delegation submitted a signed statement to this Committee in support of that selection.

Therefore, this Committee approves the credentials of Reklai Eusevio Termeteet and recommends that he be seated by the Convention.

"2. Wilfred Kendall

Subsection (1) of Section 2 of P.L. No. 5-60 states that " each district delegation shall select one delegate from among its membership." By Senate Bill No. 6-209, just signed by the High Commissioner, the selection could be made on or before July 11, 1975.

The Special Credentials Committee has received satisfactory evidence that the Marshalls Congress of Micronesia delegation has now made its selection and that selection is Senator Wilfred Kendall.

Therefore, this Committee approves the credentials of Wilfred Kendall and recommends that he be seated as a delegate by the Convention."

(signed by Tomoichi Fritz, Chairman, Hilary Tacheliol, and Luis M. Limes)

Delegate Fritz moved that the report of the Special Credentials Committee be adopted. Delegate Limes seconded. The motion carried by voice vote to adopt the report. The report of the Special Credentials Committee was adopted by the Convention.

The Chair recognized Delegate Fritz.

Delegate Fritz: I move that the Delegates-select be seated.

Delegate Limes seconded. The motion carried by voice vote. The Delegates-select were seated.

The Chair requested that the Acting Convention Secretary proceed with the roll call of the seated Delegates.

Acting Convention Secretary: We have 50 Delegates present. Delegates Cruz, Jack, Kendall and Manglona were excused. Delegates John Heine, Palacios, Pangelinan and Salii were absent.

Acting President Nakayama: Is there a quorum?

Acting Convention Secretary: A quorum is present.

The Chair recognized Delegate Falcam.

Delegate Falcam: I move that the Convention adopt the temporary Rules of Procedure.

Delegate Cabrera seconded and the motion carried by voice vote. The temporary Rules of Procedure were adopted.

The Chair opened the floor for nominations for President of the Convention.

Delegate Heinrich Iriarte nominated Delegate Leo Falcam as President of the Convention.

Delegate Gawaichi nominated Delegate John Ngiraked as President of the Convention.

Delegate Limes nominated Delegate Tosiwo Nakayama as President of the Convention.

Delegate Tman moved that the nominations be closed. It was seconded and the motion carried.

The Chair directed that the election be conducted by secret ballot.

The Chair recognized Delegate Borja.

Delegate Borja: I would like to raise a point of information. Some of the candidates' names for President may not be spelled correctly. In order to facilitate and help the Delegates, I wonder if we could use some kind of an orderly numbering system besides the name; for example, Delegate Falcam would be #1, Delegate Ngiraked would be #2 and Delegate Nakayama would be #3. If this is acceptable, I think this will help some of our Delegates because I know that Delegate Ngiraked's last name is very hard to write.

Acting President Nakayama: What is the wish of the Convention with respect to the question posed by Delegate Borja?

Delegate Tman: I believe that everybody in this Convention can write.

Acting President Nakayama: The suggestion has been withdrawn so please proceed with the election.

The election for President was conducted by secret ballot. The Acting Convention Secretary conveyed the results of the election:

Nominee Tosiwo Nakayama---32 votes
Nominee Leo Falcam---12 votes
Nominee John Ngiraked---6 votes

The total number of votes cast was 50.

Acting President Nakayama was elected President of the Convention and assumed the Chair.

The President opened the floor for nominations for the Vice Presidents of the Convention.

Delegate Borja nominated Delegate Lorenzo LG. Cabrera as Vice President, Mariana Islands District.

Delegate Borja moved that the nominations be closed for Vice President from the Marianas Islands District. Delegate Nimwes seconded and the motion carried.

The President opened the floor for nominations for Vice President, Palau District.

Delegate Olikong nominated Delegate John Ngiraked for Vice President, Palau District.

Delegate Tman: According to our Rules of Procedure, we should vote on the Mariana Islands District nomination prior to receiving nominations for the other districts.

President Nakayama: I stand to be corrected. If that is the understanding, let us go back and vote on the election for the Vice President of the Mariana Islands District, before we proceed to the other districts.

Delegate Tman: Since there is only one nomination from the Marianas District, I move that we suspend the Rules of Procedure. It was seconded, and the motion carried to suspend the Rules of Procedure pertaining to voting by secret ballot.

The Chair recognized Delegate Tman.

Delegate Tman: I suggest that Delegate Cabrera be elected by acclamation and that he be given a big hand.

Delegate Cabrera was elected Vice President from the Mariana Islands District by acclamation.

President Nakayama: If there are no further nominations for Vice President, Palau District, the nominations will be considered closed.

By voice vote, Delegate John Ngiraked was unanimously elected Vice President from Palau District.

The President opened the floor for nominations for Vice President, Marshall Islands District.

Delegate Andrike nominated Delegate Carl Heine for Vice President, Marshall Islands District.

The Chair recognized Delegate Haruo.

Delegate Haruo: As there are two Heines in this Convention, may we be clarified as to which Heine has been nominated?

Delegate Andrike: Delegate Carl Heine has been nominated.

As there were no further nominations, by voice vote Delegate Carl Heine was unanimously elected as Vice President from the Marshall Islands District.

The President opened the floor for nominations for Vice President, Ponape District.

Delegate Heinrich Iriarte nominated Delegate Leo Falcam as Vice President, Ponape District.

As there were no further nominations, by voice vote Delegate Leo Falcam was unanimously elected Vice President from Ponape District.

The President opened the floor for nominations for Vice President, Truk District.

Delegate Willander nominated Delegate Chutomu Nimwes as Vice President, Truk District.

As there were no further nominations, by voice vote Delegate Chutomu Nimwes was unanimously elected Vice President from Truk District.

The President opened the floor for nominations for Vice President, Yap District.

Delegate Tman nominated Delegate Petrus Tun as Vice President, Yap District.

As there were no further nominations, by voice vote Delegate Petrus Tun was unanimously elected Vice President, Yap District.

The President opened the floor for nominations for Floor Leader of the Convention.

Delegate Nimwes nominated Delegate Luke Tman as Floor Leader of the Convention. It was seconded and Delegate Weital moved that the nominations be closed. Delegate Borja seconded and the motion carried.

By voice vote Delegate Luke Tman was elected Floor Leader of the Convention.

President Nakayama: According to the Order of the Day before me, that was to have been the last business for this afternoon. Is there any other business the Delegates might wish to bring up at this time?

The Chair recognized Delegate Ismael.

Delegate Ismael: We have not adopted any permanent Rules of Procedure.

President Nakayama: You could do that now or come back tomorrow and adopt the temporary Rules as the permanent Rules of Procedure for the Convention.

Floor Leader Tman moved that the temporary Rules of Procedure be adopted as the Permanent Rules of Procedure of the Convention. The motion was seconded.

The Chair recognized Delegate Philippo.

Delegate Philippo: Before the adoption of the Rules of Procedure, I would like to recommend that Rule 7 be deleted in the Table of Contents and inserted in Rule 10.

President Nakayama: Does that need to be treated as an amendment or as an error to be technically corrected?

Vice President Cabrera: It is a technical error and should be technically corrected.

President Nakayama: It was a technical error and therefore correction will be effected by the Acting Convention Secretary.

The Chair recognized Vice President Heine.

Vice President Heine: If there is no other important business, I would like to have this Convention recognize the presence of one of our Delegates who arrived last night, Delegate Tom Kijiner.

The President requested that Delegate Kijiner rise for recognition.

The Chair recognized Floor Leader Tman.

Floor Leader Tman: I believe there is a motion on the floor to adopt the temporary Rules of Procedure as the permanent Rules of Procedure.

There was no discussion on adoption of the temporary Rules of Procedure as the permanent Rules, and the motion carried by voice vote. The temporary Rules of Procedure were adopted as the official Rules of Procedure for the Convention.

The Chair recognized Delegate Weital.

Delegate Weital: I wish to introduce to you Mr. Petrus Silbanus, Chief Magistrate from my municipality.

President Nakayama: There is one reminder to be made. There is a reception at the Royal Taga tonight beginning at 5:30 p.m. and closing at 7:00 p.m. Attire is casual---come as you are. This is co-sponsored by the Convention and the Congress of Micronesia. If there is no further business and if there are no objections from the floor, I declare the Convention in recess until we reconvene at 10:00 a.m., Monday morning, July 14, 1975.

The Convention recessed at 4:50 p.m.

Respectfully submitted,

Victorio Uherbelau
Acting Convention Secretary

Sunday, July 13, 1975

SECOND DAY

There was no session on this date.

Respectfully submitted,

Victorio Uherbelau
Acting Convention Secretary

THIRD DAY

Monday, July 14, 1975

The Micronesian Constitutional Convention was called to order at 10:30 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Acting Convention Secretary called the roll. There were 52 Delegates present. Delegates Cruz, Heinrich Iriarte, Jack and Manglona were excused. Delegates Palacios and Pangelinan were absent.

ADOPTION OF JOURNAL

Floor Leader Tman moved that the Journal of the First Day be adopted by the Convention. Delegate Nimwes seconded, and the motion carried. The Journal of the First Day was adopted.

PROPOSED AMENDMENTS TO RULES

The Chair recognized Floor Leader Tman.

Floor Leader Tman: According to our Rules of Procedure, Rule #70, I wish to give a one-day advance notice of a proposed amendment to our Rules.

> "Rule 17. Assistant Convention Secretary. The President may designate an Assistant Convention Secretary, who shall be an officer of the Convention and shall be deputized to perform the duties of the Convention Secretary. If the Convention Secretary, because of sickness or other cause, is unable to perform the duties of his office, the President shall authorize the Assistant Convention Secretary to certify official acts, documents, and vouchers, pursuant to Rule 11, until the Convention Secretary is able to resume his duties."

President Nakayama: Are there enough copies for the members of the Convention?

Floor Leader Tman: I believe the proposed amendment will be duplicated and distributed to you today.

President Nakayama: For your information, Victorio Uherbelau has been appointed Convention Secretary. Mr. Uherbelau will you please rise for introduction. (Applause)

For Sergeant-at-Arms, we have as head of the Sergeant-at-Arms group, Mr. Sintaro Ezra. Please rise.

The Sergeant-at-Arms that will be in the Hall most of the time serving as assistant to the head Sergeant-at-Arms is Thomas Naron from Ponape.

The Chair recognized Floor Leader Tman.

Floor Leader Tman: In order to allow time for all the Delegations to consult and discuss among themselves as to Committee assignments, I move that the Convention recess, subject to the call of the Chair.

Delegate Nimwes seconded, and the motion carried. The Convention recessed, subject to the call of the Chair, at 10:55 a.m.

RECESS

The Convention reconvened at 12:35 p.m.

President Nakayama announced the temporary membership of the committees, as selected by the President and Vice Presidents. Results were as follows:

COMMITTEE ON CIVIL LIBERTIES

1. Carl Heine, Acting Chairman
2. Langue Kalles
3. Olympio Borja
4. Chief Ibedul Y. Gibbons
5. Lazarus Salii
6. Namwarki Max Iriarte
7. Namiken Heinrich Stephen
8. Chief Kintoky Joseph
9. Maketo Robert
10. Iskia Sony
11. Chief Francisco Luktun
12. Chief Belarmino Mathey

COMMITTEE ON PUBLIC FINANCE AND TAXATION

1. Lorenzo LG. Cabrera, Acting Chairman
2. Takasy Wainit
3. Sasano Haruo
4. Bailey Olter
5. William Eperiam
6. Luke M. Tman
7. Petrus Tun
8. Tosiwo Nakamura
9. Jacob Sawaichi
10. Tipne Phillippo
11. Tom Kijiner

COMMITTEE ON GOVERNMENTAL FUNCTIONS

1. Strik Yoma, Acting Chairman
2. Kikuo Apis
3. Hans Williander
4. Chiro Albert
5. Manuel Sound
6. Frank Nifon
7. Benjamin Manglona
8. Jose R. Cruz
9. Johnson Toribiong
10. Acting Chief Reklai Termeteet
11. Samuel Falanruw
12. Nemos Jack
13. Mary Lanwi
14. Chief Belarmino Mathey

COMMITTEE ON STYLE AND ARRANGEMENT

1. Johnson Toribiong, Acting Chairman
2. Lazarus Salii
3. Olympio Borja
4. Jose R. Cruz
5. Iskia Sony
6. Hans Williander
7. Soukichi Fritz
8. Leo A. Falcam
9. Strik Yoma
10. Luke M. Tman
11. Hilary Tachelial
12. John Heine
13. Isaac Lanwi

COMMITTEE ON GENERAL PROVISIONS

1. Petrus Tun, Acting Chairman
2. Chief Francisco Luktun
3. Wilfred Kendall
4. Tipne Philippo
5. Langue Kalles
6. Daro Weital
7. Naniken Heinrich Stephen
8. Hirosi Ismael
9. Chief Fichita Bossy
10. Chutomu Nimwes
11. Maketo Robert
12. Tosiwo Nakamura
13. Jacob Sawaichi
14. (Marianas - vacancy)

COMMITTEE ON GOVERNMENTAL STRUCTURE

1. Soukichi Fritz, Acting Chairman
2. Soiter Mwety
3. Kotaro Heldart
4. Hilary Tacheliol
5. Hemos Jack
6. Isaac Lanwi
7. Tadao Sigrah
8. Heinrich Iriarte
9. Apinel Mateak
10. John O. Ngiraked
11. Santos Olikong
12. Luis M. Limes

The President announced that the persons whose names were called first were the Acting Chairmen of each respective committee and were responsible for calling a meeting of the committees and selecting chairmen.

Floor Leader Tman announced that there would be no assignments to the Special Conference Committee at that time but would be announced later by the Chair.

There being no communications, committee reports or proposals, the Chair asked for any miscellaneous or unfinished business.

Delegate Borja: Mr. President, I would like to call the attention of the Floor Leader to his proposed amendment distributed this morning. We should also amend Chapter II, Rule 5, page 4, to include "Assistant Convention Secretary", or it will be inconsistent. After amendment, the Rules of Procedure will then be consistent.

Floor Leader Tman: I wish to thank Delegate Borja for the suggestion of such amendment and I would like to ask the Convention to take notice of this proposed amendment so we can act on it in the morning.

The Chair asked for announcements.

Delegate Ngiraked: Mr. President, I would like to ask the Floor Leader to set a specific time for convening the Convention each morning, every day.

Floor Leader Tman: Mr. President, after the committees are organized, the officers and committee chairmen will sit down and decide what will be our convening time. Until that occurs, we will just convene at 1:00 p.m. tomorrow, in order to allow time for the organization of the committees.

Acting Chairman Toribiong: Mr. President, the Committee on Style should meet directly after this meeting today in this room.

Acting Chairman Carl Heine: The Committee on Civil Liberties will meet at 3:00 p.m. today in this building. At this time I would like to recognize Wilfred Kendall, our newly-seated member of the Marshalls Delegation.(Applause)

Delegate Kendall: Thank you, Mr. President. I am very happy with the recognition and would like to ask for only one thing. Could I have a name-plate with my name on it? (laughter)

President Nakayama: Certainly, Mr. Kendall. I think that is very reasonable.

Acting Chairman Cabrera: The Public Finance Committee will meet in Room 3 at 2:30 p.m. today.

Acting Chairman Fritz: The Committee on Structure will meet right after this session today to determine what time we should have our organizational meeting.

Acting Chairman Tun: The Committee on General Provisions will meet at 10:00 a.m. tomorrow in this room.

Delegate Wainit: I would like to ask the Acting Chairman of the Public Finance Committee if we would meet at 3:00 p.m. instead of 2:30 p.m.?

Acting Chairman Cabrera: 3:00 p.m., today, is fine.

Delegate Salii: I am still not clear with respect to the time the plenary session is due to convene each morning. How will we know when tomorrow's session is?

Floor Leader Tman: It was the consensus of the officers that tomorrow at 1:00 p.m. would be a good time to convene in order to allow ample time for the committees to get organized. Based on that, I would suggest that 1:00 p.m. tomorrow would be a good time.

President Nakayama: It has been a suggestion for the Convention to convene at 1:00 p.m. tomorrow. What is the desire of the Delegates?

Floor Leader Tman: Mr. President, in order to give time for all committees to meet and organize, I move we recess until 1:00 p.m. tomorrow, July 15.

Delegate Nimwes seconded the motion.

Delegate John Heine asked the Chair about assignments to the Special Conference Committee.

The Chair informed Delegate John Heine that an announcement would be made later with regard to assignments to the Special Conference Committee.

Delegate Nakamura asked what action has been taken on the petition made by the traditional leaders regarding compensation for their interpreters.

Floor Leader Tman explained that when the Committee Chairmen were organized, such petition would be a matter for the Administration Committee to handle.

President Nakayama also pointed out that the petition was addressed to the Pre-Convention Committee which was non-existent as of the opening of the Convention.

There being no further discussion, the motion carried. The Convention recessed at 1:05 p.m.

Respectfully submitted,

Victorio Uherbelau

Victorio Uherbelau
Convention Secretary

FOURTH DAY

Tuesday, July 15, 1975

The Micronesian Constitutional Convention was called to order at 1:25 p.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 50 Delegates present. Delegates Borja, Cruz, Haruo, Jack, Kendall and Manglona were excused. Delegates Palacios and Pangelinan were absent.

ADOPTION OF JOURNALS

Floor Leader Tman moved that the Journals of the Second and Third Days be adopted by the Convention. Delegate Nimwes seconded, and the motion carried. The Journals of the Second and Third Days were adopted.

STANDING COMMITTEE REPORTS

The President called upon Delegate Carl Heine, Acting Chairman of the Committee on Civil Liberties, to give his report.

Acting Chairman Carl Heine: Mr. President, the Committee on Civil Liberties met yesterday and organized itself. Carl Heine was elected Chairman and Iskia Sony was elected Vice Chairman. The Committee is ready to transact business from here on.

The President called upon Delegate Cabrera, Acting Chairman of the Committee on Public Finance, to give his report.

Acting Chairman Cabrera: I would like to inform the President that the Committee on Public Finance has organized and elected a permanent Chairman, Bailey Olter, and Vice Chairman, Tatasy Wainit. The Committee is now ready to transact business.

The President called for a report on the Committee on Functions.

Delegate Falanruw: On behalf of the Acting Chairman, Strik Yoma, I wish to advise you that your Functions Committee met and by unanimous vote, Delegate Hirosi Ismael was elected Chairman and Delegate Sam Falanruw was elected Vice Chairman. The Committee is organized and ready.

The President called upon Delegate Toribiong, Acting Chairman of the Committee on Style, to give his report.

Acting Chairman Toribiong: Your Committee on Style and Arrangement met for the first time yesterday after the adjournment of the session and elected by unanimous vote Hans Willander as the Chairman. Delegate Johnson Toribiong was Vice Chairman but this morning he submitted his resignation, and that seat is now vacant.

The President called upon Delegate Petrus Tun, Acting Chairman of the Committee on General Provisions, to give his report.

Acting Chairman Tun: Thank you, Mr. President. Your Committee on General Provisions met this morning and elected a permanent Chairman and a permanent Vice Chairman. The permanent Chairman has submitted his resignation and that position now is vacant.

The President called upon Delegate Fritz, Acting Chairman of the Committee on Structure, to give his report.

Acting Chairman Fritz: Your Committee on Structure met yesterday and the Committee elected Heinrich Iriarte as the Chairman and Hilary Tacheliol as the Vice Chairman. I think your Committee is now ready to transact business.

President Nakayama: Thank you. I wish to request the Committee on General Provisions to get together as soon as it can and select a permanent Chairman. I would ask again that Delegate Tun coordinate the organization of that Committee.

COMMITTEE PROPOSALS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Weital.

Delegate Weital: Thank you, Mr. President. If I may, I wish to give a statement.

President Nakayama: Please proceed.

Delegate Weital: President Nakayama, Honorable Vice Presidents, fellow Delegates: Now that this Convention is duly organized, now that we have chosen our Presiding Officers and adopted our Rules of Procedure, it is time to begin our task, as President Nakayama told us Saturday, "to build a Constitution our people can live with...and to give the idea of Micronesian unity new life..." Honorable Delegates, much has been said about unity in the past, and I suspect much more will be said about the need for unity in the future before this Convention adjourns. But what I want to say here today is that I hope that this Convention can take positive steps towards reaching unity in Micronesia, and not just take refuge in vague statements in support of Micronesian unity. Mr. President, if we are ever to be unified, then we must confront the problems and differences that separate us. In short, if we are to have unity, then we must work for it. For example, there are some Delegates in this Convention that favor a strong centralized government for Micronesia. On the other hand, others prefer to place more emphasis on our local governments in the districts. Our job, then, in working for unity, must be to find a middle road, a common road that will accommodate both these interests. We must do more than to simply say "unity is a good thing." In fact, it is my opinion that we have been flirting with danger by not doing anything constructive to reach unity. And today, we see the results: today, in fact, the United States' House of Representatives began its deliberations on a proposed Covenant to make the Marianas a permanent American Commonwealth. Now I ask: What does this mean? To me, Mr. President, it means we have done too little in our quest we all say we believe in---Micronesian unity. And what can we do to solve this problem? The answer, I sincerely believe, lies in less words, and more action. In short, we must begin working for unity; we can stop pointing an accusing finger, as many of us have done in the past, and ask ourselves: What have I done for Micronesian unity? Some of us prefer to blame the United States, and perhaps rightly so. After all, it was the United States who agreed to accommodate the Marianas. But I say, unless we do more here and now to solve our differences, there will be more separate negotiations, more disunity, and our dream of Micronesian unity will be just that---a dream. Mr. President, the Marianas experience

has taught us a lesson. And let us make it a lesson well learned. Let us create a government, a national government, where all the districts have some responsibility. There must be one Government of Micronesia that can speak for Micronesia to the outside world. There must be one governing body responsible for whatever duties the districts decide to assign to it. There must be one representative body which can coordinate and facilitate economic development with United Nations organizations, other nations of the world, for all of Micronesia. In my opinion, this is the only way we can develop in such a manner to ensure the economic well-being of all our islands. If we do otherwise, Mr. President, we will end up competing against each other for the favor of richer nations for capital investment, more aid, and for the sale of our exports. In other words, the result of disunity will place all of us in a weak bargaining position. Separately we will suffer. Only as a single political unit can we overcome our weaknesses. We must realize one important reality: Micronesia has been the plaything of the larger nations of the world for the past 400 years because we have been unable to join hands and establish one political and economic unit. We will remain a plaything if we fail here during this Convention. Our task calls for imagination. Our task calls for leadership. Let us put our differences aside and build a nation for Micronesia. Only then will we be able to stand on equal terms with the rest of the world. I thank you, Mr. President. (Applause)

President Nakayama: Thank you.

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Notice was duly given yesterday on the proposed amendment to the Rules of Procedure and also the suggestion by Delegate Borja was duly given. I wish, from the outset, to make a technical correction with respect to the proposed amendments to the Rules of Procedure. As regards the amendment to Rule 5, it reads: "Delete the last four lines of Rule 5 and substitute the following:", rather it should read: "Delete the last two sentences and insert the following:"

> "The Convention Secretary, Assistant Convention Secretary, and the Sergeant-at-Arms shall be appointed by the elected officers, subject to the approval of the Convention. The salaries of non-delegate officers shall be fixed by resolution of the Convention."

The amendment to Rule 17 should read as follows:

> "Rule 17. Assistant Convention Secretary. The Assistant Convention Secretary shall be deputized to perform the duties of the Convention Secretary. If the Convention Secretary, because of sickness or other cause, is unable to perform the duties of his office, the President shall authorize the Assistant Convention Secretary to certify official acts, documents, and vouchers, pursuant to Rule 11, until the Convention Secretary is able to resume his duties."

With those technical changes, I move that the proposed amendments to the Rules of Procedure be adopted.

Delegate Nimwes seconded, and the motion carried. The proposed amendments to Rule 5 and Rule 17 were adopted.

The Chair recognized Delegate Reklai Termeteet.

Delegate Termeteet: I believe that our gathering here in the Constitutional Convention is an important matter. Unless there is a storm or inclement weather, I don't see any reason why each and every one of us shouldn't be here on time.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: As I drove into the parking lot of the Convention premises, I noticed that there are about 50 cars parked and I began to wonder if we need a parking lot attendant to see that these cars receive some kind of protection while they are parked out there.

President Nakayama: Thank you.

The Chair recognized Delegate Wainit.

Delegate Wainit: Mr. President, I have a point of information. I would like to know if there is a way that the air conditioner can be turned down as it is uncomfortable at this time, or, if not, let the air conditioner be shut off and let the doors be opened.

MISCELLANEOUS COMMUNICATIONS

No. 1 Dispatch from Chairman of Marshalls Congressional Delegation relating to traditional and elected Delegates to the Con Con.

No. 2 Dispatch from Rep. Ekpap Silk of the Marshalls supporting the seating of Senator Kendall as a Delegate to the Con Con.

No. 3 Dispatch from Speaker Luii of Palau District Legislature advising Con Con of inability to attend opening session of Con Con and wishing success to all.

No. 4 Cablegram from Secretary Abebe of UN Trusteeship Council responding to invitation and sending best wishes to Con Con Delegates.

ANNOUNCEMENTS

Chairman Iriarte announced that the Committee on Structure would meet immediately after the session in the Convention chamber.

Acting Chairman Tun requested that the members of the Committee on General Provisions meet right after the session in Room 3.

Chairman Carl Heine announced that there would not be a meeting of the Committee on Civil Liberties today.

Chairman Wiliander announced that the Committee on Style would not meet until tomorrow and that the meeting tomorrow would be announced after the Plenary Session.

The Chair recognized Floor Leader Tman.

Floor Leader Tman: If there are no further announcements and with the concurrence of the Convention, I move that the Convention recess until 11:00 a.m. tomorrow.

Delegate Nimwes seconded the motion.

The Chair recognized Delegate Weital.

Delegate Weital: I have a point of information. Yesterday somebody asked for the time that the Convention should meet each day and, according to the Floor Leader, this would be announced right after the organization of the Committees. Is there a time designated for the Convention to convene every day? Is it set already?

Floor Leader Tman: I was originally supposed to have made the announcement for all Chairmen to meet with the officers; however, I did not make the announcement since the General Provisions Committee is still unorganized. When that Committee is organized, then all the Committee Chairmen and the officers of the Convention will meet and decide what will be the appropriate time for the daily Plenary Session of the Convention.

President Nakayama: Does that answer your question?

Delegate Weital: Thank you very much.

The motion carried to recess until 11:00 a.m., Wednesday, July 16, 1975.

The Convention recessed at 1:55 p.m.

Respectfully submitted,

Victorio Uherbelau

Victorio Uherbelau
Convention Secretary

FIFTH DAY

Wednesday, July 16, 1975

The Micronesian Constitutional Convention was called to order at 11:00 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 50 Delegates present. Delegates Borja, Cruz, Haruo, Jack, Kendall, and Mangiona were excused. Delegates Palacios and Pangelinan were absent.

ADOPTION OF JOURNAL

Floor Leader Tman moved that the Journal of the Fourth Day be adopted by the Convention. Delegate Nimwes seconded, and the motion carried. The Journal of the Fourth Day was adopted.

TT GOVERNMENT COMMUNICATIONS

None

PETITIONS AND MEMORIALS

None

SPECIAL COMMITTEE REPORTS

None

STANDING COMMITTEE REPORTS

The Chair recognized Delegate Tun, Chairman of the Committee on General Provisions.

Chairman Tun: Thank you, Mr. President. The Committee on General Provisions met yesterday for the purpose of organizing itself. The Committee then, I regret to report, elected Petrus Tun as permanent Chairman and Daro Weital as Vice Chairman. The Committee is thus fully organized and ready to transact business.

President Nakayama: Thank you very much. Any other reports from the committees? If not, we will proceed to the introduction of proposals.

INTRODUCTION OF PROPOSALS

Delegate Proposal No. 1, "Discrimination Based on Sex" was introduced by Delegate Carl Heine.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Salii.

Delegate Salii: Mr. President, the Palau Delegation has put in a request with regard to seating arrangements at this Convention. We would urge that a response be made forthwith to that request. Thank you.

President Nakayama: Thank you very much. We will take note of the request.

MISCELLANEOUS COMMUNICATIONS

5. Memo from Tosiwo Nakamura resigning from Chairmanship of Committee on General Provisions.

6. Memo from Johnson Toribiong resigning from Vice Chairmanship of Committee on Style and Arrangement.

ANNOUNCEMENTS

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Thank you, Mr. President. May I suggest to you and to the officers of the Convention that since all the committees have been duly organized the Committee Chairmen of the respective committees meet with the officers of the Convention to discuss the following points: appointment of the Assistant Convention Secretary, as was provided for in yesterday's amendment; coordination of committee meetings, their times and as to what committee meets at certain times; assignment of committee rooms if spaces are available, and also taking up the special request for seating arrangements by the Palau Delegation. May I suggest, Mr. President, that the officers and the chairmen meet at two o'clock this afternoon?

President Nakayama: Place of meeting?

Floor Leader Tman: Committee Room No. 3 at two o'clock this afternoon.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President, as the counting and tabulation of the ballots stand at this moment in the recent referendum, I have information that the people of Palau voted for the status quo. I wish to make this an announcement to the floor of the Convention.

President Nakayama: Thank you. Any more announcements?

The Chair recognized Delegate Ismael.

Delegate Ismael: Mr. President, I would like to request that the Committee on Governmental Functions meet at 2:30 this afternoon over in that building close to the sea, that round table building at 2:30. Thank you.

Floor Leader Tman: Mr. President, if there are no further announcements and with the concurrence of the Convention, I move the Convention recess until 11:00 a.m. tomorrow.

Delegate Nimwes seconded.

The Chair recognized Delegate Salii.

Delegate Salii: Mr. President, I have no objection to meeting at 11 o'clock tomorrow morning. However, I see no point in calling a plenary session every day and I want to know what are the plans of the leaders of this Convention with respect to holding plenary sessions. We are scheduling these things for late in the morning, effectively killing off half of the day for matters which could be handled outside of holding a plenary session. Is it the intent to hold a plenary session every day regardless of whether there is serious business to consider or not?

Floor Leader Tmau: Mr. President. I think, Mr. President, for tomorrow we already have one proposal in to dispose of in a plenary session and then it can go to a specific committee. Whether we should meet at 10 o'clock or 11 o'clock or hold a daily plenary session, we will decide that this afternoon when we meet with the chairmen and Convention officers.

President Nakayama: Is there any more discussion on having the session at 11 o'clock tomorrow morning?

There was no further discussion and the motion to recess carried. The Convention recessed at 11:15 a.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

SIXTH DAY

Thursday, July 17, 1975

The Micronesian Constitutional Convention was called to order at 11:00 a.m.

The Honorable Lorenzo LG. Cabrera, Vice President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 48 Delegates present. Delegates Borja, Cruz, Haruo, Heinrich Iriarte, Jack, Kendall, Manglona and Olter were excused. Delegates Palacios and Pangelinan were absent.

ADOPTION OF JOURNAL

The Chair recognized Floor Leader Tman.

Floor Leader Tman: The following changes are noted for correction on the second page of the Journal of the Fifth Day, page 24, the top portion under Miscellaneous Communications No. 5. The name "Toshiwo" is misspelled. The "h" should not be there. Under Miscellaneous Communications No. 6, instead of General Provisions, it should be Style and Arrangement. With these changes duly noted for correction by the Secretary of the Convention, I move that the Journal of the Fifth Day be adopted by the Convention.

Delegate Olikong seconded and the motion carried.

REFERRAL OF DELEGATE PROPOSAL

Delegate Proposal No. 1, entitled "A Proposal Relating to Discrimination Based Upon Sex" was read and referred to the Committee on Civil Liberties.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal Nos. 2, 3 and 4 were introduced by Delegate Carl Heine, and referred to the Committee on Civil Liberties.

Delegate Proposal No. 2 - Relating to Freedom of Speech, press, right of assembly and petition

Delegate Proposal No. 3 - Relating to freedom of migration and movement

Delegate Proposal No. 4 - Relating to the establishment of religion

MISCELLANEOUS AND UNFINISHED BUSINESS

Vice President Cabrera: I should like to announce that during the meeting of the officers yesterday, Mr. Asterio Takesy was appointed Assistant Secretary to the Convention.

MISCELLANEOUS COMMUNICATIONS

None

ANNOUNCEMENTS

The Chair recognized Delegate Carl Heine.

Delegate Carl Heine: I wish to make a minor correction in the Committee assignment of several of our Delegates from the Marshalls. On the Committee on Functions, we have Kinja Andrike and Mary Lanwi designated for that committee. I wish the record to be corrected and the Chairman of the Committee on Functions to take note of that fact.

Delegate Wainit: Your Committee on Public Finance will meet at 2:00 p.m. in Room 3, if that is all right with all the members.

Delegate Carl Heine: Yesterday at the meeting of the officers of this Convention, certain rooms were assigned to each committee. It is my understanding that Room 3 was assigned to the Committee on Civil Liberties. I think we will be meeting this afternoon at 2:00 o'clock in the room that was assigned to us.

Vice President Cabrera: We will have Floor Leader Tman answer that question.

Floor Leader Tman: I was late in making the appropriate announcement as to committee room assignments. I thought we were still under Miscellaneous Communications. According to the meeting yesterday, these are the committee assignments:

The Committee on General Provisions is assigned to Committee Room No. 1.
The Committee on Governmental Functions is assigned to Committee Room No. 2.
The Committee on Civil Liberties is assigned to Committee Room No. 3.
The Committee on Governmental Structure is assigned to Committee Room No. 4, which I understand is upstairs.
The Committee on Style and Arrangement is assigned to the area on the right side of this chamber. When you look from the Chair, out to the right, it is the right side of the chamber.
The Committee on Public Finance is assigned to the left side of the chamber.

Would Delegate Wainit like to amend his place of meeting to the left side of the Chamber?

Delegate Wainit: Let the amendment be as it is.

Delegate Ismael: Your Committee on Functions will meet at 2:30 p.m. in Committee Room No. 2.

Floor Leader Tman: Before I make a motion, I would like to make it very clear that this will be subject to the decision of the Convention. I understand that three new proposals are in this morning. If it is the wish of the Convention to dispose of them tomorrow morning, so we will know where the committee assignments are, I move that the Convention now recess until 11:00 a.m. tomorrow morning.

Delegate Nakamura seconded the motion.

Vice President Cabrera: If there are no objections to the motion, I will declare the Convention recessed until tomorrow morning at 11:00 a.m.

The Convention recessed at 11:15 a.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

SEVENTH DAY

Friday, July 18, 1975

The Micronesian Constitutional Convention was called to order at 11:05 a.m.

The Honorable Leo A. Falcam, Vice President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 48 Delegates present. Delegates Borja, Cruz, John Heine, Jack, Kendall, Manglona, Olter and Philippo were excused. Delegates Palacios and Pangelinan were absent.

ADOPTION OF JOURNAL

There being no corrections to be made, Floor Leader Tman moved that the Journal of the 6th Day be adopted by the Convention. Delegate Nimwes seconded the motion, motion carried, and the Journal of the 6th Day was adopted by the Convention.

PETITIONS AND MEMORIALS

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President and fellow Delegates to the Convention, I wish to make a petition on behalf of the Palau Delegation and the people of Palau. The people of Palau have placed their highest hopes and political aspirations on this Convention. To the people of Palau, this Convention as a forum, a body, is a hope — a dream come true. The people of Palau sent to this Convention through their delegation a message of their political aspirations— all aimed for the unity of Micronesia. Mr. President, the expressed aspirations of the people of Palau, in unity of Micronesia, is the kind of unity that treats everybody equal; that takes into consideration mutual respect for problems that are peculiar to each and every district in Micronesia that make up the political elements. The people of Palau consider unity, at this point, not a political question, but a task — a goal before this Convention to be achieved. To that end, Mr. President and fellow Delegates, and with the leave of the Convention, we wish to place before the Convention the terms and conditions upon which the delegation of Palau and the people of Palau commit themselves toward the unity of Micronesia. Thank you very much. And, Mr. President, for the presentation of those terms I wish to recognize Delegate Toribiong. Thank you very much.

The President recognized Delegate Toribiong.

Delegate Toribiong: Thank you, Mr. President. The following is the statement or general proposal of the Palau Delegation to this Convention, which was conceived and formulated in the spirit of Micronesian unity and mutual respect that take into account the diverse cultural, political and geographical conditions and realities of Micronesia. The statement reads:.....

Delegate Toribiong began reading the statement, but there was difficulty with the loudspeaker system. For that reason, Delegate Nimwes moved for a short recess until the loudspeaker trouble was corrected. Delegate Weital seconded the motion, and motion carried.

The Convention recessed, subject to call of the Chair, at 11:15 a.m.

RECESS

The Convention reconvened at 11:20 a.m.

The Chair again recognized Delegate Toribiong.

Delegate Toribiong: Thank you, Mr. President. I will begin again reading the statement and general proposal of the Palau delegation and people of Palau to this Convention. It reads:

"1. MICRONESIAN UNITY. The Palau Delegation to the Micronesian Constitutional Convention will support the Unity of Micronesia if and only if the following terms and conditions are incorporated in the final draft constitution of Micronesia:

1. That the central government of Micronesia shall have only those powers as may be expressly delegated to it by the people of the districts.

And that each district shall be recognized as the basic political unit of government in Micronesia.

And that each district, as the basic political unit of government, shall have all other powers of government not expressly delegated to the central government and which are characterized as the reserved or residual and implied powers.

That the jurisdiction of the central government of Micronesia shall be limited to subject matters which are of common concern and mutual interest to all the districts of Micronesia, and hence, shall necessarily be limited to international, inter-district and kindred matters, such as:

international relations and national defense

immigration, international travel and postal service

international and inter-district transportation and communication

international and inter-district trade and commerce

promotion of the standards of health and education services in the districts, with the district governments having the primary responsibility and policy-making concerning the delivery of these services.

2. That the central legislative authority of Micronesia shall be unicameral in structure consisting of equal number of representatives from each district -- namely, each district shall have equal representation in the legislative authority.

3. The district governments shall have full authority and control over ownership and use of land.

And that the power of eminent domain in the central government shall be conditioned upon the approval of the appropriate district government.

That ownership and use of land by foreign governments, corporations, nationals or international organizations shall be the responsibility of the district governments.

4. Financial grants or aids by foreign governments or international organizations to Micronesia shall be divided and shared equally by all the districts of Micronesia and the central government with exception of those grants which

shall by their own special nature and terms provide for a different method of division or distribution.

5. That the District governments shall contribute equally to the national treasury of Micronesia.

And that central government shall have no general taxing authority, except the power to levy fees and taxes, other than a personal income tax, on business transactions and services falling within its jurisdiction, such as fees or taxes on the following:

transactions and activities of business entities engaging in international and inter-district trade and commerce.

air and ocean transportation and communication business transactions and activities.

And that the central government shall derive needed additional revenues from the district governments on the basis of equal contribution.

6. Constitutional recognition of the right of political self-determination for each district to withdraw unilaterally from the Micronesian union over a specified period of time in order to afford each district an opportunity to reassess the desirability and advantages and disadvantages of unity of Micronesia.

7. The seat of the central government of Micronesia shall be located in Palau.

II. FUTURE STATUS. The Palau Delegation supports a status with the United States that is terminable and alterable and which leaves open the options for independence, commonwealth status, and other kinds of status with the United States or other nations.

III. ALTERNATE DRAFT CONSTITUTION. In the event the Convention will not incorporate any of the above terms and conditions in any of the proposed draft constitutions, the Palau Delegation will put together an ALTERNATIVE DRAFT CONSTITUTION incorporating all of the above terms and conditions and shall present the same to the Convention and, hopefully, to all the Micronesian voters for their final consideration and approval.

/s/John O. Ngiraked, Chairman
Reklai (Actg.) E. Termeteet
Toshiwo Nakamura
Jacob Sawaichi
Ibedul, Y. Gibbon
Santos Olikong
Johnson Toribiong
Lazarus E. Salii

Thank you very much, Mr. President. (Applause)

President Falcam: I thank the Delegate from Palau. Delegate Salii?

Delegate Salii: Thank you, Mr. President. If the Convention will permit me, I would like to present some explanation for the statement of position that has just been presented to the Convention. We ask each and every Delegate to look at these conditions in the light of the experience we have had with each other during the past, especially during the last ten years. These conditions

are designed to make it possible for Palau to unite with the rest of Micronesia. We hope that the Convention will look at them in this light. Our first responsibility is to ensure the interest of the people who sent us to this Convention. We believe that it is in the interest of this Convention to know exactly the conditions under which Palau will accept Micronesian unity. If the Convention dismisses any of these conditions, then we tell this Convention this morning that Palau will not consider joining the other districts. For those who maintain that this is an empty threat, we want to let you know that these conditions did not spring out of a vacuum. They evolved over a period of time. They evolved especially from the experience Palau has had in the Congress of Micronesia and the manner in which we have treated each other in the Congress. These conditions, in other words, did not spring from the election to this Convention. They didn't spring from the meeting of the members of this delegation in a recent period of time. They sprang from a long history and background of our relationship with each other. We hope the Convention will view them in this light. That's the only way Palau will join unity with Micronesia. Thank you, Mr. President.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 2, entitled "A Proposal Relating to Freedom of Speech, Press, Right of Assembly and Petition" was read and referred to the Committee on Civil Liberties.

Delegate Proposal No. 3, entitled "A Proposal Relating to Freedom of Migration and Movement" was read and referred to the Committee on Civil Liberties.

Delegate Proposal No. 4, entitled "A Proposal Relating to the Establishment of Religion" was read and referred to the Committee on Civil Liberties.

INTRODUCTION OF RESOLUTIONS

The Chair recognized Delegate Ismael.

Delegate Ismael: Mr. President, your Committee on Functions has discussed and has unanimously agreed to bring to this Convention a resolution, especially in the light which promoted this resolution. That is, exactly as we see this morning, to stimulate the various delegations to bring to light the various positions so that we in this committee can start working to bring out a workable type of constitution for Micronesia. With this, Mr. President, I would like to just read the title of this resolution. It is as follows:

> "Declaring a consensus of the Constitutional Convention that a federation of autonomous states be established as the sovereign government of Micronesia."

CONSIDERATION OF RESOLUTIONS

None.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Tun.

Delegate Tun: I would like to point out a very minor mistake in committee assignments for a member of my delegation who also requests that the necessary correction be made. Chief Belarmino Mathey, you will note by looking at the committee assignments, is shown to be a member of both the Committee on Civil Liberties and the Committee on Governmental Functions. Our Convention rules require that if a person is a member of either of these committees, he cannot be a member of the other. Chief Mathey prefers to serve on the Committee on Civil Liberties only.

The Chair recognized Delegate Chief Bossy.

Delegate Chief Bossy: Thank you , Mr. President. I have a very brief statement to make to this Convention.

Mr. President, fellow traditional chiefs and comrade delegates: Allow me to begin my statement first by expressing many thanks to our Congress of Micronesia for making this Convention a reality. I especially thank them for amending their previous legislation and hence making it possible for the traditional chiefs to fully participate in this historic event for all Micronesia.

When one looks at the delegation directory, one finds delegates who represent all sectors of our Micronesian communities. I am extremely pleased that among us we have a female delegate and some very young gentlemen. Thanks to God and the people of Micronesia for sending to this Convention this beautiful representation.

I do not know the real intention behind this new seating arrangement. If it is to better facilitate communication among each delegates, then let it be so. However, if it is for any other purpose, then I pray that such arrangement will not affect our Micronesian unity. Only a few days ago a T.T.-wide referendum was held and although our people expressed different preferences with respect to our future political status, let us not forget that there was one thing in which all our districts, all our people, except for the Marianas, agreed on. That one thing, fellow delegates, is Micronesian unity.

We are here to represent our people's views. It's been said, perhaps too many times, by outside observers as well as a few of our own people that unity in Micronesia is an "impossible" dream. I am sure you'll all agree with me that this is not so. We already have a Micronesia. We are one people. We are all islanders sharing very similar advantages and disadvantages unique to our home islands. We have people from the districts intermarrying each other. There are people from one district living permanently in a different district and they are accepted by the people of that district. These bonds and others, like the Congress, are very strong bonds. These bonds are reflected in the recent referendum. They make it imperative that we labor hard in these 90 days, guided by the wishes of our Micronesian people in drafting this constitution for Micronesia.

We must start now, here in this Convention, to call ourselves Micronesian first, a Trukese or Marshallese second. We must have a united Micronesia, loosely united or strongly united; united we must be, if we are to survive as Micronesians. (Applause)

President Falcam: Thank you, Delegate Bossy. Are there any other announcements?

The Chair recognized Delegate H. Iriarte.

Delegate H. Iriarte: I would like to announce to the members of the Committee on Structure that there will be a meeting today at 1:00 in Room 4.

Delegate Wainit: I would like to ask the members of the Committee on Public Finance and Taxation to try not to be off-island this weekend as this committee may have to have deliberations.

Delegate Toribiong: The Committee on Legislative Functions will meet today at 2:30 in Room 2.

Delegate Falanruw: The Committee on Functions, Executive and Judicial, will meet here at 2:30 in the Chamber. Since the other committee is taking Room 2, we will need other space.

Floor Leader Tman: At the request of President Nakayama, the Convention officers will meet at 2:00 this afternoon in the President's office to consider, among other things, the Special Conference Committee.

Delegate Tun: I would like to request the members of the Committee on General Provisions to meet in Room 1 at 10:00 tomorrow.

Delegate Carl Heine: The Committee on Civil Liberties will not meet today, Saturday, or Sunday, or Monday. It might meet on Tuesday, but the members are at liberty for the rest of the week. (Laughter)

Delegate Wiliander: The members of the Style Committee are free to go off-island this weekend as we have no meeting scheduled. (Laughter)

Floor Leader Tman: Mr. President, some of the announcements presume that there will not be any plenary session over the weekend. To that effect, Mr. President, and in order to allow various committees to work between now and Monday, and also to give ample time for our staff to research and draft appropriate proposals, with the concurrence of the Convention, I move that the plenary session recess until 11:00 a.m. Monday morning.

The motion was seconded by Delegate Olikong.

Motion carried and the Convention recessed at 11:45 a.m.

Respectfully submitted,

Asterio Takesy
Assistant Convention Secretary

Saturday, July 19, 1975

EIGHTH DAY

There was no session on this date.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

Sunday, July 20, 1975

NINTH DAY

There was no session on this date.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

TENTH DAY

Monday, July 21, 1975

The Micronesian Constitutional Convention was called to order at 11:00 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 48 Delegates present. Delegates Borja, Cruz, Gibbons, Jack, Kendall, Manglona, Olter and Toribiong were excused. Delegates Palacios and Pangelinan were absent.

ADOPTION OF JOURNALS

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Thank you, Mr. President. A minor correction to the Journal of the Seventh Day has been brought to my attention. On page 32, under Petitions, Memorials, is a statement made by Delegate Ngiraked. At the end of the fourth line, after the word "Convention," the word "is" is to be deleted and in place thereof the word "as" is to be inserted. At the beginning of the next line, instead of "form" it should be "forum," and right after that word the word "is" should be deleted, so the line should read, "...this Convention as a forum, a body, is a hope..." With that correction, I move that the Journals of the Seventh, Eighth and Ninth Days be adopted.

Delegate Olikong seconded the motion, and the motion carried. The Journals of the Seventh, Eighth and Ninth Days were adopted by the Convention.

PETITIONS AND MEMORIALS

Convention Secretary: We have Petition No. 1, relating to the terms and conditions under which Palau will unite with the rest of the districts. This petition is assigned to the Committee on Governmental Functions with the instruction to consult with other concerned committees.

(Delegates Mateak and Wiliander took their seats.)

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 5, entitled "A Proposal Relating to the Executive Authority for Micronesia vested in a six member Executive Council" was referred to the Committee on Governmental Structure.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 6, entitled "A Proposal Relating to traditional and customary rights" was introduced by Delegate Luktun.

Delegate Proposal No. 7, entitled "A Proposal Relating to discrimination based upon sex and traditional laws" was introduced by Delegate Luktun.

Delegate Proposal No. 8, entitled "A Proposal Relating to the territorial limits of the state of Micronesia" was introduced by Delegate Carl Heine.

Delegate Proposal No. 9, entitled "A Proposal Relating to education" was introduced by Delegate Weital.

Delegate Proposal No. 10, entitled "A Proposal Relating to the power of eminent domain" was introduced by Delegates Falanruw, Tun, Mathey, Luktun, Tman and Tacheliol.

CONSIDERATION OF RESOLUTIONS

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Although Resolution No. 1 was introduced last Friday, I believe the duplicated copies were just distributed to the Delegates this morning. In view of the complexity of the issue involved in the resolution, I would suggest that action or consideration of this resolution be delayed until tomorrow in order that all the Delegates may have ample time to review and consider their own positions.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Floor Leader Tman.

Floor Leader Tman: As you and the members of the Convention are aware, there was a special request from the interpreters for their per diem. I wish to advise the members of the Convention and the interpreters that at the meeting of the officers on Friday, the officers instructed the Convention Secretary to look into our current budgetary limitation to see if there would be funds available, and if funds would be available that some positive action would be taken in favor of the interpreters. Also, another point that was raised is the compensation of government employees during weekends. This question is being studied, especially the policy of the Trust Territory Government, and the opinion of the Attorney General is being sought to see if the Administration can assist us in this particular case. The situation will also be considered later on by the officers when our current budgetary situation is clear. Thank you.

The Chair recognized Delegate Salii.

Delegate Salii: Mr. President, I believe there has been a request put forth for the Convention to receive a financial report of this Convention. I would like to have some indication as to when such a statement can be made available so we can know where we stand with respect to the funds appropriated for the Convention.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President, I think it is the present understanding of the leadership of the Convention that the Delegates who are members of the Administration will lose, or stand to lose, some money during the holidays and the weekends because of their status on administrative leave. I have discussed this matter with many Delegates and I have a feeling that that problem, I think, should be recalled and discussed because I feel that these people fall under the provision of the law which provides that each Delegate shall make a certain amount of money under the statutory provision. I don't think our present understanding is in line with that provision of the law. I wish that some decision be made.

President Nakayama: The question is being studied, and as soon as we get the result of the study we will announce it to the Convention. Is there any more miscellaneous or unfinished business?

The Chair recognized Delegate Salii.

Delegate Salii: Thank you, Mr. President. Excuse me for not completing my prior statement. There is a question from the members of the Palau Delegation with respect to the payment of per diem to the Delegates. As

we understand it now, per diem is given to the Delegates on a biweekly basis along with the salary. The question has been raised as to whether 80 percent of the entire per diem calculated for the 90 days can be advanced to the Delegates. We would ask that that question be put forth to the leadership for their consideration. The rationale behind this is that the Trust Territory Government advances 80 percent of the projected per diem based on the number of days for travel outside of the district in which the employee is stationed. It is also the understanding of many of us that the money has already been appropriated and that, in that case, there is no valid reason to withhold the per diem for the Delegates and to give it only on a biweekly basis. Therefore, if the law allows the 80 percent to be given in advance and if the money is available, the leadership may prefer to consider this. There may be a question of some people who are not willing to get the entire amount for various reasons, however, there are others who think that they can manage their own budgeting; if the money were given to them they would be in a better position to do so. So, will you please put that in your agenda and consider it also.

President Nakayama: Thank you.

ANNOUNCEMENTS

The Chair recognized Delegate Heinrich Iriarte.

Delegate Heinrich Iriarte: Your Committee on Governmental Structure will meet at 2:00 p.m. in Committee Room #4 today.

Delegate Ismael: I would like to make a correction here. Your Committee on Governmental Functions now has two subcommittees. The names are incorrectly put down in this list. One of these, the Subcommittee on Legislative Matters, is chaired by Johnson Toribiong. The members are Manuel Sound, Frank Nifon, Acting Chief Reklai Termeteet, Kinja Andrike and I. The other Subcommittee on Executive and Judicial Matters is chaired by Samuel Falanruw. The names there are all correct except my name should be stricken from that list as I am in the other group. I would like to ask that the entire Committee on Governmental Functions meet at 2:30 p.m. to consider a petition.

Delegate Williander: I wish to announce that your Committee on Style will meet at 10:00 a.m. tomorrow morning in this chamber.

Delegate John Heine: This is just a point of clarification. I find that a new listing of the members excludes my name from the Committee on Governmental Structure. When I read the report this morning, my name was included in the Committee's report as being absent, but I was never called to come to the meeting. I wonder where I stand.

President Nakayama: You stand as a member of the Convention and as a member of various committees.

Delegate John Heine: Then I wish that either my name be included in that list or the report from the Committee be corrected.

President Nakayama: If there are no further announcements, I wish to announce the appointment of the Special Conference Committee. The following are the members: Jacob Sawaichi and Santos Olikong of Palau, Hilary Tacheliol and Samuel Falanruw of Yap, Luis Limes and Olympio T. Borja of the Marianas, Wilfred Kendall and John Heine of the Marshalls, Daro Weital and Hirosi Ismael of Ponape, and Sasauo Haruo and Chief Fichita Bossy of Truk. That's the announcement. The Chair will designate a date and time to meet for the purpose of organizing that committee later.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President, there is a beautiful sign standing against the wall and I would suggest that the Chair and the leadership find some means for posting it in a more conspicuous way--an appropriate place--on the Convention grounds.

President Nakayama: That is a good suggestion. We will see that the sign is displayed where people can see it.

The Chair recognized Floor Leader Tmau.

Floor Leader Tmau: With the concurrence of the Convention and if there are no further announcements, I move that the Convention recess until 11:00 a.m. tomorrow.

Delegate Nakamura seconded the motion.

President Nakayama: Before I put the question to the vote, I wish to request leave of the Convention so that I can attend the opening of the Pacific Legislators Conference on Guam tomorrow. I will leave the island this afternoon and be back tomorrow afternoon.

There was no further discussion and the motion carried to recess. The Convention recessed at 11:25 a.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

ELEVENTH DAY

Tuesday, July 22, 1975

The Micronesian Constitutional Convention was called to order at 11:00 a.m.

The Honorable Carl Heine, Vice President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 46 Delegates present. Delegates Borja, Cruz, Gibbons, Jack, Kendall, Manglona, Nakayama, Nifon, Olter and Toribiong were excused. Delegates Palacios and Pangelinan were absent.

ADOPTION OF JOURNAL

Floor Leader Tman moved that the Journal of the Tenth Day be adopted. Delegate Olikong seconded and the motion carried. The Journal of the Tenth Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Ismael, Chairman of the Committee on Governmental Functions.

Chairman Ismael: Thank you, Mr. President. Mr. President, your Committee on Governmental Functions, to which was referred Petition No. 1 relating to the Palau position on the Micronesian Constitution, has considered this petition and wishes to report that there are certain portions of this petition that should be assigned to other committees to simultaneously deliberate on them while your Committee on Governmental Functions deals with those portions that are appropriate to this committee. These parts are as follows, Mr. President:

Page 1, Part 2 [The central legislative authority of Micronesia shall be unicameral in structure consisting of equal number of representatives from each district -- equal district representation.] should be assigned to the Committee on Governmental Structure.

Page 2, Item 4 [Financial grants or aids by foreign governments or international organizations to Micronesia shall be divided and shared equally by all districts and the central government of Micronesia with exception of those grants which shall by their own special nature and terms provide for a different method of division or distribution.] should be considered by your Committee on Public Finance and Taxation and also by your Committee on General Provisions.

Page 2, Item 5 [District governments shall contribute equally to the national treasury of Micronesia.] should also be considered by your Committee on Public Finance and Taxation.

Page 2, Item 6 [Constitutional recognition of the right of political self-determination for each district to withdraw unilaterally from the Micronesian union over a specified period of time in order to afford each district an opportunity to reassess the desirability and advantages and disadvantages of unity of Micronesia] and Item 7 [The seat of the central government of Micronesia shall be located in Palau] should be considered by the Committee on General Provisions.

Finally, Mr. President, Page 2, Roman Numeral II, Future Status, should also be considered by the Committee on General Provisions.

Mr. President, I would like to request that such assignments be made so that it could expedite the work on this petition in this Convention. Thank you, Mr. President.

President Heine: Thank you, Delegate Ismael. Is there any discussion on that? If there is no discussion, the various parts of the Palau proposal, as presented by the Chairman of the Committee, are so assigned.

Delegate Nimwes: Point of information, Mr. President. May I ask the Secretary to please reread the assignments?

The Chair so directed the Secretary and the Secretary reread the assignments.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 6, entitled "A Proposal Relating to traditional and customary rights.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 7, entitled "A Proposal Relating to discrimination based upon sex and traditional laws.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 8, entitled "A Proposal Relating to the territorial limits of the state of Micronesia.", was referred to the Committee on Governmental Structure.

Delegate Proposal No. 9, entitled "A Proposal Relating to education.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 10, entitled "A Proposal Relating to the power of eminent domain.", was referred to the Committee on Governmental Functions.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 11, entitled "A Proposal Limiting the power of government to intervene in the economy of the nation and relating to taxation.", was introduced by Delegate Wainit.

Delegate Proposal No. 12, entitled "A Proposal Relating to the establishment of religion.", was introduced by Delegate Weital.

Delegate Proposal No. 13, entitled "A Proposal Relating to the imposition of capital punishment.", was introduced by Delegate Weital.

INTRODUCTION OF RESOLUTIONS

Resolution No. 2, entitled "Resolution requesting the Micronesian Constitutional Convention to select a location for the future capital of Micronesia and to include necessary provisions in the Constitution for the establishment of such capital.", was introduced by Delegate Weital.

Resolution No. 3, entitled "Resolution recognizing the critical and important role and functions performed by the traditional leaders of Micronesia and the need to institutionalize such role in the future.", was introduced by Delegate Weital.

CONSIDERATION OF RESOLUTIONS

Convention Secretary: Mr. President, we have Resolution No. 1, declaring a consensus of the Constitutional Convention that a federation of autonomous states be established as the sovereign government of Micronesia.

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Thank you, Mr. President. Mr. President, in order for this Convention to consider Convention Resolution No. 1, in accordance with Chapter 5 of our Rules of Procedure, I move the Convention resolve itself into the Committee of the Whole.

Delegate Olikong seconded and the motion carried. The Convention resolved itself into the Committee of the Whole at 11:10 a.m. The Chair appointed Delegate Ismael as Chairman of the Committee of the Whole.

The Committee of the Whole rose at 11:35 a.m.

The Constitutional Convention was called to order at 11:45 a.m.

The Chair recognized Chairman Ismael.

Chairman Ismael: Mr. President, I wish to report that your Committee of the Whole, to which Resolution No. 1 was assigned for deliberation, did not reach a consensus. As such, I wish to remind all Delegates that according to our rules the same resolution will be placed on tomorrow's calendar for yet another deliberation so as to dispose of it somehow. Thank you, Mr. President.

President Heine: The report of the Chairman of the Committee of the Whole is that the Committee of the Whole was not able to reach any consensus on Resolution No. 1. Is there any further discussion for action on that resolution?

Delegate Salii: Mr. President, I don't know what the rules are but I think if the Convention is not ready to act on it now, it is too early to place it on the calendar for tomorrow also. If the rules permit this kind of motion, I'd like to move that the resolution be placed on the calendar for action on Monday rather than tomorrow.

Delegate Olikong seconded.

Delegate Haruo: Mr. President, I would just like to raise a point of information relative to the question raised by Delegate Ngiraked [during the Committee of the Whole], and that is the assignment of this resolution perhaps to an appropriate committee of the Convention.

President Heine: Thank you, Delegate Haruo. I am sure the officers of this Convention will take note of that. Are we ready for the question now?

The motion carried. Resolution No. 1 will be placed on the calendar for consideration on Monday, July 28, 1975.

MISCELLANEOUS AND UNFINISHED BUSINESS

President Heine: At this time I would like to make a few remarks to be entered into the Journal of the Convention. I am making these remarks as a Delegate. I just happen to be presiding today, but my plan was to make my remarks, so, if you will bear with me for five or ten minutes, I would like to insert my prepared remarks into the Journal.

Fellow Delegates:

Last week the Palau Delegation presented this Convention with a statement of the conditions under which it would be willing to join a future Government of Micronesia. It also, by implication, presented us with a statement of the conditions under which it would not be willing to unite with the other districts of Micronesia.

Today I would like to present a response to the position of the Palau Delegation.

My first point is that we all ought to be weighing the position of the Palau Delegation very carefully. As Delegations and as individuals, we should think through our response to what the Palau Delegation said. The Palau Delegation has raised some important issues about the future of Micronesia. They deserve credit for articulating those issues and they deserve some replies from the rest of us.

The Palau statement is comprehensive, well-thought through, and straightforward. What is more, I believe it is honest. I believe these men have taken the time to evaluate the position of their district. They have asked some very hard questions -- and come up with some very hard answers. I hope that before this Convention is much older all of us will have done the same.

Now, let me examine some of the major features of the Palau proposal, one by one.

A good deal of the Palau proposal concerns the role of the central government. The Palauans want a small central government. They want the powers and functions of the central government to be controlled from the districts. And, most important, they want the individual districts to be recognized as the basic political units in Micronesia with, among other things, the power of eminent domain.

I find nothing to object to in any of this. For years the Trust Territory Government has been struggling to decentralize. For years the Congress of Micronesia has been pressing to have power moved off Capitol Hill and back to the people. For years district legislatures have attempted to assert their powers and assume more responsible roles, particularly over land. The Palauans want to limit the power of the central government. So do I. They want districts to be recognized for what they are -- the basic sovereign units of Micronesia life. And so do I. They want control of their own land; and I want control of my land.

Now, I come to a more controversial aspect of the Palauan position: Their insistence that the future Micronesian Legislature have equal representation from all districts, regardless of size. Arguments are being made against this position -- and they are important arguments.

Surely we have all heard some of these arguments by now. We have heard that Truk, with its population of 30,000, would have the same representation as Yap or Palau, though Yap and Palau each have less than one-third of Truk's population. The smallest district, therefore, would have the same voting power as the largest. The power of the voters in small districts would be mulitiplied; the power of voters in the larger districts would be diminished.

This is the main argument against equal representation in a unicameral legislature. But there is another principle at stake here too, and it is just as important: The equality of districts. If we are to bind our districts together under one Constitution, we must bind them as equals. The Palauan proposal does just this. It makes all the districts equal in the eyes of the central government. It sacrifices numerical fidelity for spiritual truth; it abuses statistics but it satisfies local pride. It represents a political solution to a political problem.

Now, the Palauans asked for protection because they are small. I think this protection should be granted them. At the same time, they asked for protection because they are rich, or potentially rich. On this point, I think the Palau Delegation can fairly be asked to compromise and to reconsider their position. I cannot believe our Palauan friends honestly believe that Truk should be limited to exactly the same funds for medical care, or education, as Yap, or that the taxes contributed to the central government by Yap, or Kusaie, should be the measure by which Palau or the Marshalls are taxed. The needs and resources of our districts vary enormously and any central government, however limited, which did not have the power to budget flexibly would become a mockery. The effect of the equal taxation and equal disbursements the Palau Delegation requests would be to perpetuate fearsome inequalities in Micronesia.

If, as I have recommended, the Palau Delegation is granted its request for equal political power, I hope it will, in turn, modify its financial guidelines. I look forward to some indication from our Palauan friends that, in

consideration of concessions in other areas, they will make some concession in the area of finance.

Now, let me turn to two other items in the Palauan position paper.

We have all noticed the request that the seat of the central government be situated in Palau. I do not think that this is a new issue, or a major issue. It is not a new issue because representatives of at least two other districts -- Ponape and Truk, namely -- have already made similar requests in the Congress of Micronesia and the Palauan Delegation can hardly be blamed for following in their footsteps. It is not a major issue because, if the central government is as small, as limited, as we hope it will be, the location of the Capitol will not be a matter of great consequence. I respectfully suggest that this Convention has more important matters to deal with than to have its Delegations act as broker-realtors to the new government.

The Palau Delegation also suggested that each district have the ultimate right to withdraw from the Micronesian Government. I agree. Secession -- for that is what the Palauan proposal contemplates -- is a drastic measure, but it gives all of our districts, large or small, rich or poor, a final protection against the government. I therefore suggest that this proposal be carefully considered and drafted in a way which protects the interests of the departing district and the remaining ones.

This is all I have to say in response to the Palau Delegation. This, I hope, will be the first of many such responses. Meanwhile, however, the Palau Delegation is to be thanked for showing us some of the very real problems that lie in the way of Micronesian unity. For their past firmness -- and for their future flexibility -- I give them my thanks. They have shown us that the price of unity is indeed very high. And it is high. But I am willing to pay the price. And so, I hope, are they.

Thank you very much. [Applause]

The Chair recognized Delegate Weital.

Delegate Weital: Thank you, Mr. President. I would like to announce to the Convention and the people of Micronesia and the people on Guam and the representative of the Guam newspaper that I have not changed my first name. My name is Daro; my first name is Daro, and it is not Caro. I saw my name in yesterday's paper and in today's paper, and my first name was spelled C A R O. My first name is Daro, so I request the representative of that newspaper to please correct the spelling as soon as possible. Thank you, Mr. President. [Applause]

President Heine: Thank you, Delegate Weital. I am sure it is a typographical error and the Chair will request that the Director of Public Information take some note of that fact and make some correction with the news media.

MISCELLANEOUS COMMUNICATIONS

7. Letter of support for the Con Con from the Mercedarian Missionaries, a group of religious women in Kansas City.

8. Letter from J. Bennett Johnston, U.S. Senator from Louisiana, regretting his inability to attend the formal opening and extending his warmest regards and best wishes for a successful meeting.

ANNOUNCEMENTS

The Chair recognized Delegate Wainit.

Delegate Wainit: Thank you, Mr. President. I would like to announce that your Committee on Public Finance will meet at two o'clock today; that is, if there are no objections from the members of that committee.

Delegate Tacheliol: Mr. President, I would like to ask the Subcommittee on Executive from the Committee on Governmental Structure to meet in Room 4, upstairs, at one o'clock this afternoon. Thank you, Mr. President.

Delegate Wiliander: Mr. President, I wish to announce that your Committee on Style will meet immediately after the plenary session for the purpose of electing a Vice Chairman.

Delegate Ismael: Mr. President, your Committee on Governmental Functions will not meet until we get better organized with regard to our legal analysis on certain of our proposals, so further meetings of this committee will be announced later on.

Floor Leader Tman: Mr. President, at the request of President Nakayama, I wish to announce that from now on after every plenary session the officers of the Convention will meet in Committee Room 3 to take up any matters that are of interest to the whole Convention.

I wish also to announce that if any administrative problems arise, each Delegate convey that problem to the Chairman of his Delegation, all of whom are also Vice Presidents of the Convention, so that the officers of the Convention can take up those problems.

If there are no further announcements, I move that the Convention recess until 11:00 a.m. tomorrow.

Delegate Olikong seconded and the motion carried. The Convention recessed at 12:00 noon.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

TWELFTH DAY

Wednesday, July 23, 1975

The Micronesian Constitutional Convention was called to order at 11:00 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Assistant Secretary called the roll. There were 47 Convention Delegates present. Delegates Borja, Cruz, Gibbons, Jack, Kendall, Mangiona, Olter, Salii and Toribiong were excused. Delegates Palacios and Pangelinan were absent. A quorum was present.

ADOPTION OF JOURNAL

There being no corrections to be made, Floor Leader Tman moved that the Journal of the 11th Day be adopted by the Convention. Delegate Olikong seconded the motion.

President Nakayama recognized Delegate Haruo.

Delegate Haruo: Before the Convention adopts the Journal of yesterday I would like to have some clarifications relative to House Rule 43.

President Nakayama: A point of information has been raised relative to the Convention Rule 43; an explantion of it. Mr. Floor Leader?

Floor Leader Tman: Thank you, Mr. President. If my colleague Haruo would specify as to what his question is with respect to 43? Is he questioning about the summary minutes of the Committee of the Whole and their conclusions?

Delegate Haruo: Yes, Sir, Mr. President.

Floor Leader Tman: Mr. President, I have before me a copy of the summary proceeding and I believe it will be duplicated and distributed to the Convention. The summary proceeding is not to be incorporated into the plenary Journal.

Delegate Haruo: Thank you, Mr. President. That clears the cloud.

There being no further discussion, a voice vote was taken. The motion carried and the Journal of the 11th Day was adopted by the Convention.

PETITIONS AND MEMORIALS

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Thank you, Mr. President. I wish to take this opportunity to acknowledge with gratitude the letter addressed to me as Chairman of the Palau Delegation from Delegate Daro Weital dated July 22, 1975. Delegate Weital is from Ponape District and the letter is on the Palau petition regarding the subject of Micronesian unity. Mr. President, I am confident that many of us here in the Convention Hall share the same sentiments expressed. I think it helps set the keynote upon which this Convention should deal with the hard and tedious tasks that lie ahead of us. And, Mr. President, I move that the letter, the entire text, be printed in today's Journal.

The motion was seconded by Delegate Sawaichi and carried by voice vote. Text of the letter is as follows:

"Delegate John Ngiraked, Chairman
Palau Delegation
Micronesian Constitutional Convention
White Sands Hotel
Saipan, Mariana Islands 96950

Dear Mr. Ngiraked:

On behalf of the constituents whom I represent at the Micronesian Constitutional Convention, I wish to thank you for the strong position you and your delegation have taken in the interests of Micronesian unity.

To quote from your statement made on the convention floor Friday, July 18, 1975: 'To the people of Palau, this convention is a forum, a body, a hope --- a dream come true. The people of Palau send to this convention through their delegation a message of their political aspirations --- all aimed for the unity of Micronesia.'

Your sentiments, which, in my opinion, were expressed very eloquently, are also my sentiments, and the sentiments of the people I represent here at the convention. It is my hope that all of us can work together to make your dream --- and ours --- a dream come true.

Sincerely,

/s/Daro Weital

Daro Weital
Ponape Delegate

cc: All Convention Delegates"

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 11, entitled "A Proposal limiting the power of government to intervene in the economy of the nation and relating to taxation.", was referred to the Committee on Finance and Taxation.

Delegate Proposal No. 12, entitled "A Proposal relating to the establishment of religion.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 13, entitled "A Proposal relating to the imposition of capital punishment.", was referred to the Committee on Civil Liberties.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 14, entitled "A Proposal relating to citizens and nationals.", was introduced by Delegate Philippo.

Delegate Proposal No. 15, entitled "A Proposal relating to discrimination in public employment on account of race, sex, language or religion.", was introduced by Delegate Kalles.

Delegate Proposal No. 16, entitled "A Proposal relating to the role of traditional leaders in the Executive Branch of the Government of Micronesia.", was introduced by Delegate Isaac Lanwi.

Delegate Proposal No. 17, entitled "A Proposal relating to the right of privacy and unreasonable searches and seizures.", was introduced by Delegates Apis and Yoma.

Delegate Proposal No. 18, entitled "A Proposal relating to bail and punishment.", was introduced by Delegates Apis and Yoma.

Delegate Proposal No. 19, entitled "A Proposal relating to the prohibition of slavery and involuntary servitude.", was introduced by Delegates Apis and Yoma.

Delegate Proposal No. 20, entitled "A Proposal relating to equal protection of the law and prohibition of discrimination.", was introduced by Delegates Apis and Yoma.

Delegate Proposal No. 21, entitled "A Proposal relating to naturalization.", was introduced by Delegate Philippo.

REFERRAL OF RESOLUTIONS

Resolution No. 2, entitled "Resolution requesting the Micronesian Constitutional Convention to select a location for the future capital of Micronesia and to include necessary provisions in the Constitution for the establishment of such capital.", was referred to the Committee on General Provisions.

Resolution No. 3, entitled "Resolution recognizing the critical and important role and functions performed by the traditional leaders of Micronesia and the need to institutionalize such role in the future.", was referred to the Committee on Civil Liberties.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate John Heine.

Delegate John Heine: Mr. President, I would like to make just a few remarks. The task before us today, Mr. President, is great and not easy, but I tell you it should not be an impossible one.

Mr. President, it is my firm belief that people throughout Micronesia have done a good job of selecting from among themselves, not only dreamers of dreams, writers of history and creators of nations, but men in whom they have faith in their sincere desire of working together for a common goal in the creation of a united Micronesia. Mr. President, these past few days we have heard several outstanding remarks and speeches, and these remarks tell me one thing -- we all want unity.

But what is unity if we have no desire of following some of the simplest rules that can lead us to that common desire and goal? Believe me, fellow Delegates, there can never be unity where there is no give and take; no unity where demanding is dominant, and selfishness prevails.

Therefore, in calling for unity once more by endorsing Delegate Carl Heine's speech of yesterday, I would like to add these words: Let's be wise, be strong, and be kind. And let's be willing to listen to some other voices and brave enough to make compromises where compromise is called for.

Mr. President, I support Delegate Carl Heine's speech of yesterday. (Applause)

The Chair recognized Delegate Ismael.

Delegate Ismael: Mr. President, it seems to me that the majority of the consensus of the Delegates in this Convention -- and also by virtue of the fact that the Referendum shows unanimous unity in Micronesia -- I think we had better organize our Special Conference Committee so as to be able to come up with certain guidelines where this Convention could take

off. Especially in the Functions Committee where we cannot deal with any matter until we have some guideline from this Convention. Thank you.

The President recognized Delegate Philippo.

Delegate Philippo: Mr. President, if I am correct here, I would like to bring up some unfinished business in regards to the letter, memo, or petition by many of the Chiefs from the districts dated July 9, 1975. Has any action been taken?

President Nakayama: Mr. Floor Leader, did you not make an announcement the other day on the subject?

Floor Leader Tman: Yes, Mr. President, and also, yesterday we continued to have a meeting. We hope that sometime during this week our financial report and our financial picture will be much clearer in order to allow our officers to make a definitive decision with respect to that problem. I would also like to ask the patience of those concerned in this matter.

President Nakayama: Does that answer your question, Mr. Philippo?

Delegate Philippo: Thank you, Mr. President. No comment; no further questions.

Delegate Wainit: During the previous meetings I believe there has been some concern as to the time the Convention should meet every day. I wonder if the officers of this Convention have decided on the time.

President Nakayama: No decision has been made as to the time of our daily meetings. The answer is negative.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President, Delegate Hirosi Ismael brought up a question. I would like to know if the Chair has any schedule for the Special Conference Committee organization in mind.

President Nakayama: Yes, the Chair wishes to request Delegate Sawaichi to convene the Special Committee as soon as possible to get organized so they can go into business as soon as they are organized.

ANNOUNCEMENTS

The Chair recognized Delegate Fritz.

Delegate Fritz: Delegate Proposal No. 8 was referred to the Committee on Governmental Structure and the Chairman of that Committee assigned this proposal to its subcommittee. Just this morning I heard there was a question on assignment of that particular proposal. I wonder what Committee will undertake that proposal.

President Nakayama: It is assigned to Governmental Structure Committee.

Delegate Fritz: I understand from my Chairman that this particular proposal will be reassigned. But I don't know whether they did that or not.

President Nakayama: That is the assignment as it now stands. There has never been any change in the previous assignment.

The Chair recognized Delegate Falcam.

Delegate Falcam: Thank you, Mr. President. The proposal that Delegate Soukichi Fritz referred to earlier was truly assigned to the Committee on Governmental Structure. However, upon examination by the Committee and the attorneys for the Committee, it was the consensus that this may have been

an error in assignment. The subject matter, it was felt, is properly within the province of the Committee on General Provisions. So, I would request that the Chair reexamine and perhaps, with the concurrence of the Committee Chairman concerned, dispose of the subject matter to the appropriate committee, if that was the desire of the Chair.

President Nakayama: Thank you, we will take that into consideration and make the proper assignment, if one is called for, as soon as possible.

The Chair recognized Delegate Carl Heine.

Delegate Carl Heine: Your Committee on Civil Liberties will meet this afternoon in Room 3 at two o'clock.

Delegate Tun: I would like to request the members of the Committee on General Provisions to meet in Room 4 at two o'clock today.

Delegate Sawaichi: I would like to request the members of your Special Conference Committee to meet at three o'clock today in this Chamber.

Delegate Cabrera: Mr. President, I would like to ask the President and member Delegates to this Convention to recognize the presence of Mr. Felix Rabauliman, President of United Carolinian Association, and Congressman Oscar Rasa from the Marianas. (Applause)

Delegate Philippo: In regards to the General Provisions meeting at two o'clock, I would like to ask whether the Finance and Taxation will be meeting at the same time.

Delegate Wainit: Mr. President, as it was decided yesterday, the Committee on Public Finance is scheduled to meet at two o'clock today. This is just a reminder to all the members that we will have a meeting. Thank you.

Delegate Ismael: Mr. President, I would like to ask your Committee on Governmental Functions to meet at 1:30 today in Room 1.

Delegate Heinrich Iriarte: There will not be a meeting of your Committee on Structure today.

Delegate Kallen: Mr. President, both the Committee on Civil Liberties and the Committee on General Provisions are going to have a meeting today at two o'clock. I'm on both committees and don't know where I stand. (Laughter)

Delegate Tun: There are several members of the Committee on General Provisions who serve, as it has been indicated, on the other committees that are scheduled to meet at two o'clock. For that reason, I would like to change the meeting time for the General Provisions Committee to three o'clock.

Delegate Bossy: Mr. President, I am sorry to say, but I am also a member on the Special Committee which, according to you, will meet at three o'clock. The General Provisions Committee, of which I am also a member, is going to convene at the same time. I have the same problem as the young gentleman over there. Thank you.

Delegate Sawaichi: If it is agreeable with everyone, I would like to change the time for the meeting of the Special Committee to four o'clock. (Laughter)

President Nakayama: Any more changes?

Delegate Sawaichi: Some members of the Special Committee have requested that we meet right after this session in this Chamber.

President Nakayama: The Special Committee will meet right after we take our recess.

The Chair recognized Delegate John Heine.

Delegate John Heine: Mr. President, my problem has been solved as I was going to request that we meet after this session.

President Nakayama: I would like to once again ask for leave of the Convention to attend the ceremony to inaugurate the new Distad of Truk on Friday. I will have to leave tomorrow morning and come back Sunday, at the earliest, or Monday, at the latest. While I am absent the Vice Presidents, following the alphabetical order as required by the rule, will preside over the Convention. For the next session, I understand that Mr. Ngiraked will be presiding.

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Thank you, Mr. President. In behalf of the Chair and all the officers of the Convention, I wish to request that after the plenary session tomorrow the officers and the Administration Committee meet in Room 3.

President Nakayama: The question of the daily timing for the daily session has been raised. I wonder if we should not at this time discuss the proper time for our daily meetings. Mr. Wainit, do you have any particular suggestion in mind?

Delegate Wainit: Mr. President, I have no particular time as to when this Convention should meet, however, I think it should not be a bad time to meet at nine o'clock everyday.

Delegate Yoma: Mr. President, how about ten o'clock?

President Nakayama: Nine o'clock and ten o'clock have been suggested. Mr. Isaac Ianwi?

Delegate Isaac Ianwi: I don't think we should fix a time because it depends on the work of the staff and officers to prepare the Order of the Day and print the Journal. I think we should leave it up to the officers and the Chair to decide what time. There will be times that there is a lot of work to get done. I would rather leave it up to the officers and the Chair to decide what time we meet.

Floor Leader Tman: Although there has been no decision as to what specific time the Convention should meet in plenary session, it was the previous consensus of the officers and committee chairmen that certain committees should meet in the morning before the plenary session, and other committees in the afternoon. It appears now that very few committees are utilizing the morning hours. The reason I have been moving for recess until eleven o'clock the following day is that it gives two hours in the morning for the various committees to meet in the morning and other committees to meet in the afternoon, so we don't have conflicting times for the committees and so all the delegates can attend their committee meetings. We have just witnessed a problem earlier this morning where we had to change committee meeting times several times. My suggestion, Mr. President, would be to continue to meet in the plenary session at eleven o'clock in the morning for the next week or so, until we can definitely find out how our workload will be. Then maybe, perhaps, we can change the time to another appropriate time of the day.

The Chair recognized Delegate Ismael.

Delegate Ismael: Thank you, Mr. President. With the leave of the Convention I would like to present Mr. David Miho who is the Public Relations Officer for Air Continental. (Applause)

Delegate Yoma: Mr. President, was that a motion by Mr. Tman?

President Nakayama: No, that was a suggestion.

Delegate Yoma: I would like to make it into a motion.

Delegate Sawaichi: Second.

President Nakayama: It has been moved and seconded that the Convention meet at eleven o'clock every day for the next one or two weeks. Discussion?

Delegate Falcam: This may not be construed as discussion, but I would like to urge that the Journal of the prior day be prepared at least one hour prior to the convening of the Convention so that the Delegates will have a chance to look them over before we approve them.

There being no further discussion of the motion, a voice vote was taken. Motion carried.

The Chair recognized Delegate Weital for point of information.

Delegate Weital: For my information, and perhaps for other Delegates, may I know how many pages we have?

President Nakayama: I understand we have nine pages on board. Page one through nine. (Laughter)

Delegate Weital: Mr. President, what are they supposed to be doing during and after the convention?

President Nakayama: Do you have any problem that you would like to have them assist you with?

Delegate Weital: I don't want to say it. Maybe some of my colleagues have some problems with regard to the pages.

Floor Leader Tman: Thank you, Mr. President. I wish to thank my colleague Daro Weital for not wanting to mention the problem. I think all of us, the Secretary, the Assistant Secretary, and the Sergeant-at-Arms have noted the problem and it will be taken care of today.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President, it is rather late in the proceeding, but I just noticed that in the public gallery is the traditional leader from the Municipality of Melkeok, Palau District, a gentlemen by the name of Rengulbai. I wish this Convention to acknowledge his presence. (Applause)

Floor Leader Tman moved that the Convention recess until eleven o'clock on Thursday, July 24th. The motion was seconded by Delegate Tacheliol.

The Chair recognized Delegate Philippo.

Delegate Philippo: Before adjournment of this Convention I would like to recognize that Maria Heine is in the back of our Chambers today. (Applause)

Motion to recess carried and the Convention recessed at 11:40 a.m.

Respectfully submitted,

Asterio Takesy
Assistant Convention Secretary

THIRTEENTH DAY

Thursday, July 24, 1975

The Micronesian Constitutional Convention was called to order at 11:05 a.m.

The Honorable John O. Ngiraked, Vice President, presided.

A moment of silent prayer was observed.

The Assistant Convention Secretary called the roll. There were 45 Delegates present. Delegates Borja, Cruz, H. Iriarte, Jack, Kendall, I. Lanwi, Manglona, Nakayama, Olter, Salii and Toribiong were excused. Delegates Palacios and Pangelinan were absent. A quorum was present.

ADOPTION OF JOURNAL

Floor Leader Tman moved that the Journal of the Twelfth Day be adopted. Delegate Weital seconded, and the motion carried. The Journal of the Twelfth Day was adopted by the Convention.

REPORTS OF SPECIAL COMMITTEES

The Chair recognized Delegate Sawaichi.

Delegate Sawaichi: Mr. President, your Special Conference Committee met yesterday for the purpose of organizing itself. The Committee elected Delegate Daro Weital of Ponape as Vice Chairman and Delegate Jacob Sawaichi as its Chairman. Your Committee is now organized and ready to transact business.

The Chair recognized Delegate Haruo.

Delegate Haruo: Point of privilege.

President Ngiraked: Please state your privilege.

Delegate Haruo: I have an emergency call.

The Chair excused Delegate Haruo.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Wiliander.

Delegate Wiliander: For the record, I wish to announce the election of Delegate Isaac Lanwi from the Marshall Islands District as Vice Chairman of your Committee on Style.

Delegate Tacheliol: As Acting Chairman of your Committee on Governmental Structure, I would like to formally request that Delegate Proposal No. 8, originally assigned to the Structure Committee, be reassigned to a more appropriate committee and that the Structure Committee be relieved of responsibility for this proposal.

President Ngiraked: The matter of reassignment of Delegate Proposal No. 8 shall be taken under consultation with the officers of the Committee and the Administration Committee, and the action on the request for reassignment shall be taken up tomorrow.

Delegate Ismael: I would like to point out that in our deliberations of the Functions Committee we found that the Structure Committee is sharing or is assigned to do some of the functions of the court system with which we are dealing; yet, things are assigned so that we don't quite know whether the Convention wishes this committee to deal with the functions of the court system in Micronesia or whether this duty should be assigned exclusively to the Structure Committee. The last sentence in Item C (Rules of Procedure) concerning governmental structure indicates that the structure of the court system and its jurisdiction would be the function of the Structure Committee. I would like to suggest that the Administration Committee meet and deal with this problem to find out where our duties lie. Thank you.

President Ngiraked: Mr. Secretary, will you please take note of those problems. It shall be taken up with the Administration Committee and the action will be announced later. Thank you very much.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 22, entitled "A Proposal relating to the protection of local customs and traditions.", was introduced by Delegates Carl Heine, Tom Kijiner and John Heine.

Delegate Proposal No. 23, entitled "A Proposal relating to a prohibition on the ownership of land by non-Micronesian citizens.", was introduced by Delegate Weital.

Delegate Proposal No. 24, entitled "A Proposal relating to naturalization.", was introduced by Delegate Bossy.

Delegate Proposal No. 25, entitled "A Proposal relating to citizenship.", was introduced by Delegate Bossy.

Delegate Proposal No. 26, entitled "A Proposal relating to amending the constitution by popular initiative.", was introduced by Delegate Kalles.

The Chair recognized Floor Leader Tman.

Floor Leader Tman: With the leave of the Convention, I would like to suggest that the Convention recess for a very short time, subject to the call of the Chair, in order for the pages to distribute the Delegate Proposals which have been duplicated.

The Chair declared the Convention in recess, subject to the call of the Chair, at 11:17 a.m.

RECESS

The Convention reconvened at 11:30 a.m.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 14, entitled "A Proposal relating to citizens and nationals.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 15, entitled "A Proposal relating to discrimination in public employment on account of race, sex, language or religion.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 16, entitled "A Proposal relating to the role of traditional leaders in the Executive Branch of the Government of Micronesia.", was referred to the Committee on Governmental Structure.

Delegate Proposal No. 17, entitled "A Proposal relating to the right of privacy and unreasonable searches and seizures.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 18, entitled "A Proposal relating to bail and punishment.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 19, entitled "A Proposal relating to the prohibition of slavery and involuntary servitude.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 20, entitled "A Proposal relating to equal protection of the law and prohibition of discrimination.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 21, entitled "A Proposal relating to naturalization.", was referred to the Committee on General Provisions.

President Ngiraked: Before we leave Item 12 (Order of the Day), we see that the Committee on Civil Liberties is getting hit with a lot of important measures. If you run into some problems with your workload, Mr. Heine, please communicate with the officials of the Convention.

INTRODUCTION OF RESOLUTIONS

Resolution No. 4, entitled "Resolution designating a name for the new nation of Micronesia.", was introduced by Delegate Falanruw.

AMENDMENT TO RESOLUTIONS

The Chair recognized Delegate Weital.

Delegate Weital: I understand that this Convention will be considering Resolution No. 1 on Monday. I have with me an amendment to that resolution. I am requesting, Mr. President, that the proper hands duplicate this amendment so that all Delegates will have copies before Monday. Thank you.

President Ngiraked: The Chair requests the administration officials in the Office of the Convention Secretary to duplicate that document and make the proper distribution for action on the floor.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate John Heine.

Delegate John Heine: Point of information. I understand that we have brought with us some interpreters and some of our staff members from the other districts, and I understand that they are not properly compensated for the work they are performing. I would like to urge the administration to consider them very seriously because I don't think that we are paying for our accommodations, our lodging, our food and our rooms according to our titles but according to the price of what we are buying. I think they deserve more money. I heard a rumor that the Committee on Administration will be meeting very soon. Please take that up seriously and put that on the top of your agenda.

President Ngiraked: I think the problem appears very high on the list of priorities or problems now being dealt with by the Administration Committee. Thank you very much. We will try to deal with it and report to the floor.

ANNOUNCEMENTS

Delegate Ismael: At the leave of the Convention, I would like to introduce some leaders from Kusaie who are now in the public gallery. We have a Transition Committee dealing with transition from subdistrict into district, two representatives of whom now appear in the gallery today--Judge Linus George and Mr. Kiyus Jackson. (Applause) With them, Mr. President, is another friend from Kusaie, Mr. Yosiwo George, who is with the Social Security Administration of the Trust Territory. (Applause)

President Ngiraked: We welcome the gentlemen to the Convention.

Delegate John Heine: I understand that on Item 17 (Order of the Day) that we will have a public hearing on Friday, July 25, 1975. Will the chairman of the committee who will hold this public hearing enlighten us a little more on the reason why there should be a public hearing on this matter?

President Ngiraked: Is the chairman of that committee ready to make the enlightenment?

Delegate Ismael: Yes. I shall be more than happy to make some comments on this. The position paper on Palau created a lot of consideration in this Convention. We are holding a public hearing on Friday at two o'clock in the afternoon so that we can get ideas from any Palauans here in Saipan or those who may wish to come from Palau to indicate to the committee their political aspirations relative to the Palau position paper. This would be an open hearing to the public here in the Chamber at two o'clock tomorrow. Thank you.

Delegate Philippo: This is in relation to what Delegate Ismael just mentioned with regard to the position paper of the Delegates from Palau. Our Subcommittee No. 2 on General Provisions wishes to direct a request to our Palauan Delegates for further clarification. On page 2, Item 6, of Palau's position paper I read: "Constitutional recognition of the right of political self-determination for each district to withdraw unilaterally from the Micronesian union over a specified period of time..."--- this particular portion---"...withdraw unilaterally from the Micronesian union over a specified period of time..." It is stated that they want to withdraw---from what time to what time---during the transition period, beginning or after the Convention, or before the termination of the Trusteeship Agreement? We wish to have this clarification from the Palauan Delegates in writing. Thank you, Mr. President.

President Ngiraked: We will take that into consideration and try to come up with some explanation during the hearing on Friday.

Delegate Ismael: I would like to request that your Committee on Governmental Functions meet in Room 1 at 2:00 p.m. this afternoon.

Delegate Carl Heine: Your Committee on Civil Liberties does not plan on holding any hearing today; however, in view of the number of Delegate Proposals assigned to this committee, I would respectfully request that all members of the committee take these proposals home and study them carefully for full discussion in our regular meeting tomorrow at 2:00 p.m.

Delegate Tacheliol: I would like to announce that your Committee on Governmental Structure will meet in Room 4, at 1:00 p.m. today.

Delegate Philippo: I wish to announce that the Subcommittee No. 2 on General Provisions should have a meeting in Room 2, at 1:00 p.m. this afternoon.

Floor Leader Tman: It was announced yesterday morning that the officers of the Convention and all the Standing Committee Chairmen, including the Special Conference Committee Chairman, are to have a meeting immediately after the plenary session. This is the first time that the Committee on Administration will meet. I urge everyone's attendance.

Also, a list has been made so that each page is assigned to certain Delegates for the purpose of filing Delegate Proposals and other documents that are part of this Convention. I would urge all the Delegates to leave their stuff on their desks today so that all the filing can be brought up to date.

President Ngiraked: Thank you very much. It takes a lot of time and money to print and reproduce these papers, and I hope the Delegates will leave their stuff on the table and give these people the opportunity to put them into some organized filing system so that we can use them as reference.

Floor Leader Tman: I wish also to announce that for the convenience of all the Delegates and staff of the Convention, Steward and Angie's concession out there is always ready to cater for us, and also, for our own convenience, you can open your own account. For that matter, Mr. President, may I ask the Convention to recognize one of the best chefs on the island--Steward (Mr. Amado Villafuerte). (Applause)

If there are no further announcements and no further business, I move that the Convention recess until 11:00 a.m. tomorrow.

Delegate Olikong seconded, and the motion carried. The Convention recessed at 11:50 a.m.

Respectfully submitted,

Asterio Takesy
Assistant Convention Secretary

FOURTEENTH DAY

Friday, July 25, 1975

The Micronesian Constitutional Convention was called to order at 11:00 a.m.

The Honorable Chutomu Nimwes, Vice President, presided.

A moment of silent prayer was observed.

The Assistant Convention Secretary called the roll. There were 45 Delegates present. Delegates Borja, Cruz, Gibbons, Jack, Kendall, Manglona, Nakayama, Olter, Philippo, Salii and Toribiong were excused. Delegates Palacios and Pangelinan were absent. A quorum was present.

ADOPTION OF JOURNAL

Floor Leader Tman moved that the Journal of the Thirteenth Day be adopted. Delegate Olikong seconded, and the motion carried. The Journal of the Thirteenth Day was adopted by the Convention.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 27, entitled "A Proposal relating to the establishment of a Micronesian Public Service System.", was introduced by Delegate Apis.

Delegate Proposal No. 28, entitled "A Proposal relating to traditional and customary laws.", was introduced by Delegate Nimwes.

Delegate Proposal No. 29, entitled "A Proposal establishing legislative, executive and judicial branches of government, and including a traditional leaders advisory council.", was introduced by Delegates Mwety and Joseph.

Delegate Proposal No. 30, entitled "A Proposal relating to imprisonment for debt.", was introduced by Delegate Nimwes.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 8, entitled "A Proposal relating to the territorial limits of the state of Micronesia.", was referred to the Committee on General Provisions.

Delegate Proposal No. 22, entitled "A Proposal relating to the protection of local customs and traditions.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 23, entitled "A Proposal relating to a prohibition on the ownership of land by non-Micronesian citizens.", was referred to the Committee on General Provisions.

Delegate Proposal No. 24, entitled "A Proposal relating to naturalization.", was referred to the Committee on General Provisions.

Delegate Proposal No. 25, entitled "A Proposal relating to citizenship.", was referred to the Committee on General Provisions.

Delegate Proposal No. 26, entitled "A Proposal relating to amending the constitution by popular initiative.", was referred to the Committee on General Provisions.

INTRODUCTION OF RESOLUTIONS

Resolution No. 5, entitled "Resolution relating to locating the capital of Micronesia in Yap.", was introduced by Delegate Tman.

Resolution No. 6, entitled "Resolution declaring a consensus of the Contitutional Convention that a unitary strong central government be established in Micronesia possessing the normal powers and functions of government from which the district governments shall acquire their powers and functions by legislative act.", was introduced by Delegates Ismael, Apis, Wiliander, Albert, Sound, Nifon, Mary Tanwi, with Delegate Termeteet not concurring.

REFERRAL OF RESOLUTIONS

Resolution No. 4, entitled "Resolution designating a name for the new nation of Micronesia.", was referred to the Committee on General Provisions.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Thank you, Mr. President. I wish to ask leave of the Convention in order to deliver a few remarks in support of the resolution I just introduced this morning.

Mr. President, Honorable Chiefs and fellow Delegates:

There has been a good deal of discussion, here and elsewhere, about the location of the future capital of Micronesia. At least three districts have requested -- and one of them has demanded -- that the capital be located within its boundaries.

I agree, Mr. President, that each of Micronesia's districts has many virtues to commend it. Saipan, soon to be our former capital, has the benefit of its good roads, ample power, easy access to Guam -- and a substantial C.I.A. facility vacant and waiting for new occupants. Truk has the advantage of its central location and surely Truk will always remain at the center of Micronesia, no matter what happens around the edges. Ponape, of course, offers dozens of emerald-green hillsides, any one of which would be an ideal site for the seat of future government. The Marshalls and Palau Districts, famed for their hospitality and charm, would surely rush to make welcome any central government which sought shelter among their islands. All this and more must be said, but I believe, Mr. President and fellow Delegates, that the future capital of Micronesia must be located nowhere but in my home district of Yap.

Yap, it is true, is small. But what we lack in land -- or fresh water -- or electric power -- or housing -- we more than make up for in spirit. Yap is one district which is definitely part of Micronesia. We have never considered separating ourselves from the rest of Micronesia. We never expect to sever our relationship with other districts. We are Micronesians, now and forever -- at a time when not everybody can say this. We think our claim to the capital should be taken seriously.

Consider this: Once a capital is built, it is hard to move. Buildings, roads, power lines remain where they are. We can't dig them up and transplant them. We can't design a portable capital or put our national legislature in a mobile home. Shouldn't we Delegates make sure we locate our capital in a district which will remain Micronesia? Well, search no more. Yap will remain.

There is one further argument to be made on behalf of Yap. Almost everyone seems to agree that our future central government ought to be small and weak. Where else should we locate our government, then, but in a district which is small and weak? Again, Yap is the answer.

Finally, let me make it clear that this suggestion is not a demand. Even if you choose not to place the capital of Micronesia in my home district, Yap will still remain in Micronesia.

This suggestion is negotiable. It is open to compromise. I only ask you to consider Yap along with the other districts; evaluate our request. In the end, I'm confident you'll agree, all roads lead to Yap, the islands of stone money.

Thank you. [Applause]

The Chair recognized Delegate Mwety.

Delegate Mwety: Thank you, Mr. President. I have a few remarks to make.

Mr. President, Honorable Traditional Chiefs, and fellow Delegates:

Before we left our communities, each of us, I am sure was thinking mostly about his immediate environment. Today, I am sure, our thinking has taken a broader perspective. We are assembled here in this Convention Hall for the purpose of creating a Constitution for Micronesia. We are here to suffer the same suffering, to toil over the same hard work on behalf of ourselves and our beloved ones, and on behalf of future generations of Micronesians.

We have heard in this Convention Hall some very appealing speeches on Micronesian unity. I sincerely hope that each of us is honest about unity. We also have heard that there are strong bonds throughout Micronesia which make unity even more desirable. I hope what we have said here about unity can be put into meaningful action, for action speaks louder than words.

I do not believe it would be worth anybody's while if any one of us attempts to break up this spirit of unity and cooperation among ourselves. As we look around Micronesia, we see families where a father may be a Palauan and a mother Trukese, or a mother Marshallese and a father Saipanese. We have so many things in common. Yet, only our differences are stressed and nothing has been emphasized about our similarities.

My fellow colleagues, today I am submitting a proposal which may be inconsistent with other proposals before this Convention. However, I trust that each of us, out of deep humility and great understanding, will accept the inevitable fact that not all these proposals will be incorporated into our Constitution. I am sure that the end result of all our proposals will be an act of compromise. I sincerely hope that in the spirit of unity we will share our ideas, delete disagreements by compromising, and pick the best parts of our proposals for the Constitution of Micronesia.

Mr. President, my proposal advocates a democratic form of government with three branches -- the executive, judiciary, and legislative -- to ensure checks and balances. I hope this Convention will carefully place our traditional chiefs somewhere in our new governmental setup, both at the central government level and at the district level.

Thank you, Mr. President. [Applause]

ANNOUNCEMENTS

The Chair recognized Delegate Carl Heine.

Delegate Heine: Thank you, Mr. President. Your Committee on Civil Liberties will meet this afternoon. I therefore respectfully request that all members of the said committee be present this afternoon at two o'clock in Room 3.

Delegate Heinrich Iriarte: Mr. President, your Committee on Governmental Structure will not meet until Monday morning at 9:00 a.m. All committee members are urged to come on time. The place will be Room 4.

Delegate Tun: Mr. President, I would like to request the members of your Committee on General Provisions to meet tomorrow in Room 1 at one o'clock.

Delegate Ismael: Mr. President, I would like to remind the members of your Committee on Governmental Functions that we have a public hearing relative to the Palau position paper at 2:00 p.m. today in this Chamber.

Delegate Wainit: Mr. President, I would like to ask the Chairman of the Functions Committee if the hearing will be open to the public.

Delegate Ismael: Mr. President, the hearing is an open public hearing; the time is two o'clock this afternoon. Any person, whether he is a Delegate or a private citizen of Micronesia, is welcome to come in and express his views on this crucial issue.

Delegate John Heine: Mr. President, I wonder if an announcement was made on the radio or through other media to tell the public that we are holding a hearing this afternoon. I would like to know from the Chairman.

President Nimwes: Will the Chairman please answer the question?

Delegate Ismael: Mr. President, our administrative staff, including our legal advisors, are supposed to have made announcements both in the paper and broadcast.

President Nimwes: Does that answer your question?

Delegate John Heine: Mr. President, my question has not been answered yet. He just said, "supposed to have". Who is the staff member here who made the announcement?

Delegate Weital: Mr. President, I heard the announcement several times during the past days. The announcement called for anybody to feel free to come into the public hearing, so, it has been announced over the radio.

Delegate Ismael: Mr. President, I just received word that it was announced on the air.

Delegate Heine: Thank you.

Delegate Ngiraked: Mr. President, I wish to take this opportunity to request the floor of the Convention, my fellow Delegates, to recognize a man by the name of Johnny Bekebekmad who is in the public gallery. He is from the Royal Taga on Saipan. [Applause]

President Nimwes: I have a few announcements here. I was asked by the Chairman of the Committee on Structure to request all the traditional leaders if they could please meet with that committee on Monday at 2:00 p.m.

Delegate Heinrich Iriarte: Mr. President, I don't think we will meet then on Monday until after I hear from them. Then the announcement will be made. The committee meeting that was announced for Monday morning is only for the members of the committee, specifically to discuss the items that we would like to talk over with the chiefs and the traditional leaders. Thank you, Mr. President.

President Nimwes: The Committee on Administration met this morning to go over the petition from the traditional leaders regarding the salaries and per diem of interpreters. Although the report will be in writing, I wish at this time to just summarize the decision made by that committee. Realizing the fact that our financial picture is in such a way, the Administration Committee decided to give subsistence to the interpreters and other staff, that would be $10 a day. As I said, the answer to the petition will be in writing later on. This is the decision made by the Administration Committee.

Floor Leader Tman: Thank you, Mr. President. Just a reminder that immediately after this plenary session, the Administration Committee will meet in Room 3.

If there are no further announcements and also in order to allow any committees who may wish to meet over the weekend to do so, I move that the Convention recess until 11:00 a.m., Monday.

Delegate Olikong seconded and the motion carried. The Convention recessed at 11:25 a.m.

Respectfully submitted,

Asterio R. Takesy
Assistant Convention Secretary

Saturday, July 26, 1975

FIFTEENTH DAY

There was no session on this date.

Respectfully submitted,

Asterio R. Takesy
Assistant Convention Secretary

Sunday, July 27, 1975

SIXTEENTH DAY

There was no session on this date.

Respectfully submitted,

Asterio R. Takesy
Assistant Convention Secretary

SEVENTEENTH DAY

Monday, July 28, 1975

The Micronesian Constitutional Convention was called to order at 11:05 a.m.

The Honorable Petrus Tun, Vice President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 45 Delegates present. Delegates Borja, Cruz, Jack, Kendall, Manglona, Mateak, Nakayama, Nifon, Olikong, Olter and Yoma were excused. Delegates Palacios and Pangelinan were absent. A quorum was present.

ADOPTION OF JOURNAL

Floor Leader Tman moved that the Journal of the Fourteenth, Fifteenth, and Sixteenth Days be adopted. Delegate Nakamura seconded, and the motion carried. The Journals of those days were adopted by the Convention.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 31, entitled "A Proposal relating to the establishment of a bicameral legislature.", was introduced by Delegate Daro Weital.

Delegate Proposal No. 32, entitled "A Proposal relating to citizenship of persons not born of Micronesian parentage.", was introduced by Delegates Namwarki Max Iriarte and Naniken Heinrich Stephen.

Delegate Proposal No. 33, entitled "A Proposal relating to the establishment of a central government.", was introduced by Delegates Namwarki Max Iriarte and Naniken Heinrich Stephen.

Delegate Proposal No. 34, entitled "A Proposal relating to military service for Micronesians.", was introduced by Delegates Namwarki Max Iriarte and Naniken Heinrich Stephen.

Delegate Proposal No. 35, entitled "A Proposal relating to the seat of the central government as national property.", was introduced by Delegates Namwarki Max Iriarte and Naniken Heinrich Stephen.

Delegate Proposal No. 36, entitled "A Proposal relating to accused's rights in criminal prosecutions.", was introduced by Delegate Soukichi Fritz.

Delegate Proposal No. 37, entitled "A Proposal relating to the regulation of interdistrict air and sea transportation and highways.", was introduced by Delegate Luke Tman.

Delegate Proposal No. 38, entitled "A Proposal relating to Education.", was introduced by Delegate Luke Tman.

Delegate Proposal No. 39, entitled "A Proposal relating to the Capital of Micronesia and securing its exemption from local controls.", was introduced by Delegate Maketo Robert.

Delegate Proposal No. 40, entitled "A Proposal relating to protecting environmental quality.", was introduced by Delegate Tipne Philippo.

Delegate Proposal No. 41, entitled "A Proposal relating to capital punishment.", was introduced by Delegate Soukichi Fritz.

Delegate Proposal No. 42, entitled "A Proposal relating to education.", was introduced by Delegate Chutomu Nimwes.

Delegate Proposal No. 43, entitled "A Proposal relating to education.", was introduced by Delegate Chutomu Nimwes.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 27, entitled "A Proposal relating to the establishment of a Micronesian Public Service System.", was referred to the Committee on Governmental Structure.

Delegate Proposal No. 28, entitled "A Proposal relating to traditional and customary laws.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 29, entitled "A Proposal establishing legislative, executive and judicial branches of government, and including a traditional leaders advisory council.", was referred to the Committees on Governmental Structure and Governmental Functions.

Delegate Proposal No. 30, entitled "A Proposal relating to imprisonment for debt.", was referred to the Committee on Civil Liberties.

INTRODUCTION OF RESOLUTIONS

None

REFERRAL OF RESOLUTIONS

The Chair recognized Secretary Uherbelau.

Secretary Uherbelau: Mr. President, the following Resolutions were introduced on Friday and assigned to the following committees:

Resolution No. 5, entitled "Resolution relating to locating the capital of Micronesia in Yap.", was referred to the Committee on General Provisions.

Resolution No. 6, entitled "Resolution declaring a consensus of the Constitutional Convention that a unitary strong central government be established in Micronesia possessing the normal powers and functions of government from which the district governments shall acquire their powers and functions by legislative act.", was assigned to the Committee on Governmental Functions.

The Chair recognized Delegate Williander.

Delegate Williander: Thank you very much, Mr. President. Would you please permit me to make a short little remark about Resolution No. 6? I wish to state that the purpose of introducing Resolution No. 6 is to provide the Delegates with a picture of a unitary, strong central government. The intention is the same as the intention of introducing Resolution No. 1, which would declare a consensus of the Constitutional Convention that a federation of autonomous states be established as the sovereign government of Micronesia. Fellow Delegates, Resolution No. 6 is self-explanatory and I urge the Delegates to read it carefully. Furthermore, it is the consensus of the members of the Committee on Governmental Functions that this Constitutional Convention needs guidelines on the issues of centralization versus decentralization and on the question of a federal system versus a unitary one. Committee on Governmental Functions needs these guidelines to work on. The Resolution No. 1 or Resolution No. 6, whichever is adopted by the Constitutional Convention, will give the Committee on Governmental Functions a guideline or such guidelines.

President Tun: Thank you. Now we have Consideration of Resolutions. Mr. Secretary?

Secretary Uherbelau: Thank you, Mr. President. Resolution No. 1 was by motion placed on the calendar for discussion this morning. Resolution No. 1 is a Resolution "declaring a consensus of the Constitutional Convention that a federation of autonomous states be established as the sovereign government of Micronesia."

President Tun recognized Floor Leader Tmau.

Floor Leader Tman: Thank you, Mr. President. Although by motion Resolution No. 1 has been placed on the calendar for consideration by the Committee of the Whole this morning, I wish to suggest that in view of Resolution No. 6, which is the exact contradiction to Resolution No. 1, that Resolution No. 1, at this time if it is the consensus of the Convention, be assigned to the Committee on Governmental Functions along with Resolution No. 6. Then that Committee can study those two Resolutions carefully and come up with a single recommendation to the Convention. I so move to that effect, Mr. President.

The motion was seconded by Delegate Nakamura.

President Tun: It has been moved and seconded that Resolution No. 1 be assigned to the Committee on Governmental Functions. Discussion?

The Chair recognized Delegate Ismael.

Delegate Ismael: Thank you, Mr. President. It will not be proper for this particular committee to come up with a consensus relative to the issues incorporated in these two Resolutions. It should be up to this Convention to come to some consensus so as to give us in the Committee on Governmental Functions your guidelines as to the type of Constitution we Micronesians desire. I agree with Mr. Tman that it will give us time to study these two Resolutions, but I think it would be resolved by the Committee of the Whole and not the Committee on Governmental Functions.

Delegate Ngiraked: Mr. President, I wish to request the Floor Leader to consider referring this measure to the Special Conference Committee.

Delegate Nimwes: Thank you, Mr. President. I am inclined to agree with the motion of Floor Leader Tman for the fact that these two Resolutions are somewhat contradictory and it would be very appropriate for that particular committee to work on these Resolutions, invite witnesses to testify on these Resolutions in their particular committee. Should these Resolutions go into the Committee of the Whole, the same thing might happen; presumably the same Resolution will go to the same Committee because there is a lot of work to be done regarding these two Resolutions.

Delegate Wainit: I wish to amend the main motion by striking out "Governmental Functions" and inserting "Special Conference Committee" to take care of this particular Resolution.

The motion to amend was seconded by Delegate Ngiraked.

President Tun: It has been moved and seconded that the main motion be amended so that Resolution No. 1 is assigned to the Special Conference Committee, instead of the Committee on Governmental Functions.

The Chair recognized Floor Leader Tman for point of information.

Floor Leader Tman: Thank you, Mr. President. My question is: would it not be appropriate for Resolution No. 6 to also be assigned to the Special Conference Committee, if that be the case. We don't know what the Special Conference Committee is going to come up with, and we don't know what the Governmental Functions Committee is going to come up with relative to Resolution No. 6. That is the reason I wanted Resolution No. 1 to go back to Functions Committee -- since it emanated in that Committee -- to go back to that Committee with Resolution No. 6 so they can be considered simultaneously and a single recommendation can be decided upon for the Convention to consider. I only made the observation and have no strong position one way or the other where the Resolution goes.

Delegate Ngiraked: It seems to escape obvious reason and logic for one committee to be dealing with two contradicting Resolutions. I just cannot see how they can reasonably come up with a report on these two conflicting Resolutions.

Delegate Ismael: I would like to urge the Convention Delegates to assign these Resolutions to other committees rather than the initiating committee that introduced it. This is our Resolution with the consensus of the

members of the Functions Committee. We introduced this Resolution so as to initiate thoughts and we would like to ask you to please assign it to other committees and not back to us.

Delegate Cabrera: I am not too sure what is the intent of referring Resolutions to committees. However, I do want to say that this Convention has been in session for over two weeks and up to now we have not adopted any consensus, any direction whatsoever, to enable us to begin the function of putting together a Constitution. I do think it is timely that some sort of direction, some sort of consensus, be adopted by the Convention so that committees may appropriately consider proposals. Over the two weeks we have been in session we have witnessed the inflow of Proposals submitted by committees or individuals. Up to this particular time I do not know of any committee having hearings, what have you, to report those proposals back to the Convention. I do think it is time, Mr. President, to adopt a consensus, one that will give us a direction we need to proceed on with the business before us.

Delegate Williander: Mr. President, I do not think that Resolution No. 1 and Resolution No. 6 should be labeled as "contradictory". They are mainly two separate Resolutions explaining two separate types of government. They don't contradict each other; they are not fighting; they only express what a unitary central government is and what a federation type of government is. I wish we would not consider these Resolutions contradictory. Thank you.

Delegate Salii: Mr. President, I think that before we can attempt to get a consensus from the floor several things must take place. The individual Delegates must decide what they want to try to achieve in this Convention. Then, from that, each delegation must determine what their position is with respect to the future government. Unless those decisions are made, we cannot hope to get a consensus from the floor. Resolution No. 1 was referred to the Committee on Governmental Functions, presumably to try to see if a consensus can come out of a smaller body. It has been referred to the whole Convention for a task that the smaller committee was not able to achieve, and the problem is being compounded by what I take to be contradictory measures. In addressing these three Resolutions, as against the position of Palau, I think it should be very clear to this Convention that Resolution No. 5 will be rejected by the Palau Delegation and that Resolution No. 6 will also be rejected by the Palau Delegation. To say that these Resolutions are meant to get debates on the floor is a little bit unfair because we do not know if you are serious about them or not. If the Yap Delegation is serious about Resolution No. 5, then we should be very clear about that and there would be no question in the minds of the members of the Palau Delegation whether it is a big joke or whether it is a serious question. If it is a serious proposition then we should let each other know right now that if you consider Yap as a future capital for the rest of the districts -- not for Palau. If Resolution No. 5 is a serious Resolution, then we can tell you here and now to construct a Constitution for the rest of Micronesia, not to include Palau. You asked for action. Let's start being honest with each other. You let us know what you want.

Delegate Haruo: I think both Resolution No. 1 and Resolution No. 6 essentially set guidelines for this Convention to establish a political structure of the relationship of the district government and the central government. The purpose and intent of these two Resolutions, I am quite sure, is an ambiguity, or ambiguous, to all of us. I think that if these two Resolutions were to be considered by this Convention, it is appropriate that they be assigned to the appropriate committee for disposition.

Delegate Isaac Lanwi: I think it is time we discussed Resolution No. 1 today. I agree with Delegate Cabrera that we are spending too much time. Resolution No. 6 is another Resolution that we don't think is contradictory to Resolution No. 1, and we don't think it is against Palau because Yap was only pointing to a weaker district. It was only a suggestion of Yap. If we refer these two Resolutions to the same committee which introduced them.....Governmental Functions introduced these two Resolutions and I think it would be appropriate to refer them to the Committee of the Whole because that would be faster than referring them back to the Functions Committee or others.

Floor Leader Tman: May I remind the Convention that there is now on the floor a proposed amendment to the motion to refer Resolution No. 1 to the Functions Committee, and that motion to amend is to strike "Functions Committee" to read "Special Conference Committee."

President Tun: There is a motion before us to amend another motion. It is that Resolution No. 1 be assigned to the Special Conference Committee instead of Governmental Functions. Are you ready for the question? Delegate Heine?

Delegate John Heine: Mr. President, before we go on and vote on this motion I would like to ask the mover of the motion to explain to us why we must refer this motion to another committee discussion. If I understand correctly, we were thinking of discussing it today and taking some action on it. Before I can give my support and send it to the Special Conference Committee, or send it back, I would like to know why the mover of this motion made that motion.

Delegate Wainit: Mr. President, I think this is one of the very subjects that the Special Conference Committee will be well equipped to handle. I don't think there is any other committee besides the Special Conference Committee that would be in a better position to handle this particular Resolution.

Delegate John Heine: Mr. President, I cannot see why the Special Conference Committee is so special when the Committee of the Whole is present here.

Delegate Ngiraked: Mr. President, I do not think this is the proper time to bring this issue to a head and vote on it on the floor in this Convention. I go along with the line of ideas presented by Delegate Salii. It is our job here to try to draft the Constitution. I am beginning to feel that I am participating in a Legislative session. Proposals and resolutions have flooded the floor. We have not gotten to the first base. We have not even drafted the preamble. I think that by deferring this thing back to the committee we clear the floor of major issues. I don't think it is time to bring these things to a head and vote on them.

Delegate Fritz: Mr. President, I am not concerned what committee will be responsible to work on this Resolution, Resolution No. 1 or Resolution No. 6. My concern is that whether the Delegates have ample time to review Resolution No. 6. This morning we just received Resolution No. 6 and I don't know whether other Delegates really understand the contents of Resolution No. 6 to compare with Resolution No. 1. I think we should give an opportunity for the Delegates to study Resolution No. 6, especially the traditional leaders because their interpreters will need time to study these two Resolutions before we act on them. As I said before, I am not concerned as to what committee will handle this, but I think we should give enough time to study these Resolutions together so we will have a good idea about them.

The Chair then recognized Delegate Sony.

Delegate Sony: Mr. President, it is my understanding that we are creating committees for the purpose of making this Convention work much easier. I have not seen any reports from any committee on these two Resolutions and I don't understand why we should take up these two Resolutions now. I think it is appropriate to refer to one committee and then when they submit their report, we should take action on the Resolutions. Thank you.

Delegate Ismael: The Committee on Functions considered these Resolutions as an intent to get all Delegates to study the types of government that are suitable for Micronesia. It was so introduced to initiate that same thought. Thank you, Mr. President.

President Tun: Let us vote on the amendment to refer the Resolution No. 1 to the Special Conference Committee instead of the Committee on Governmental Functions.

The voice vote taken resulted in division of the convention.

The Chair recognized Delegate Cabrera.

Delegate Cabrera: Mr. President, I move that we vote by hand.

The motion was seconded by Delegate Haruo. Motion carried and the amendment to refer Resolution No. 1 to the Special Conference Committee rather than the Committee on Government Functions was adopted.

President Tun: That was an amendment. Let's vote on the main motion. The main motion is to refer Resolution No. 1 to committee.

Voice vote was taken and the motion carried. Resolution No. 1 was thereby referred to the Special Conference Committee.

MISCELLANEOUS AND UNFINISHED BUSINESS

None

MISCELLANEOUS COMMUNCIATIONS

None

ANNOUNCEMENTS

Delegate Weital: Your Committee on General Provisions would like to invite all chairmen of the district delegations for a meeting tomorrow at two o'clock in Room No. 1. The purpose of this meeting is to discuss or talk about future political status. And, Mr. President, again your Committee on General Provisions would like to announce to this Convention that the Committee will be having public hearings beginning July 30 at two p.m. through August 4. We are requesting all chairmen of the various committees to please consider these hours on these dates, July 30 to August 4. Your Committee is also planning to show to this Convention and those who are interested some movies relating to various important topics relative to constitutions, the relationship of nations, and so forth.

Delegate Toribiong: The Subcommittee on Legislative Functions will meet at two o'clock in Room 2 this afternoon, with its staff attorneys.

Delegate Wainit: The Committee on Finance and Taxation will meet at ten a.m. tomorrow in this Convention hall.

Delegate Ismael: I would like to remind all interested parties to appear before the Committee on Governmental Functions at two o'clock tomorrow relative to the proposal on education. I would like to particularly point out to Delegate Daro Weital of Ponape to please appear before this Committee as we arranged last week. Thank you.

President Tun: The two chairmen will please get together and iron out the conflict in the schedule for tomorrow.

Delegate Heinrich Iriarte: The Committee on Governmental Structure requests that all traditional leaders meet with the Committee on July 29th at nine a.m. in Room 1. That is tomorrow morning, and this meeting will be closed door.

Delegate Philippo: Subcommittee Two on General Provisions will meet at one o'clock today in Room 1.

Delegate Falanruw: Subcommittee on Executive and Judiciary will meet here tomorrow morning at 9:30 in Room 2.

President Tun: The Special Conference Committee has been assigned Resolution No. 1. The Committee, of course, is chaired by Delegate Sawaichi. Delegate Sawaichi?

Delegate Sawaichi: We will announce our meeting time tomorrow morning.

Floor Leader Tman: Mr.President, if there are no further announcements and no further business, I move that we recess until eleven o'clock tomorrow.

Delegate Toribiong seconded and the motion carried. The Convention recessed at 11:50 a.m.

Respectfully submitted,

Victorio Oherbelau
Convention Secretary

EIGHTEENTH DAY

Tuesday, July 29, 1975

The Micronesian Constitutional Convention was called to order at 11:05 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 46 Delegates present. Delegates Borja, Cruz, Kendall, Kijiner, Mangkona, Ngiraked, Nifon, Olikong and Olter were excused. Delegates Jack, Palacios and Pangelinan were absent. A quorum was present.

ADOPTION OF JOURNAL

Floor Leader Tman moved that the Journal of the Seventeenth Day be adopted. Delegate Tun seconded, and the motion carried. The Journal of the Seventeenth Day was adopted by the Convention.

PROPOSED AMENDMENT TO RULES OF PROCEDURE

The Chair recognized the Convention Secretary.

Convention Secretary: We are distributing the proposed amendment to Subsection A of Rule 26 regarding the composition of the Special Conference Committee.

President Nakayama: The announcement is made to satisfy the Rules requirement that such proposal should be presented one day prior to taking action on the proposal.

PETITIONS AND MEMORIALS

None

REPORTS OF STANDING COMMITTEES

None

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 44, entitled "A Proposal relating to equal protection and discrimination.", was introduced by Delegates Sony and Heldart.

Delegate Proposal No. 45, entitled "A Proposal providing for a tax power for the national government of Micronesia.", was introduced by Delegates Carl Heine and Nimwes.

Delegate Proposal No. 46, entitled "A Proposal relating to amending the constitution.", was introduced by Delegates Nakamura and Sawaichi.

Delegate Proposal No. 47, entitled "A Proposal relating to amending the Constitution by constitutional convention.", was introduced by Delegates Nakamura and Sawaichi.

Delegate Proposal No. 48, entitled "A Proposal relating to the official languages of Micronesia.", was introduced by Delegates Tman, Tacheliol and Tun.

Delegate Proposal No. 49, entitled "A Proposal relating to traditional courts.", was introduced by Delegate Nimwes.

Delegate Proposal No. 50, entitled "A Proposal relating to traditional rights to property.", was introduced by Delegate Chief Bossy.

Delegate Proposal No. 51, entitled "A Proposal relating to the financial aid distribution, the taxing power of the central government and district financial contributions to the central government.", was introduced by Delegates Nakamura and Sawaichi.

Delegate Proposal No. 52, entitled "A Proposal relating to the power of Eminent Domain.", was introduced by Delegate Chief Bossy, Delegate Mwety and Delegate Joseph.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 31, entitled "A Proposal relating to the establishment of a bicameral legislature.", was referred to the Committee on Governmental Structure.

Delegate Proposal No. 32, entitled "A Proposal relating to citizenship of persons not born of Micronesian parentage.", was referred to the Committee on General Provisions.

Delegate Proposal No. 33, entitled "A Proposal relating to the establishment of a central government.", was referred to the Committee on Governmental Structure.

Delegate Proposal No. 34, entitled "A Proposal relating to military service for Micronesians.", was referred to the Committee on Governmental Structure.

Delegate Proposal No. 35, entitled "A Proposal relating to the seat of the central government as national property.", was referred to the Committee on General Provisions.

Delegate Proposal No. 36, entitled "A Proposal relating to accused's rights in criminal prosecutions.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 37, entitled "A Proposal relating to the regulation of interdistrict air and sea transportation and highways.", was referred to the Committee on Governmental Functions and the Committee on Public Finance and Taxation. (At the request of Delegate Wainit--see Miscellaneous and Unfinished Business--the Chair assigned Delegate Proposal No. 37 to both committees.)

Delegate Proposal No. 38, entitled "A Proposal relating to Education.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 39, entitled "A Proposal relating to the Capital of Micronesia and securing its exemption from local controls.", was referred to the Committee on General Provisions.

Delegate Proposal No. 40, entitled "A Proposal relating to protecting environmental quality.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 41, entitled "A Proposal relating to capital punishment.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 42, entitled "A Proposal relating to education.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 43, entitled "A Proposal relating to education.", was referred to the Committee on Governmental Functions.

INTRODUCTION OF RESOLUTIONS

Resolution No. 7, entitled "Resolution declaring a consensus of the Constitutional Convention in support of a free association form of future status under which the sovereign government of Micronesia is simultaneously linked, in the realm of defense and execution of foreign affairs, with the government of the United States.", was introduced by Delegates Sawaichi and Nakamura.

Resolution No. 8, entitled "Resolution requesting the Convention delegates to be cautious about outside influence which may distort our hope for Micronesian unity.", was introduced by Delegate Haruo.

REFERRAL OF RESOLUTIONS

Resolution No. 1, entitled "Resolution declaring a consensus of the Constitutional Convention that a federation of autonomous states be established as the sovereign government of Micronesia.", was referred to the Special Conference Committee.

President Nakayama: May I ask that the Chairman of the Special Conference Committee convene his committee for the purpose of receiving the assigned resolution?

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Wainit.

Delegate Wainit: If I may, I would like to ask that your staff consider reassigning Delegate Proposal No. 37 as I think this particular proposal falls more within the proper jurisdiction of another committee rather than your Committee on Public Finance and Taxation. Thank you.

MISCELLANEOUS COMMUNICATIONS

Convention Secretary: Miscellaneous Communication No. 9 is a letter from Speaker Luii of the Palau District Legislature reiterating the position of the Palau Legislature and the people of Palau. This is relative to the seven-point petition submitted by the Palau Delegation to the Convention.

ANNOUNCEMENTS

The Chair recognized Delegate Toribiong.

Delegate Toribiong: I wish to announce to all members of the Subcommittee on Governmental Functions to meet with me and the staff attorneys tomorrow morning at 9:30 a.m. in Room 2.

Delegate Sawaichi: I wish to announce that your Special Conference Committee will meet this afternoon at three o'clock in Room 3. Since this is the first meeting, I would ask that all members be present.

Delegate Carl Heine: I would like to announce that your Committee on Civil Liberties will meet this afternoon at two o'clock in Room 3.

Delegate Heinrich Iriarte: I would like to request that all Subcommittee Chairmen on Governmental Structure meet for a short time tomorrow at 10:00 a.m.

Delegate Tun: I would like to again request the District Delegation Chairmen to meet with your Committee on General Provisions this afternoon in Room 1 at two o'clock.

Delegate Philippo: This is a special request from your Subcommittee No. 2 on General Provisions that all Delegate Proposals relating to territorial jurisdictions, citizenship and naturalization should be referred immediately to this committee so that it can review them and take appropriate action.

Delegate Ismael: I wish to remind the members of the Committee on Governmental Functions about the public hearing scheduled for two o'clock this afternoon in this chamber.

The Chair recognized Floor Leader Tman.

Floor Leader Tman: If there are no further announcements and no further business, I move that the Convention recess until eleven o'clock tomorrow.

Delegate Poribiong seconded, and the motion carried. The Convention recessed at 11:20 a.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

NINETEENTH DAY

Wednesday, July 30, 1975

The Micronesian Constitutional Convention was called to order at 11:00 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 48 Delegates present. Delegates Bossy, Cruz, Kallos, Kendall, Manglona, Nifon and Olter were present. Delegates Jack, Palacios and Pangelinan were absent. A quorum was present.

ADOPTION OF JOURNAL

Floor Leader Tman moved that the Journal of the Eighteenth Day be adopted. Delegate Tacheliol seconded, and the motion carried. The Journal of the Eighteenth Day was adopted by the Convention

PROPOSED AMENDMENT TO RULES OF PROCEDURE

The Chair recognized the Convention Secretary.

Convention Secretary: Mr. President, Convention action is required on the proposed amendment to Subsection A of Rule 26 concerning the composition of the Special Conference Committee. A copy of the proposed amendment was distributed yesterday.

Floor Leader Tman moved for adoption of the proposed amendment to the Rules of Procedure. Delegate Nakamura seconded.

The Chair recognized Delegate Nimwes.

Delegate Nimwes: Point of information, Mr. President. May I ask the Secretary to please read that amendment?

The Chair so directed the Secretary and the Secretary read the following:

"Amendment to Subsection A of Rule 26: Delete the first sentence and substitute the following: 'The Special Conference Committee shall be comprised of 12 delegates; two from each district, of whom one from each district shall be a traditional leader if the district is represented at the Convention by traditional leaders.'"

Delegate Weital: Point of information, Mr. President. Does this mean that with the present twelve members we would add six more Delegates? Is that the intention of this amendment?

President Nakayama: The intention is that one of the two Delegates selected from each district should be a traditional leader.

Delegate Haruo: Point of information, Mr. President. With the setup which provides that two Delegates would be selected from each district, I am wondering if this Convention, or each district delegation could not accommodate that amendment simply by making the selection so that one of those Delegates from the district would be a traditional leader, rather than amending the rules.

Floor Leader Tman: Thank you, Mr. President. The point raised by Delegate Haruo is very well taken. The only difference, with respect to the proposed amendment, is if adopted it would require under the Rules of Procedure that a traditional leader, if there is a traditional leader in the delegation, would serve on the Special Conference Committee, and I think this is the wish of some of the traditional leaders in the Convention.

Delegate Nimwes: Mr. President, it seems as though once the amendment is adopted, then composition of that Special Conference Committee would have to be rearranged. Do I take it that it would have to be that way?

President Nakayama: That is correct. Any more discussion?

Delegate Cabrera: Mr. President, the creation of the Special Conference Committee is very, very unique, and the committee, which I chaired and which suggested such creation, was very much concerned about the fact that the special function of the Special Conference Committee would be varied during the course of the Convention and that the membership, comprised of the membership of the Convention, should also be changed to accommodate whatever mediation that needs to be resolved by the Committee and that the membership be chosen in accordance with the ability of the Delegates to negotiate on such terms. Thank you, Mr. President.

Delegate Apis: Mr. President, since there will be a rearrangement if we adopt the amendment, I would only suggest that instead of adopting it, we let the districts make the compromise within the membership. Thank you, Mr. President.

Delegate Sony: Thank you, Mr. President. It seems to me that if this amendment is adopted, it will eliminate those districts without traditional leaders in this Convention.

President Nakayama: Thank you. Is there any more discussion? Are you ready for the question? Are we to vote on this by voice or by roll call?

Floor Leader Tman: Voice, Mr. President.

The voice vote was inconclusive, and Delegate Wiliander requested that the vote be by raising hands.

There were 10 hands raised in favor of the motion and 16 against the motion. The motion was defeated.

COMMUNICATIONS FROM TT GOVERNMENT

None

PETITIONS AND MEMORIALS

None

REPORTS OF COMMITTEES

None

READINGS OF PROPOSALS

None

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 53, entitled "A Proposal relating to the power of the central government.", was introduced by Delegate Robert.

Delegate Proposal No. 54, entitled "A Proposal relating to establishing a Land and Title Court.", was introduced by Delegates Ismael and Apis.

Delegate Proposal No. 55, entitled "A Proposal relating to the auditor.", was introduced by Delegate Eperiam.

Delegate Proposal No. 56, entitled "A Proposal relating to ownership and interest in real property.", was introduced by Delegates Ismael and Apis.

Delegate Proposal No. 57, entitled "A Proposal relating to the borrowing power and its limits.", was introduced by Delegate Eperiam.

Delegate Proposal No. 58, entitled "A Proposal relating to certain areas of taxation and public support.", was introduced by Delegate Eperiam.

REFERRAL OF DELEGATE PROPOSALS

At the request of the Vice Chairman of the Committee on Public Finance and Taxation, Delegate Proposal No. 37, entitled "A Proposal relating to the regulation of interdistrict air and sea transportation and highways.", was referred to the Committee on Governmental Functions as well as the Committee on Public Finance and Taxation.

Delegate Proposal No. 44, entitled "A Proposal relating to equal protection and discrimination.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 45, entitled "A Proposal providing for a tax power for the national government of Micronesia.", was referred to the Committee on Public Finance and Taxation.

Delegate Proposal No. 46, entitled "A Proposal relating to amending the constitution.", was referred to the Committee on General Provisions.

Delegate Proposal No. 47, entitled "A Proposal relating to amending the Constitution by constitutional convention.", was referred to the Committee on General Provisions.

Delegate Proposal No. 48, entitled "A Proposal relating to the official languages of Micronesia.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 49, entitled "A Proposal relating to traditional courts.", was referred to the Committees on Governmental Structure and Governmental Functions.

Delegate Proposal No. 50, entitled "A Proposal relating to traditional rights to property.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 51, entitled "A Proposal relating to the financial aid distribution, the taxing power of the central government and district financial contributions to the central government.", was referred to the Committee on Public Finance and Taxation.

Delegate Proposal No. 52, entitled "A Proposal relating to the power of Eminent Domain.", was referred to the Committee on Governmental Functions.

INTRODUCTION OF RESOLUTIONS

None

REFERRAL OF RESOLUTIONS

Resolution No. 7, entitled "A Resolution declaring a consensus of the Constitutional Convention in support of a free association form of future status under which the sovereign government of Micronesia is simultaneously linked, in the realm of defense and execution of foreign affairs, with the government of the United States.", was referred to the Committee on General Provisions.

Resolution No. 8, entitled "A Resolution requesting the Convention delegates to be cautious about outside influence which may distort our hope for Micronesian unity.", was referred to the Committee on Governmental Functions.

MISCELLANEOUS AND UNFINISHED BUSINESS

None

MISCELLANEOUS COMMUNICATIONS

10. Letter from Ms. Agnes M. McPhetres, President, Saipan Women's Association, expressing appreciation and support for an equal rights proposal introduced.

ANNOUNCEMENTS

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Mr. President, before any announcements are made, there has been a request that the Convention recess for a very short period in order for the Standing Committee Chairmen to arrange and reconcile their public hearing schedules. With that in mind, Mr. President, I move for a very short recess, subject to the call of the Chair.

Delegate Olikong seconded, and the motion carried. The Convention recessed, subject to the call of the Chair, at 11:20 a.m.

RECESS

The Constitutional Convention reconvened at 11:28 a.m.

President Nakayama: Are there any other announcements from the Committee Chairmen?

Delegate Toribiong: Mr. President, the Subcommittee on Governmental Functions shall meet tomorrow morning at 9:30 in Room 2.

Delegate Wainit: Thank you, Mr. President. I would like to remind all members of your Committee on Public Finance and Taxation that the meeting scheduled for yesterday was canceled and has been rescheduled for ten o'clock tomorrow. I urge every member to please come or we will be the only committee left behind without a recess. Thank you.

Delegate Sawaichi: Mr. President, your Special Conference Committee will meet this afternoon at four o'clock in Room 3.

Delegate Carl Heine: Mr. President, Delegate Proposals Nos. 14 and 21 were improperly assigned to the Committee on Civil Liberties. May I request the Chair to reassign them to the proper committees? The Committee on Civil Liberties will continue its public hearing this afternoon in the Chamber here from two o'clock on.

Delegate Heinrich Iriarte: Mr. President, I would like to announce to the Chairmen of the Executive, Judiciary and Legislative Subcommittees of your Committee on Governmental Structure that we will meet right after this session in Room No. 4.

Also, Mr. President, being the coordinator for the traditional chiefs, I respectfully request that all traditional chiefs meet tomorrow at 2:00 p.m. in one of the delegation offices at Hamilton's.

Delegate Ismael: Thank you, Mr. President. I would like to announce that your Committee on Governmental Structure will meet at 9:30 in Room 2 on Friday morning.

Also, I would like to remind all members of the Committee on Governmental Functions to meet in the Chamber at two o'clock Friday afternoon for public hearings relative to education. Thank you, Mr. President.

Delegate Philippo: Thank you, Mr. President. Mr. President, I understand from the rumors, and as a Delegate I was told, that recess will be started sometime in August. Now, I understand further that at that time there will be very heavy traveling on Continental because of schools which will be starting in September. So, I would like to get the proper information as to what time the recess is proposed for the Delegates, or for the Convention. Thank you, Mr. President.

President Nakayama: I understand that the Administration Committee did meet while I was away and are recommending that such recess be taken; however, the recommendation will not be announced until tomorrow.

Delegate Tun: Thank you, Mr. President. I would like to merely remind the members of your Committee on General Provisions that there will be a hearing this afternoon in Room 1 at two o'clock, and I would like the other Committee Chairmen to note that, according to our schedule, we will be having a meeting at two o'clock every day from today on until Tuesday of next week.

Delegate Ngiraked: Mr. President, I have two announcements to make. First, I would like to ask the Convention to recognize some special guests and visitors from Palau, and they are Mrs. Nakamura, wife of Delegate Nakamura, and his household [Elizabeth B., Margo B., Merna B., Steve B. and Imelda B. Nakamura]. They are in the public gallery and I wish the Convention to recognize them. [Applause]

Mr. President, the bar and restaurant of Steward and Angie's has asked me to announce to the floor, and to inform the Convention, that beginning tomorrow that establishment is going to open to serve lunch exclusively for the Convention members and staff at a special price. Mr. President, they have gone as far as offering to cater to our special wishes and requirements, and I think it is going to be a good place for relaxation and eating pleasure, so I request we take advantage of the patronage and the offer that is being made to us.

Delegate Nakamura: Mr. President, one of my daughters is an American Field Scholar from Virginia, and I would like the Convention to recognize her. Her name is Susan Patch from Virginia. [Applause]

Delegate Falcam: Thank you, Mr. President. In line with the announcement by my friend from Palau about Angie and Steward's Restaurant, I would like to clarify that the Ponape District Delegation's office is not at Hamilton's Bar, but is away from it, although within walking distance. We are located outside the bar. Thank you, Mr. President. [Laughter]

President Nakayama: Thank you for the clarification.

Floor Leader Tmau moved that the Convention recess until 11:00 a.m., Thursday, July 31, 1975. Delegate Olikong seconded, and the motion carried.

The Convention recessed at 11:40 a.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

TWENTIETH DAY

Thursday, July 31, 1975

The Micronesian Constitutional Convention was called to order at 11:00 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 49 Delegates present. Delegates Borja, Bossy, Cruz, Kendall, Mangloña and Olter were excused. Delegates Jack, Palacios and Pangelinan were absent. A quorum was present.

ADOPTION OF JOURNAL

Floor Leader Tman moved that the Journal of the Nineteenth Day be adopted. Delegate Nakamura seconded, and the motion carried. The Journal of the Nineteenth Day was adopted by the Convention.

COMMUNICATIONS FROM TT GOVERNMENT

None

PETITIONS AND MEMORIALS

None

REPORTS OF COMMITTEES

None

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 59, entitled "A Proposal relating to the establishment of a department of agriculture.", was introduced by Delegate Kikuo Apis.

Delegate Proposal No. 60, entitled "A Proposal relating to establishment of a department of marine resources.", was introduced by Delegate Kikuo Apis.

Delegate Proposal No. 61, entitled "A Proposal relating to impeachment.", was introduced by Delegate Iskia Sony.

REFERRAL OF DELEGATE PROPOSALS

At the request of the Chairman of the Committee on Civil Liberties, Delegate Proposal No. 14, entitled "A Proposal relating to citizens and nationals.", was referred to the Committee on General Provisions.

Regarding the request of the Chairman of the Committee on Civil Liberties to also refer Delegate Proposal No. 21, entitled "A Proposal relating to naturalization.", the Convention Secretary reported that it had already been referred to the Committee on General Provisions.

Delegate Proposal No. 53, entitled "A Proposal relating to the power of the central government.", was referred to the Committees on Governmental Structure and Governmental Functions.

Delegate Proposal No. 54, entitled "A Proposal relating to establishing a Land and Title Court.", was referred to the Committees on Governmental Structure and Governmental Functions.

Delegate Proposal No. 55, entitled "A Proposal relating to the auditor.", was referred to the Committee on Governmental Structure.

Delegate Proposal No. 56, entitled "A Proposal relating to ownership and interest in real property.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 57, entitled "A Proposal relating to the borrowing power and its limits.", was referred to the Committees on Governmental Functions and Finance and Taxation.

Delegate Proposal No. 58, entitled "A Proposal relating to certain areas of taxation and public support.", was referred to the Committee on Finance and Taxation.

INTRODUCTION OF RESOLUTIONS

Resolution No. 9, entitled "A Resolution relating to a recess of the Convention.", was introduced by Delegate Luke M. Tman.

MISCELLANEOUS AND UNFINISHED BUSINESS

President Nakayama: Yesterday the question was raised as to whether or not the Convention would call for a long recess. For your information, the Resolution on that particular subject has been introduced and may be taken up tomorrow at the plenary session.

MISCELLANEOUS COMMUNICATIONS

11. Letter explaining Delegate Frank Nifon's absence from the Convention due to illness.

The Chair recognized Floor Leader Tman.

Floor Leader Tman: In spite of the letter explaining Delegate Nifon's absence, I am very happy to note that he has recovered and is now present in the Convention.

ANNOUNCEMENTS

The Chair recognized Delegate Apis.

Delegate Apis: Thank you, Mr. President. I have a brief statement which I would like to submit for insertion in today's Journal and request that the same be made available to all Delegates.

Floor Leader Tman moved that the statement by Delegate Apis be inserted in the Journal of the Twentieth Day. Delegate Ngiraked seconded, and the motion carried to insert the statement by Delegate Apis, as follows:

"Mr. President, Fellow Delegates:

Today I wish to offer this Convention two modest proposals. I say modest proposals because I do not believe they will cause any disagreement or conflict between our six district delegations. But at the same time I want to emphasize that unless both proposals are incorporated into our Micronesian Constitution, all that we say and do here during these 90 days may be entirely meaningless in terms of whether or not we will enjoy real self-government in Micronesia.

My proposal, Mr. President, is to simply establish two departments, within our Executive Branch - a Department of Marine Resources and a Department of Agriculture, in our new government of Micronesia.

I feel that it is not necessary to say here today what has already been said countless times before --- that in Micronesia we do not have an economy. We all know the pitiful state of our marine resources and agricultural development. After three decades of rule under one of the richest nations on earth, the United States, our fisheries and agriculture are still in the 'experimental' stages.

Consequently, our new government must give priority — first priority — to both of these important areas.

We must recognize that today in Micronesia, we are suffering from what could be called..."childhood diseases" of progress. By this I mean that we seem to mistake progress for riding around in new Datsuns and Toyotas, having paved roads, and so on. We tend to mistake proposals for leasing our precious lands to the military and oil companies for economic progress. But no, this is not economic development, because real economic improvement can only come through using our resources of the land and sea for the benefit of all the people of Micronesia. Therefore, we must include in our new Constitution provisions that will give greater emphasis and promise of development to both of these areas. I believe by raising both these areas to a departmental level, a first step, a big step, will have been taken in the right direction by this Convention.

In closing, I wish to remind all Convention Delegates that we cannot and will not have true self-government — with or without a Constitution — unless we first build an economy and keep it under Micronesian control. In other words, political control is not possible without economic control.

Just as our forefathers used our precious lands and the seas for sustenance and survival — we, too, must do the same.

Thank you, Mr. President."

Delegate Toribiong: I would like this Convention to recognize the presence of Ms. Nancy Wong, a fisheries specialist with the Micronesian Mariculture Demonstration Center in Koror, Palau. (Applause)

Delegate Apis: Mr. President, I would like to also request the Convention to recognize the presence of two of my constituents who are in the gallery today, Mrs. Peter (Maurina) Christian and Master Christopher Ivan Christian. (Applause)

Delegate Olikong: Mr. President, I would like to know the status of the ten dollar per diem which was approved by the Administration Committee to be paid to the interpreters. I would like to know when they can expect payment.

President Nakayama: A report to that effect will be presented to the Convention, if not tomorrow, the following session.

Delegate Ngiraked: Your Committee on Governmental Structure, the sub-committee on Legislative matters, wishes to make the announcement of the following schedule of work and meetings: August 1, tomorrow, at 10:00 a.m., in Room 4; August 4 at 10:00 a.m. in Room 4; and August 6 at 10:00 in Room 4. I request the chairmen of the other subcommittees in that committee to reserve those hours and that place of meeting.

Delegate Tacheliol: I wish to request the members of the subcommittee on Executive of your Committee on Governmental Structure to meet tomorrow at 9:00 a.m. in Room 4, in order to consider Delegate Proposal No. 29, Delegate Proposal No. 33 and Delegate Proposal No. 34.

Floor Leader Tman: Mr. President, before other announcements about committee meetings, I wish to make a very special plea to all committee chairmen that they ought to try their best to coordinate their scheduling of public hearings and summoning of witnesses through the Convention Secretary's Office. This is to avoid conflicts in time and, also, the witnesses who may be called to appear before two committees at the same time.

Delegate Ismael: I would like to remind the members of the Committee on Governmental Functions that we have before us two very important issues to deal with at 9:30 tomorrow morning. Also, there will be a public hearing at 2:00 tomorrow afternoon.

Delegate Wainit: I wish to remind the members to attend the meeting of your Committee on Public Finance at 10:00 o'clock tomorrow.

Delegate Tun: The Committee on General Provisions scheduled a meeting yesterday with the Chairmen of the District Delegations but some of the Chairmen did not show up. The meeting has been rescheduled for 1:30 this afternoon in Room 1.

President Nakayama: I have just been reminded that the interpreters and certain staff members will each receive a ten dollar allowance per day and that paychecks are forthcoming tomorrow. Don't spend it all. (Laughter)

Delegate Falcam: This is just a point of information. The announcement by the Chairman of the Committee on General Provisions indicated a meeting with the Chairmen of the District Delegations this afternoon. I am assuming that this is still on the subject of future status. Am I correct?

The Chair called on Delegate Tun.

Delegate Tun: Yes, that is correct. The purpose of the meeting is to find out the position of each Delegation regarding future political status.

Floor Leader Tman moved that the Convention recess until 11:00 a.m., Friday, August 1, 1975. Delegate Olikong seconded, and the motion carried.

The Convention recessed at 11:20 a.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

TWENTY-FIRST DAY

Friday, August 1, 1975

The Micronesian Constitutional Convention was called to order at 11:05 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 47 Delegates present. Delegates Andrike, Borja, Cruz, Falcam, Kendall, Manglona, Olter and Salii were excused. Delegates Jack, Palacios and Pangelinan were absent. A quorum was present.

ADOPTION OF JOURNAL

Floor Leader Tman moved that the Journal of the Twentieth Day be adopted. Delegate Nakamura seconded, and the motion carried. The Journal of the Twentieth Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

Convention Secretary: We have Standing Committee Report No. 1 from the Committee on Administration regarding the petition on per diem for interpreters.

Floor Leader Tman moved that Standing Committee Report No. 1 from the Committee on Administration be accepted by the Convention. Delegate Nimwes seconded the motion.

President Nakayama: Is there any discussion?

The Chair recognized Delegate Fritz.

Delegate Fritz: In looking over the report made by the Committee, I notice that there should be a financial report or budget worksheets attached to this letter. What happened to it?

Convention Secretary: That was an oversight on the part of the staff. We will have the attachment distributed after the plenary session this morning.

President Nakayama: Does that answer your question?

Delegate Fritz: Yes.

President Nakayama: May the Journal reflect the presence of Olympio T. Borja. (48 Delegates present, seven Delegates excused and three Delegates absent).

As there was no further discussion, Standing Committee Report No. 1 from the Committee on Administration was accepted by the Convention.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 62, entitled "A Proposal relating to the legislative authority of the central government.", was introduced by Delegate Robert.

Delegate Proposal No. 63, entitled "A Proposal relating to double jeopardy.", was introduced by Delegate Robert.

Delegate Proposal No. 64, entitled "A Proposal relating to self-incrimination.", was introduced by Delegate Robert.

Delegate Proposal No. 65, entitled "A Proposal relating to protection to the island-districts.", was introduced by Delegate Sony.

Delegate Proposal No. 66, entitled "A Proposal relating to the official language of Micronesia.", was introduced by Delegate Weital.

Delegate Proposal No. 67, entitled "A Proposal relating to the judiciary.", was introduced by Delegate Fritz.

Delegate Proposal No. 68, entitled "A Proposal relating to conduct of relations with foreign states and international organizations.", was introduced by Delegate Haruo.

Delegate Proposal No. 69, entitled "A Proposal relating to immigration.", was introduced by Delegate Philippo.

Delegate Proposal No. 70, entitled "A Proposal relating to control of tourism.", was introduced by Delegates Sigrah and Apis.

Delegate Proposal No. 71, entitled "A Proposal relating to customary ownership of marine space in Micronesia.", was introduced by Delegate Chief Hathey.

Delegate Proposal No. 72, entitled "A Proposal relating to municipal powers.", was introduced by Delegate Chief Bossy.

Delegate Proposal No. 73, entitled "A Proposal relating to foreign affairs and neutrality.", was introduced by Delegate Chief Bossy.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 59, entitled "A Proposal relating to establishment of a department of agriculture.", was referred to the Committee on Governmental Structure.

Delegate Proposal No. 60, entitled "A Proposal relating to establishment of a department of marine resources.", was referred to the Committee on Governmental Structure.

Delegate Proposal No. 61, entitled "A Proposal relating to impeachment.", was referred to the Committee on Civil Liberties.

INTRODUCTION OF RESOLUTIONS

None

ACTION ON RESOLUTIONS

Convention Secretary: Mr. President, we have Resolution No. 9, relating to a recess of the Convention, which has been distributed for action by the Convention.

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Mr. President, I would like to discuss just a little bit about the procedure. The Convention can either take up Resolution No. 9 in the plenary or can resolve itself into the Committee of the Whole to discuss the Resolution. In the first instance, if the plenary is to consider the Resolution, we have been limited by time for five minutes twice, and for those who have interpreters, ten minutes twice. In the Committee of the Whole that rule does not apply. I do not know the consensus of the Convention but I venture this motion so that the Committee of the Whole can consider the Resolution without a time limitation imposed on it. Mr. President, I move that the plenary resolve into the Committee of the Whole to discuss Resolution No. 9.

Delegate Nakamura seconded, and the motion carried. The Convention resolved itself into the Committee of the Whole at 11:15 a.m. The Chair appointed Floor Leader Tman as Chairman of the Committee of the Whole.

The Committee of the Whole rose at 12:00 noon.

The Constitutional Convention was called to order at 12:00 noon.

The Chair recognized Floor Leader Tman.

Floor Leader Tman: At the direction of the Committee of the Whole, I am privileged to make the following report with respect to Convention Resolution No. 9. After discussion on the Resolution, the Committee of the Whole amended the Resolution to delete the following words on page 2, line 4: "within eight days". These words are deleted from the Resolution. The Committee of the Whole, which considered Resolution No. 9, after the amendment was approved, reached a consensus and recommends to the plenary that Resolution No 9, as amended, be adopted. Thank you, Mr. President.

I now move that Resolution No. 9, as amended, relating to a recess of the Convention, be adopted by the plenary.

Delegate Olikong seconded the motion.

Floor Leader Tman: I merely wish to point out that according to the law, the adoption of this Resolution will require a two-thirds majority of the Convention.

The motion carried by unanimous vote to adopt Resolution No. 9, relating to a recess of the Convention.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Robert.

Delegate Robert: I have a few remarks to make.

President Nakayama: Please proceed.

Delegate Robert: Mr. President, fellow Delegates to the Micronesian Constitutional Convention, we are witnessing in this Convention a head-on clash between the large and small districts. We have heard Delegates from Palau propose a unicameral legislature. This, they say, would protect the principle of equality among districts, regardless of size. I personally do not blame them for taking this view. On the other hand, the larger, more populated districts, want what they believe would be a fair representation for their people, also. They insist that representation be based on population. This is the system we have used for the past ten years in the Congress of Micronesia.

Thus, we now have two conflicting proposals before us: one, in the form of the Palau petition for a unicameral legislature, and the other, introduced Tuesday by a Ponape Delegate, for a bicameral legislature. In my opinion, both are legitimate plans, and both reflect the best interests of the people of those districts.

Today, in response to both proposals, I wish to offer a third proposal. My proposal, hopefully, would satisfy the needs of the more populated districts and, at the same time, leave room for the less populated districts to increase their power in the national legislature.

My proposal calls for a bicameral legislature with a House of Representatives apportioned according to population. The difference would be, however, that the Senate would be apportioned every ten years according to the average amount of money each district contributes--through taxes or otherwise--to the central government. There would be one Senator for

every one million dollars contributed by a district, provided that every district will have at least one Senator.

The benefit of my proposal would be that no matter how large or small a district might be, it could work its way up to dominate the Congress, if it so desires. That, of course, would be up to each district's leaders, its own initiative, and so on. But each district's power in the Senate would reflect its financial commitment to the central government. Representation and taxation would be directly linked. Instead of stagnating together, the political power of a district and the financial power of the central government would grow together.

In closing, I ask each and every Delegate at this Convention to consider this proposal. I feel it should be viewed as one alternative to the conflict of unicameral versus bicameral. Thank you. (applause)

The Chair recognized Delegate Toribiong.

Delegate Toribiong: I wish to congratulate the fellow Delegate from Truk for such an ingenious concept of government.

Delegate Ismael: I would like to introduce a constituent from Kusaie who is in the public gallery at this time, Mrs. Tadao (Lenora) Sigrah. (applause)

ANNOUNCEMENTS

The Chair recognized Delegate Tacheliol.

Delegate Tacheliol: I just want to remind the members of the Subcommittee on Executive of your Committee on Governmental Structure that, since we did not finish our business this morning, the three o'clock schedule still stands. I would urge every member of that Subcommittee to come to Room 4 at three o'clock this afternoon to finish up the number of proposals that are still before us.

Delegate Wainit: This is not an announcement. If I may, I wish to make a motion to the effect that all checks, whether they be pay checks or per diem checks, be distributed not later than after the plenary session on the date they are due for distribution.

Delegate Nimwes seconded the motion.

President Nakayama: One final question. Suppose the checks are not available for distribution, what happens?

Delegate Wainit: I think the administration or the staff should make every effort to make checks available for distribution, say, on Friday, or the day they are due for distribution.

Floor Leader Tman: I think I appreciate the problem raised; however, may I humbly request my good colleague from Truk to withdraw his motion and that the Chair promise the gentleman and all the Delegates that every effort will be made by the Convention administration to accommodate the special request.

Delegate Wainit: In that case, I withdraw my motion.

President Nakayama: The motion has been withdrawn.

Delegate Ismael: I would like to remind the members of your Committee on Governmental Functions to be here at two o'clock for the public hearing on education. I would also like to respectfully request that Delegate Daro Weital, Delegate Chutomu Nimwes and Delegate Luke Tman appear before us to testify on the education matter. Thank you.

Delegate Sawaichi: Your Special Conference Committee will meet again today at four o'clock in Room 3.

Delegate Tun: This is not an announcement. Quite a few members of my Committee have been invited or requested to appear before other committees at two o'clock, which is the time set for a public hearing for the Committee on General Provisions.

President Nakayama: Are you going to excuse them or are you telling them not to go?

Delegate Nimwes: I think I am one of the victims. (laughter) I would like to find out from my chairman as to whether or not I shall be excused to attend that hearing.

Delegate Tun: Because my schedule was prepared, considered and adopted last Saturday, I am not going to excuse any member. (laughter)

President Nakayama: I am sure that the conflict can be worked out after the session and I would urge that the two chairpersons get together and straighten out their differences.

Delegate Nimweg: I think the Chairman is very considerate! (laughter)

Floor Leader Tman: I wish to again venture a motion since I do not have the consensus of the Convention---some people would like a long recess, some people would like a short recess. If there are no further announcements or no further business, I move that the Convention recess until 11:00 a.m., Monday, August 4, 1975.

Delegate Olikong seconded, and the motion carried.

The Convention recessed at 12:10 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

Saturday, August 2, 1975

TWENTY-SECOND DAY

There was no session on this date.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

Sunday, August 3, 1975

TWENTY-THIRD DAY

There was no session on this date.

Respectfully submitted,

Victorio Uherbelau

TWENTY-FOURTH DAY

Monday, August 4, 1975

The Micronesian Constitutional Convention was called to order at 11:00 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 48 Delegates present. Delegates Haruo, Max Iriarte, Isaac Lanwi, Manglona, Olter, Salii and Willander were excused. Delegates Jack, Palacios and Pangelinan were absent. A quorum was present.

ADOPTION OF JOURNALS

Floor Leader Tman moved that the Journals of the 21st, 22nd and 23rd Days be adopted. Delegate Olikong seconded, and the motion carried. The Journals of the 21st, 22nd and 23rd Day were adopted by the Convention.

REPORTS OF STANDING COMMITTEES

The attachment to Standing Committee Report No. 1, relating to the petition on per diem for interpreters, was distributed to the members.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 74, entitled "A Proposal relating to the establishment of longitudinal and latitudinal boundaries for the several districts of Micronesia.", was introduced by Delegate Ismael.

Delegate Proposal No. 75, entitled "A Proposal relating to the establishment of a National Environmental Protection Agency.", was introduced by Delegates Apis, Falcam, Falanruw and Sigrah.

Delegate Proposal No. 76, entitled "A Proposal relating to the establishment of English as the official national language of Micronesia.", was introduced by Delegates Apis, Falcam, Sigrah and Falanruw.

Delegate Proposal No. 77, entitled "A Proposal relating to the establishment of a governmental structure for a United Districts of Micronesia.", was introduced by Delegates Apis, Sigrah and Mateak.

Delegate Proposal No. 78, entitled "A Proposal relating to a district's right of secession upon compliance with various procedures.", was introduced by Delegate Weital.

Delegate Proposal No. 79, entitled "A Proposal relating to supremacy of the Micronesian Constitution.", was introduced by Delegates Haruo and Nimwes.

Delegate Proposal No. 80, entitled "A Proposal relating to lease agreements.", was introduced by Delegate Chief Bossy.

Delegate Proposal No. 81, entitled "A Proposal relating to the national currency.", was introduced by Delegate Tman.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 62, entitled "A Proposal relating to the legislative authority of the central government.", was referred to the Committee on Governmental Structure and the Committee on Public Finance and Taxation.

Delegate Proposal No. 63, entitled "A Proposal relating to double jeopardy.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 64, entitled "A Proposal relating to self-incrimination.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 65, entitled "A Proposal relating to protection to the island-districts.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 66, entitled "A Proposal relating to the official language of Micronesia.",was referred to the Committee on Governmental Functions.

Delegate Proposal No. 67, entitled "A Proposal relating to the judiciary.", was referred to the Committees on Governmental Structure and Governmental Functions.

Delegate Proposal No. 68, entitled "A Proposal relating to conduct of relations with foreign states and international organizations.", was referred to the Committee on General Provisions.

Delegate Proposal No. 69, entitled "A Proposal relating to immigration.", was referred to the Committee on General Provisions.

Delegate Proposal No. 70, entitled "A Proposal relating to control of tourism.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 71, entitled "A Proposal relating to customary ownership of marine space in Micronesia.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 72, entitled "A Proposal relating to municipal powers.", was referred to the Committees on Governmental Functions and Public Finance and Taxation.

Delegate Proposal No. 73, entitled "A Proposal relating to foreign affairs and neutrality.", was referred to the Committee on General Provisions.

INTRODUCTION OF RESOLUTIONS

None

REFERRAL OF RESOLUTIONS

None

PROPOSED AMENDMENT TO RULES

Convention Secretary: Mr. President, the proposed amendment to Rule 27(g) regarding membership on the Committee on Administration is being distributed to the Delegates this morning.

Floor Leader Tman: Mr. President, I believe the proposed amendment was submitted on Friday and that would satisfy our Rules of Procedure for notification in advance and I move for adoption of the proposed amendment.

Delegate Olikong seconded.

Delegate Ngiraked: Mr. President, may I suggest that the Convention Secretary read the proposed amendment in its entirety?

The Chair so directed the Convention Secretary and the Secretary read the following:

"Amendment to subsection 'g' of Rule 27: Delete the first sentence and substitute the following:

"'g) Committee on Administration. The Committee on Administration shall consist of the chairmen of the other six standing committees, the chairman of the Special Conference Committee, and all officers of the Convention who are Delegates.'"

Convention Secretary: Mr. President, the effect of the proposed amendment is to include in the membership of the Committee on Administration the Chairman of the Special Conference Committee.

The motion to adopt the amendment carried unanimously. The amendment to subsection "g" of Rule 27 of the Rules of Procedure was adopted by the Convention.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate John Heine.

Delegate John Heine: Thank you, Mr. President. Mr. President, I have a point of information. I wonder if other committees could utilize this larger room for public hearings because I understand that there are other committees that are holding interesting hearings on interesting subjects whereby larger numbers of the public would like to attend and perhaps more of the Delegates would like to attend, but the rooms in which these hearings are conducted are not large enough to accommodate these large crowds. When it is a closed-door hearing, then perhaps my point of information is not well taken, but otherwise I would like to have some clarification as to why other committees cannot utilize this larger room. Perhaps if the chairmen of the committees plan ahead, they can schedule their hearings so that more committees can utilize this larger room.

Delegate Borja: Thank you, Mr. President. In line with the suggestion made by our good Delegate from the Marshalls, I would like to make a suggestion and recommendations also at this time in order to accommodate some of his wishes, which I believe are very important, and that is, I hope that within our available time and within our staff, the Secretary of our Convention also will be able to attach the committee hearings on the Order of Business so that whatever is going to take place, the Order of Business will show the date and that will give us wide distribution of information for dissemination to our members. In addition, it will inform the interested public. Also, for planning purposes, as the Delegate suggested, if we could have this two or three days in advance, we could be prepared to attend, and also for the information of the public. If this is possible, Mr. President, I would appreciate it very much. Thank you, Mr. President.

President Nakayama: Thank you. Any more miscellaneous business?

Floor Leader Tman: Mr. President, the points raised by Delegates Heine and Borja are very well taken. I hope it carries a message to all chairmen and that they will coordinate accordingly.

ANNOUNCEMENTS

Delegate Toribiong: Mr. President, I would like to announce that the Sub-committee on Legislative Functions will meet tomorrow at 9:30 a.m. in Room 2 with the staff.

Delegate Wainit: Mr. President, I wish to announce that all members of the Public Finance Committee are requested to be present it our meeting tomorrow at 9:30 a.m. Thank you.

Delegate Carl Heine: Mr. President, your Committee on Civil Liberties will have a short meeting this afternoon in Room 3. I respectfully request all members to please be present. It's at 2:00 p.m.

Delegate Sawaichi: Mr. President, your Special Conference Committee will meet this afternoon at four o'clock in the Ponape Delegation's office at Hamilton's compound.

Delegate Cruz: Mr. President, I just want to invite all my friends and colleagues; after the adjournment, I will buy all of you coffee behind here. Thank you. (Laughter)

President Nakayama: Thank you very much.

Floor Leader Tmetuchl: Mr. President, if there are no further announcements and no further business, I move the Convention recess until 11:00 a.m. tomorrow.

Delegate Olikong seconded, and the motion carried. The Convention recessed at 11:15 a.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

TWENTY-FIFTH DAY

Tuesday, August 5, 1975

The Micronesian Constitutional Convention was called to order at 11:05 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. During the roll call Delegate Carl Heine, as Chairman of the Marshalls Delegation, announced that he was deeply regretful to inform the Convention that Hemos Jack, one of the elected Delegates from the Marshalls District, will not be able to attend this Convention. There were 47 Delegates present. Delegates Borja, Haruo, Mangiona, Olikong, Salii, Stephen, Toribiong and Wiliander were excused. Delegates Palacios and Pangelinan were absent. A quorum was present.

ADOPTION OF JOURNAL

Floor Leader Tman moved that the Journal of the 24th Day be adopted. Delegate Nakamura seconded, and the motion carried. The Journal of the 24th Day was adopted by the Convention.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 82, entitled "A Proposal relating to Rights.", was introduced by Delegates Tosiwo Nakamura and Jacob Sawaichi.

Delegate Proposal No. 83, entitled "A Proposal relating to the functions of government.", was introduced by Delegate Kikuo Apis.

Delegate Proposal No. 84, entitled "A Proposal relating to adequate medical care.", was introduced by Delegates Mary Lanwi and Isaac Lanwi.

Delegate Proposal No. 85, entitled "A Proposal relating to the right to health care.", was introduced by Delegates Mary Lanwi and Isaac Lanwi.

Delegate Proposal No. 86, entitled "A Proposal relating to labor, the right to organize unions, and the right to strike.", was introduced by Delegates Isaac Lanwi, Carl Heine, Wilfred Kendall, Daro Weital and John Heine.

Delegate Proposal No. 87, entitled "A Proposal relating to freedom of attire.", was introduced by Delegates Isaac Lanwi, Carl Heine, Daro Weital, John Heine and Kinja Andrike.

Delegate Proposal No. 88, entitled "A Proposal relating to freedom of marriage.", was introduced by Delegates Isaac Lanwi, Carl Heine, Daro Weital and John Heine.

Delegate Proposal No. 89, entitled "A Proposal relating to freedom of diet.", was introduced by Delegates Isaac Lanwi, Carl Heine, Daro Weital and John Heine.

Delegate Proposal No. 90, entitled "A Proposal relating to executive power, eligibility and designation of the chief executive.", was introduced by Delegate Manuel Sound.

Delegate Proposal No. 91, entitled "A Proposal relating to right to speedy and public trial in criminal cases.", was introduced by Delegate Chiro Albert.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 74, entitled "A Proposal relating to the establishment of longitudinal and latitudinal boundaries for the several districts of Micronesia.", was referred to the Committee on General Provisions.

Delegate Proposal No. 75, entitled "A Proposal relating to the establishment of a National Environmental Protection Agency.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 76, entitled "A Proposal relating to the establishment of English as the official national language of Micronesia.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 77, entitled "A Proposal relating to the establishment of a governmental structure for a United Districts of Micronesia.", was referred to Committees on Governmental Structure and Governmental Functions.

Delegate Proposal No. 78, entitled "A Proposal relating to a district's right of secession upon compliance with various procedures.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 79, entitled "A Proposal relating to supremacy of the Micronesian Constitution.", was referred to the Committee on General Provisions.

Delegate Proposal No. 80, entitled "A Proposal relating to lease agreements.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 81, entitled "A Proposal relating to the national currency.", was referred to the Committee on Finance & Taxation.

INTRODUCTION AND REFERRAL OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

President Nakayama: The Chair wishes to declare vacant the seat which was occupied by Hemos Jack of the Marshalls.

The Chair recognized Delegate Apis.

Delegate Apis: Mr. President, I have a few remarks in support of the proposal I just introduced this morning.

President Nakayama: Please proceed.

Delegate Apis: Thank you. Mr. President, honorable chiefs and fellow Delegates:

There's been much talk in this Convention of strong government and weak government. A few Delegates have said they want a strong central government in Micronesia. Many others maintain that the central government should be weak and limited. At the moment, it appears that both teams are choosing sides, recruiting new members and preparing to wage campaigns. One team -- the weak government side -- has Resolution No. 1, which expresses its view. The other team has Resolution No. 6, which expresses its opinions.

I think this is a serious debate. I do not mean to belittle it at all. Also, I realize that the committee which introduced Resolution No. 1 and Resolution No. 6 meant to help this Convention make up its mind,

and develop guidelines for the writing of our Constitution. Whether or not this effort to promote discussion has been successful, I want to make clear that I sympathize with the thinking behind Resolution No. 1 and Resolution No. 6. I believe, however, that we are approaching this problem in the wrong way. We are thinking from the top / down, instead of building from the ground up. Instead of choosing between two broad definitions, two large abstract positions, we should be dealing in specifics: specific functions and specific needs. We are not here to write the Ten Commandments and bring them down from a mountaintop. Instead, we are looking around us, at Micronesia, at our past experience and trying to develop a practical, working document to submit to our people. Instead of deciding whether to join Team A or Team B, whether to support Resolution No. 1 or Resolution No. 6, let us just look at Micronesia, at its needs, and decide on a case by case basis how these needs can best be met.

This is what I have done -- in a very preliminary way. In a measure introduced today I have reviewed all the functions of government, all the dozens of jobs the government is expected to perform. I have asked myself who is best suited to perform each function: the central government or the individual district government? Proceeding in this fashion I have divided these functions between the central government and the district government. Other Delegates may disagree with some of my decisions. I don't mind this. My point is that instead of agonizing about large questions, we should begin to answer the small questions. If we answer enough of the small questions honestly, then the large questions may disappear.

I am just one Delegate. I welcome correction; I look forward to negotiation. I am willing to compromise. I am not demanding support. Rather, I am attempting to suggest an overall approach to the task before us. Please consider my proposal -- and its underlying approach. Read it. Think about it. And when you're through reading and thinking about it, let's talk some more.

Thank you, Mr. President. (Applause)

Delegate Ngiraked: Mr. President, I wish to go on the record to express the gratitude of the Palau Delegation and the people of Palau to Delegate Apis on a job well done for the remarks he has just presented to the Convention. And I wish to thank him very much.

MISCELLANEOUS COMMUNICATIONS

None

ANNOUNCEMENTS

Delegate Nakamura: Mr. President, I would like this Convention to recognize a distinguished guest from Palau, none other than Mrs. John O. (Erminia) Ngiraked from Koror, Palau. (Applause)

Delegate Weital: I wish to request this Convention to recognize the presence of Mr. Podis Pedrus, Director of Personnel. He is from Madolenihmw Municipality, Ponape District. (Applause)

Delegate Ngiraked: I wish to take this opportunity to ask this Convention to recognize a visitor, a guest, from Palau District. She is the wife of our interpreter, Hideo Termeteet. Her name is Sabina Termeteet. (Applause)

Delegate Tacheliol: I would like to inform those concerned that starting today the Subcommittee on Executive of your Committee on Governmental Structure will be having daily meetings in Room 4 at 9:00 a.m. If other

subcommittees of that Structural Committee would like to meet in the mornings at the same time, I would prefer they consult with the Chairman of the Subcommittee on Executive. Thank you, Mr. President.

Delegate Heinrich Iriarte: Mr. President, I am requesting a very brief meeting with the subcommittee chairmen of your Committee on Governmental Structure immediately after the plenary session today.

Delegate Falanruw: Mr. President, the Subcommittee on Executive and Judiciary of your Committee on Governmental Functions is to meet with the staff attorneys immediately after this session in Room 2.

Floor Leader Tman: Mr. President, if there are no further announcements and no further business, with the leave of the Convention, I move the Convention recess until 11:00 a.m. tomorrow.

Delegate Ngiraked seconded, and the motion carried. The Convention recessed at 11:25 a.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

TWENTY-SIXTH DAY

Wednesday, August 6, 1975

The Micronesian Constitutional Convention was called to order at 11:05 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 48 Delegates present. Delegates Eperiam, Haruo, Manglona, Mateak, Salii, Toribiong and Williander were excused. Delegates Palacios and Pangelinan were absent.

ADOPTION OF JOURNAL

Floor Leader Tmetuchl moved that the Journal of the 25th Day be adopted. Delegate Olikong seconded, and the motion carried. The Journal of the 25th Day was adopted by the Convention.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 92, entitled "A Proposal relating to declaring the Constitution the supreme law of Micronesia.", was introduced by Delegate Apis.

Delegate Proposal No. 93, entitled "A Proposal relating to the teaching of the Micronesian environment and ecology in the public schools.", was introduced by Delegate Apis.

Delegate Proposal No. 94, entitled "A Proposal relating to airspace over Micronesia.", was introduced by Delegate Isaac Lanwi.

Delegate Proposal No. 95, entitled "A Proposal relating to ownership and interest in real property in Micronesia.", was introduced by Delegates Albert and Mwoty.

Delegate Proposal No. 96, entitled "A Proposal relating to a bill of rights.", was introduced by Delegate Borja.

Delegate Proposal No. 97, entitled "A Proposal relating to eminent domain powers in the Central Government.", was introduced by Delegate Bony.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 78, entitled "A Proposal relating to a district's right of secession upon compliance with various procedures.", was referred to the Committee on General Provisions.

Delegate Proposal No. 82, entitled "A Proposal relating to Rights.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 83, entitled "A Proposal relating to the functions of government.", was referred to the Committee on Governmental Functions and the Committee on Governmental Structure.

Delegate Proposal No. 84, entitled "A Proposal relating to adequate medical care.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 85, entitled "A Proposal relating to the right to health care.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 86, entitled "A Proposal relating to labor, the right to organize unions, and the right to strike.", was referred to the Committee on Governmental Structure.

Delegate Proposal No. 87, entitled "A Proposal relating to freedom of attire.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 88, entitled "A Proposal relating to freedom of marriage.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 89, entitled "A Proposal relating to freedom of diet.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 90, entitled "A Proposal relating to executive power, eligibility and designation of the chief executive.", was referred to the Committee on Governmental Structure.

Delegate Proposal No. 91, entitled "A Proposal relating to right to speedy and public trial in criminal cases.", was referred to the Committee on Civil Liberties.

INTRODUCTION OF RESOLUTIONS

Resolution No. 10, entitled "Resolution relating to relocating the Convention on Ponape after the recess.", was introduced by Delegates Sawaichi and Weital.

Resolution No. 11, entitled "Resolution relating to the reconvening of the Micronesian Constitutional Convention on Saipan.", was introduced by Delegates Carl Heine, Kendall, Kijiner, Kalles, Andrike, Tun, Luktun, John Heine and Yoma.

Resolution No. 12, entitled "Resolution relating to the services of interpreters during recess of the Convention.", was introduced by Delegates Nanmwarki Max Iriarte, Naniken Heinrich Stephen, Chief Fichita Bossy, Chief Kintoky Joseph, Chief Francisco Luktun and Chief Belarmino Mathey.

REFERRAL OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Philippo.

Delegate Philippo: Thank you, Mr. President. This is just a point of information. Approximately three weeks have gone by and no Delegate Proposals have been transmitted to the floor for discussion and for adoption. Mr. President, there are about two weeks ahead of us before the commencing of our recess. At present, 91 Delegate Proposals and nine Resolutions are pending for review by various committies. I am not well aware as to how many more Delegate Proposals are to be proposed yet. Mr. President, has a schedule been set for the Committee of the Whole to discuss and adopt these proposals before the recess so that at least one or two proposals are adopted for our Constitution that we can take back to the district to explain them to our constituents? I wonder how long it will take to take a proposal and adopt it in our Convention. I am very concerned about this because we have a very limited time and our recess is coming very close. Thank you, Mr. President.

President Nakayama: Thank you, Mr. Philippo.

The Chair recognized Floor Leader Tman.

Floor Leader Tman: I beg leave of the Convention to deliver a very short remark.

President Nakayama: Please proceed.

Floor Leader Tman: Mr. President, Honorable Chiefs, Distinguished Delegates: I have recently come across a number of comments--written and oral--which have attempted to criticize this Convention. We have heard that this Convention is working slowly--too slowly. We have heard that our committees have been inactive and that our delegations have been timid about making decisions. Indeed, we have heard that the only major decision we've made so far has been to take a recess.

Mr. President, anybody is perfectly free to write, or say, or think whatever they want about this Constitutional Convention. That does not mean, however, that what anybody writes, or says, or thinks is necessarily correct. I, for one, do not believe that the recent criticism of this Convention is warranted. I think we have begun well. I think we are taking our work seriously. Our committees are organized and working. A multitude of proposals and resolutions has been introduced and each of them deserves--and is receiving--careful consideration.

Furthermore, Mr. President, I resent the suggestion that our recess is a vacation. I do not regard it as such. Many crucial issues have been raised here and I think our constituents have a right to be consulted. This recess does not upset me. What would upset me is our writing a whole draft Constitution without consulting our people, without taking a recess to meet our people.

I don't propose to enter an extended argument with critics of this Convention. I only want to reaffirm my faith in my fellow Delegates. I do not propose to defend you at length, because the Constitution we write will be our best defense. I believe in this Constitutional Convention, and I believe that we will not fail in the important task before us. Thank you, sir. (applause)

The Chair recognized Delegate John Heine.

Delegate John Heine: Mr. President, point of privilege. I would like to make a very brief remark.

President Nakayama: Please proceed.

Delegate John Heine: Mr. President, fellow Delegates: I do not know how many of us in this chamber share my view, but I am willing to guess a majority of us are concerned about a certain article which appeared in the Pacific Daily News a few days ago. My assumption is based on the number of people I spoke to between last Sunday and through today. The article I am referring to is the one that was labeled, "Recess Decision, Con Con's Biggest Step in Three Weeks."

Mr. President, I think someone in Guam is making a mistake or mockery of our serious attempt to build a nation in Micronesia. Maybe it's because they failed to do so in their own homeland.

So far I have not come across any news in the same paper I mentioned pertaining to the number of Proposals and Resolutions so far introduced in this chamber which we have considered and are working on. Instead, the Guam paper chose to belittle our Convention in the eyes of the whole world and those people who are reading that paper.

Mr. President, what I am saying is simply this: since the press is enjoying a wide range of free access to our meetings, at least, for courtesy's sake, they in turn should refrain from using false headlines. Thank you, Mr. President. (applause)

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: I wish to go on record in response or in reply to the concern that has been expressed about the freedom of expression on the floor of the Convention this morning. I think we have the right to criticize, and we should expose ourselves to healthy criticism. I hope that what has been said

on the floor will not have an adverse effect on the right of free expression of those who wish to give this Convention a healthy presentation to the public concern. I hope it will not discourage the intensity and the interest of the people who are trying to give us the services of media and newspaper. I do not know what to say anymore but I think we should open our door and welcome those who want to give us this service.

ANNOUNCEMENTS

The Chair recognized Delegate Ismael:

Delegate Ismael: I would like to urge that each and every member of the Committee on Governmental Functions meet at two o'clock in Room No. 1. Mr. President, your Committee on Governmental Functions is working very hard to bring up a skeleton of your Constitution, hopefully within a week or so. Thank you very much.

Delegate Tun: The meeting of your Committee on General Provisions with Public Affairs to discuss and review the results of the recent Referendum has been postponed from two o'clock this afternoon to two o'clock on Friday. This is because Public Affairs is still unprepared at this time to discuss the results of that Referendum. I would like to announce that on Monday at two o'clock the Committee will meet with Fred Wyle, who is a consultant to the Congress Committee on the Law of the Sea, to review and discuss such topics and proposals relating to jurisdiction and boundaries. This will be in Room No. 1 at two o'clock, Monday.

Delegate Ngiraked: I have two announcements to make. The Subcommittee on Legislative Matters of your Committee on Governmental Structure will have a meeting tomorrow morning at ten o'clock in Room No. 4. We invite to that meeting the official representative of the Guam Pacific Daily News, and she is very welcome.

Mr. President, the second announcement is that I would like to introduce an outstanding Palauan lady who has ventured outside of Palau and has established herself and her family in Guam. She has taken the trouble to travel from Guam to Saipan to visit and observe our session. Her name is Mrs. Rosania Giltner. (applause)

Delegate Wainit: Your Committee on Public Finance and Taxation will have a meeting at 9:30 a.m. tomorrow. I urge and request the presence of all members. Thank you.

Delegate Heinrich Iriarte: Your Committee on Governmental Structure will meet in Room 4 after the plenary session.

Delegate Nakamura: I wish to request this Convention to recognize a friend of Micronesia, no other than Mr. James Stanton. He is presently working in Hawaii and he was a former Assistant Attorney General in the Trust Territory. (applause)

Delegate Carl Heine: Your Committee on Civil Liberties will have a short meeting today at four o'clock in Room No. 3.

Delegate Falanruw: The Subcommittee on Executive and Judicial Matters will meet from now on at 9:30 a.m. in Room No. 2 until all the proposals before us have been taken care of.

Delegate Cruz: Mr. President, I would like this Convention to recognize a distinguished leader and statesman from the Marianas District, The Honorable Edward Deleon Guerrero Pangelinan. (applause)

Floor Leader Thaun: If there are no further announcements and no further business, I move that the Convention recess until 11:00 a.m. tomorrow.

Delegate Olikong seconded, and the motion carried. The Convention recessed at 11:30 a.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

TWENTY-SEVENTH DAY

Thursday, August 7, 1975

The Micronesian Constitutional Convention was called to order at 11:05 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 52 Delegates present. Delegates Haruo, Mangiona and Mateak were excused. Delegates Palacios and Pangelinan were absent. A quorum was present.

ADOPTION OF JOURNAL

Floor Leader Tman moved that the Journal of the 26th Day be adopted. Delegate Tacheliol seconded, and the motion carried. The Journal of the 26th Day was adopted by the Convention.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 98, entitled "A Proposal relating to imports and exports.", was introduced by Delegate Wainit.

Delegate Proposal No. 99, entitled "A Proposal relating to certain powers of the Legislature.", was introduced by Delegate Wainit.

Delegate Proposal No. 100, entitled, "A Proposal relating to the provisions of the Constitution of Micronesia.", was introduced by Delegates Ngiraked, Ibedul Gibbons, Sawaichi, Salii, Olikong, Toribiong, Acting Reklai Termeteet, and Nakamura.

Delegate Proposal No. 101, entitled "A Proposal relating to taxes on income.", was introduced by Delegate Wainit.

Delegate Proposal No. 102, entitled "A Proposal relating to establishing control of expenditure of public funds.", was introduced by Delegate Philippo.

Delegate Proposal No. 103, entitled "A Proposal relating to the preparation and approval of the national budget.", was introduced by Delegate Philippo.

Delegate Proposal No. 104, entitled "A Proposal relating to impeachment, the removal of civil service employees, and the recall of elected officials.", was introduced by Delegates Apis, Yoma, Olter, Sigrah and Ismael.

Delegate Proposal No. 105, entitled "A Proposal relating to non-citizen employees in Micronesia.", was introduced by Delegates Chief Bossy and Robert.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President, fellow Delegates, I wish to make a few remarks regarding the proposal which has been labeled in this Convention as the Palauan position. Mr. President, the proposal has been referred to in different ways in this Convention; sometimes it has been referred to as a threat; sometimes it has been referred to as a bluff. Many times it has been referred to as a proposal that leaves no room for compromise — nonnegotiable. Mr. President, this morning the Palau Delegation is going to present to the Convention the second phase of the Palau position, which we consider to be the implementation of the position in more specific terms. Mr. President, the Palau position is not leaving any room for compromise for the reason that it is already a fifty-fifty compromise between a smaller, weaker district and a larger and stronger district. To prove to this Convention that it is not a

bluff, it is not a threat, that we do mean business, Mr. President, we are going to present the position's second phase, the implementation, in terms that are workable, and we believe that this second phase presentation will prove to the Convention and to all concerned that we do mean business in regard to this Convention, with the unity of Micronesia as our ultimate goal, and we wish to achieve that in good will. Thank you, Mr. President. I now present the second phase of the Palau position. [Delegate Proposal No. 100]

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 92, entitled "A Proposal relating to declaring the Constitution the supreme law of Micronesia.", was referred to the Committee on General Provisions.

Delegate Proposal No. 93, entitled "A Proposal relating to the teaching of the Micronesian environment and ecology in the public schools.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 94, entitled "A Proposal relating to airspace over Micronesia.", was referred to the Committee on General Provisions.

Delegate Proposal No. 95, entitled "A Proposal relating to ownership and interest in real property in Micronesia.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 96, entitled "A Proposal relating to a bill of rights.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 97, entitled "A Proposal relating to eminent domain powers in the Central Government.", was referred to the Committee on Governmental Functions.

INTRODUCTION OF RESOLUTIONS

None

REFERRAL OF RESOLUTIONS

Resolution No. 12, entitled, "Resolution relating to the services of interpreters during recess of the Convention.", was referred to the Committee on Administration.

The Chair recognized Delegate Carl Heine.

Delegate Carl Heine: Point of privilege, Mr. President. Mr. President, I look forward with eagerness to reading the second phase of the Palauan proposal, but Mr. President, I would like to address myself this morning to quite another problem. With all due respect to the leaders of Ponape, both traditional and governmental, I'd like to state for the record that most members of the Marshalls Delegation have discussed the proposed reconvening of this Convention in Ponape District. We conclude, and we urge other delegations to conclude, that this proposal is a mistake and it ought to be soundly defeated. The proposed move is at best an empty gesture and at worst an expensive piece of folly. We think that this Convention ought to do the job that is assigned to it in the place we initially chose. This Convention has already been criticized -- fairly or unfairly -- for taking a recess. If we follow our recess with a move, we will expose ourselves to criticism and ridicule.

It has been claimed that the move to Ponape may save this Convention some money. On close inspection, Mr. President, I think that this saving will turn out to be a myth. I think that once all costs have been considered, the move will be more expensive than remaining on Saipan. The preliminary figures which indicate we would save money by moving to Ponape are so limited as to be untrustworthy. The staff has not demonstrated that all Con Con expenses, all delegation expenses, all individual expenses have been taken into account. The move to Ponape, I believe, will cost more money, cause more headaches, and create more problems. Let me elaborate.

There will be rental costs for staff housing, or per diem in lieu thereof if all the delegations are placed in hotels. The printing unit must be transported to Ponape. Con Con will have to assume most of the cost of salaries, overtime compensation, per diem and transportation, housing, and including supplies and materials. The Print Shop is not budgeted for moving to another district, hence this Convention will have to underwrite all costs. The Xerox repairman is stationed here on Saipan. We cannot afford to have him travel every time we have a problem. We get most of our supplies and materials from Guam. If we move to Ponape, this will create more unnecessary costs, and the transportation and freight between Guam and Ponape is much greater than between Guam and Saipan. The communications problem will be something to think about. Air traffic between Ponape and the other districts will be another factor. Some key members of the staff here on Saipan will not be able to move to Ponape and recruitment will be time-consuming in terms of training. We all appreciate the great hospitality being offered by the people of Ponape, but we believe that the people of Ponape and all other districts would best be served if we continue to do our job here on Saipan.

This is a Convention which has most of its work still in front of it. Let's get on with the work and stop playing games with our people and with our budget. Thank you, Mr. President. [Applause]

Delegate John Heine: Mr. President, point of privilege.

President Nakayama: Please proceed.

Delegate John Heine: Mr. President, fellow Delegates:

Ponape is a beautiful island and I am sure all of us would prefer that this Convention was being held there, but for practical purposes, I am glad the Congress of Micronesia chose Saipan instead as the most practical site.

To the critics of Saipan as a site of our Convention, I submit they are right; the Marianas people have not recognized our presence in their homeland; but, as the good old book, the Bible, says, "If they are not against us, they must be for us."

The good people of Saipan have not told us to get out of Saipan, so why are we contemplating reconvening our Con Con in another district after our recess?

For those supporters of the move from Saipan to another district, I would like to say this: "Let's come and reason together." Mr. President, I believe that moving out of Saipan will not reap any fruitful results for us. In fact, it might even be a detrimental move for us; therefore, I beg your intelligence power to reason, my fellow Delegates. Now that a resolution has been introduced to the floor regarding moving to Ponape, please vote NO.

I love Ponape. I lived there for three years and I have numerous friends there and would like to visit them, but friendship comes after my commitment to Micronesia. Therefore, I repeat, please do not send this Constitutional Convention to Ponape until we get word from Saipan that we are no longer welcome in Saipan.

Thank you, Mr. President. [Applause]

Delegate Cruz: Thank you, Mr. President. Mr. President and distinguished colleagues, I want to assure each and every one of you that you are most welcome to our district, and I want to urge you that when we go into recess, we reconvene again in this beautiful hotel. Without any further ado, because, simply, I would be making myself repetitious, the two area spokesmen made it

very clear and plain — the reasons we should resume the Convention on this island. For those reasons, Mr. President and gentlemen, I strongly, with all emphasis, oppose Resolution No. 10. Thank you. [Applause]

Floor Leader Tman: Thank you, Mr. President. If I may, I wish to explain our Rules of Procedure. The resolution before us now can be considered in the plenary session, which will have a time limitation on debate; however, if we want a more free and informal discussion on these measures, the Committee of the Whole would allow that. So, in order to allow members to have free time and free discussion, I move that the Convention resolve into the Committee of the Whole for discussion.

Delegates Olikong and Tacheliol seconded, and the motion carried.

The Constitutional Convention resolved itself into the Committee of the Whole at 11:26 a.m. The Chair appointed Delegate Cabrera to preside over the Committee of the Whole.

The Constitutional Convention was called to order at 12:51 p.m.

President Nakayama: The Chair will entertain a report from the Committee of the Whole.

Delegate Cabrera: Mr. President, your Committee of the Whole, to which was referred Resolutions Nos. 10 and 11, begs leave to report that after discussing extensively the merits and demerits of Resolution No. 10, your Committee of the Whole defeated the adoption of Resolution No. 10. Resolution No. 11 was then taken up and your Committee favorably adopted the resolution. It was passed unanimously. Thank you.

Floor leader Tman moved for adoption of the oral report made by Chairman Cabrera. Delegate Fajanruw seconded, and the motion carried. The oral report of the Committee of the Whole was adopted by the Convention.

Floor Leader Tman: Thank you, Mr. President. On the basis of the recommendation from the Committee of the Whole, I move that Resolution No. 11, relating to the reconvening of the Micronesian Constitutional Convention on Saipan, be favorably adopted by the plenary session.

Delegate Nifon seconded.

President Nakayama: How do you wish to vote on this particular resolution?

Delegate Nimwes moved that they vote by a voice vote; Delegate Nifon seconded, and the motion carried.

The motion to adopt Resolution No. 11 carried unanimously by voice vote.

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Ismael: Mr. President, I would like this Convention to recognize two of my constituents from Kusaie. They are school teachers attending the Social Studies Workshop in Saipan. They are Mr. Lyndon Cornelius and Mr. Hideo Shrew. [Applause]

Delegate Nimwes: Mr. President, I wish to request this Convention to please recognize the presence of the Social Studies group from all over Micronesia here at the Convention. [Applause]

Delegate Philippo: Thank you, Mr. President. May I ask the Convention to recognize a family which just arrived in Saipan from Canada? This family has been known to the President and Lazarus Salii and myself for quite some time at the University of Hawaii. The gentleman who comes from Canada is one of the professors in the field of anthropology at the University of Victoria in Canada. May I introduce Dr. William Alkire and Mrs. Alkire, if she is in the gallery. She is not here at this moment. Thank you, Mr. President. [Applause]

Delegate Willander: Mr. President, I wish the Convention to recognize the presence of all the people in the gallery. May I request at this time that we recognize them, Mr. President? [Applause]

Delegate Borja: Thank you, Mr. President. I would just like to take the opportunity, under miscellaneous and unfinished business, item 16, to extend our profound and sincere gratitude and appreciation, on behalf of the people of the Marianas, for the thorough adoption of our Resolution No. 11, and, as I pointed out, Mr. President, I would like to assure all of the Delegates that if there is anything we can do to assist them, or if there is anything we can do to be of help, please contact our office -- I personally have an office -- or see our leaders, and we will be happy to do anything to make our Convention here not only an enjoyable one but a productive one. Thank you.

President Nakayama: Thank you. Is there any more business?

Floor Leader Tman: Mr. President, may I beg leave of the Convention to make very short remarks?

President Nakayama: Please proceed.

Floor Leader Tman: Mr. President, the honorable chiefs, fellow Delegates:

It is my sad duty this morning to inform you that the coverage of this Convention by the Pacific Daily News has fallen to even lower levels. In a breathtaking display of incompetence, today's Pacific Daily News completely reverses the meaning of my speech yesterday.

Yesterday, as you recall, I attempted to reply to charges that we have been proceeding too slowly in our work. I made clear -- and I do not know how I could have made more clear -- that I think these charges are unwarranted. I believe you understood my remarks. I think the Convention staff, which issued a news release, understood my speech. The Pacific Daily News definitely did not understand my remarks.

Today's newspaper carries a headline reading "Work at Con Con Too Slow: Tman." They have turned my meaning, and the meaning of the Con Con press release, completely around.

When the coverage of a story is so completely fumbled, one despairs about the free press. One wishes they could be as professional as they are free. Perhaps, during our daily moment of prayer, Mr. President, we should direct a few thoughts about the Pacific Daily News to the Almighty.

Thank you, Mr. President. [Applause]

The Chair recognized Delegate John Heine.

Delegate Heine: Mr. President, may I ask this Convention to recognize the presence of one of our friends from the Marshall Islands by the name of Bill Perry, who has been a Peace Corps Volunteer in the Marshalls for a couple of years. He is in the gallery. He will be returning to school and perhaps come back as a lawyer, I hope. [Applause]

ANNOUNCEMENTS

Delegate Ismael: Mr. President, I wish to remind members of your Committee on Governmental Functions to meet not as scheduled at two o'clock, but at three o'clock today.

Delegate Toribiong: Mr. President, the Subcommittee on Legislative will meet tomorrow at 10 o'clock in Room 2.

Delegate Fritz: Mr. President, the Subcommittee on Judiciary of your Committee on Governmental Structure will have a meeting tomorrow at nine o' clock in Room 4. I requested that one of the traditional leaders from each delegation would be made available to attend that meeting. The subject is traditional courts, Proposal No. 49.

Delegate Tacheliol: Mr. President, with respect to the request made by the Chairman of the Subcommittee on Judiciary, I would like to inform the members of the Subcommittee on Executive of your Committee on Governmental Structure that we will have our meeting tomorrow at nine o'clock in Room 1. Thank you, Mr. President.

Delegate Wainit: Mr. President, your Committee on Public Finance will meet at nine o'clock tomorrow morning. Again I urge and request the presence of all members. Thank you.

Delegate Heinrich Iriarte: Mr. President, your Committee on Governmental Structure will have a very important meeting Friday at 2:00 p.m. in Committee Room No. 4. All committee members are asked to come.

Delegate John Heine: Mr. President, I cannot resist the temptation of being proud of my people of the Marshall Islands who are in the gallery at this time. Although we have requested those in the gallery to be recognized, I would like to mention their names. Please stand up. They are Lomoro Jonathan, Clary Makororo, Mitol Konou, Reverend Duncan and Edigar Isaac. They are also attending the Social Studies Workshop. [Applause]

Floor Leader Tmetuchl: Mr. President, I wish to record and also have the Convention recognize that the Social Studies group is headed by Father Francis Hezel. [Applause]

If there are no further announcements and no further business, I wish to move that the Convention recess and reconvene at 11:00 a.m. tomorrow morning.

Delegate Olikong seconded and the motion carried. The Convention recessed at 1:05 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

TWENTY-EIGHTH DAY

Friday, August 8, 1975

The Micronesian Constitutional Convention was called to order at 11:05 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 49 Delegates present. Delegates Borja, Cruz, Haruo, Ismael, Kalles and Mangiona were excused. Delegates Palacios and Pangelinan were absent. A quorum was present.

ADOPTION OF JOURNAL

Floor Leader Tman moved that the Journal of the 27th Day be adopted. Delegate Nakamura seconded, and the motion carried. The Journal of the 27th Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

Delegate Carl Heine, Chairman of the Committee on Civil Liberties, presented Committee Report No. 2 originating from the Committee on Civil Liberties. Such Committee Report was attached to Committee Proposal No. 1, entitled "A Proposal providing for Freedom of Speech and Press.".

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 106, entitled "A Proposal relating to qualifications as legislators.", was introduced by Delegate Heldart.

Delegate Proposal No. 107, entitled "A Proposal relating to the exercise of tax power.", was introduced by Delegate Philippo.

Delegate Proposal No. 108, entitled "A Proposal relating to government indebtedness.", was introduced by Delegate Philippo.

Delegate Proposal No. 109, entitled "A Proposal relating to district economic negotiations with foreign nations.", was introduced by Delegate Namwarki Max Iriarte.

Delegate Proposal No. 110, entitled "A Proposal relating to Forced Marriages.", was introduced by Delegates Namwarki Max Iriarte and Naniken Heinrich Stephen.

Delegate Proposal No. 111, entitled "A Proposal relating to advice by traditional chiefs on laws affecting tradition and custom.", was introduced by Delegates Naniken Stephen, Namwarki Iriarte, Chief Joseph, Heinrich Iriarte, Kikuo L. Apis, Daro Weital and Strik Yoma.

Delegate Proposal No. 112, entitled "A Proposal relating to freedom of religion.", was introduced by Delegates Naniken Stephen, Namwarki Max Iriarte, Chief Joseph, Apinel Mateak, Kikuo L. Apis, Tadao Sigrah and Heinrich Iriarte.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 98, entitled "A Proposal relating to imports and exports.", was referred to the Committees on Finance & Taxation and Governmental Functions.

Delegate Proposal No. 99, entitled "A Proposal relating to certain powers of the Legislature.", was referred to the Committees on Governmental Functions and Finance & Taxation.

Delegate Proposal No. 100, entitled "A Proposal relating to the provisions of the Constitution of Micronesia.", was primarily referred to the Committee on Governmental Functions, and specifically referred by Articles as follows:

Preamble - General Provisions
Article I - Territory of Micronesia - General Provisions
Article II - Delegation of Powers - Governmental Functions
Article III - Citizenship - General Provisions
Article IV - Individual Rights - Civil Liberties
Article V - Government of Micronesia - Governmental Structure
Article VI(a) - Micronesian National Assembly - Governmental Structure
(b) - Micronesian National Assembly - Governmental Structure, Governmental Functions, Finance & Taxation, and General Provisions
Article VII - President of Micronesia - Governmental Structure
Article VIII - The Judiciary - Governmental Functions and Governmental Structure
Article IX - Finances - Finance & Taxation
Article X - Emergency Powers - Governmental Functions
Article XI - Full Faith and Credit - Governmental Functions and Governmental Structure
Article XII - Withdrawal - General Provisions
Article XIII - Constitution Supreme - General Provisions
Article XIV - Amendment - General Provisions
Article XV - Ratification - General Provisions

Delegate Proposal No. 101, entitled "A Proposal relating to taxes on income.", was referred to the Committee on Finance & Taxation.

Delegate Proposal No. 102, entitled "A Proposal relating to establishing control of expenditure of public funds.", was referred to the Committees on Finance & Taxation and Governmental Functions.

Delegate Proposal No. 103, entitled "A Proposal relating to the preparation and approval of the national budget.", was referred to the Committee on Finance & Taxation.

Delegate Proposal No. 104, entitled "A Proposal relating to impeachment, the removal of civil service employees, and the recall of elected officials.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 105, entitled "A Proposal relating to non-citizen employees in Micronesia.", was referred to the Committee on General Provisions.

INTRODUCTION OF RESOLUTIONS

Resolution No. 13, entitled "A Resolution expressing the desire to establish a Federal Republic of Micronesia.", was introduced by Delegate Carl Heine.

Resolution No. 14, entitled "A Resolution expressing the continued interrelationship between Micronesian and democratic traditions.", was introduced by Delegates Namwarki Max Iriarte and Naniken Heinrich Stephen.

REFERRAL OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Ngiraked: Mr. President, this is not an introduction of a Resolution or a Proposal, but it has to do with the topic as it appears as a matter of rule in our Order of the Day. I wish to find out as a point of information, Mr. President, that in introducing Resolutions and Proposals, our 58 Delegates should have a system of routing these documents through some kind of clearing organization, or a group of this Convention, to make sure that we are staying within the proper scope of the Constitution in dealing with subject matters. I think it has become necessary to have some clearing house to make sure we do not go overboard.

President Nakayama: We'll take up that question in one of our Administration Committee meetings. There is one scheduled right after the Plenary Session this morning so we might take that question up at that time.

Delegate Carl Heine: Mr. President, I would like to make a few remarks this morning with respect to the second Palau Proposal which is numbered 100 on our calendar this morning. I am speaking both as a Delegate and as Chairman of the Committee on Civil Liberties. Although the Proposal has just been distributed this morning, I had the privilege of getting a copy of this report yesterday and was able to read it last night. I want to express my personal feelings with respect to Article IV of the old Palau Petition. Your Committee on Civil Liberties, I am happy to say, has already approved every section and every right listed in that whole section. And I wholeheartedly endorse this entire section. If necessary, I will convene your Committee on Civil Liberties on Monday to get a formal approval of the whole Committee, but I am again happy to report that your Committee has already decided on a report and approved all of the civil liberties listed in this section. As evidence I have submitted this morning our first proposal which is on Freedom of Speech and the Press.

The second matter to which I wish to address myself, Mr. President, is with respect to the preamble of the Palau Proposal. Mr. President, I am very impressed with the language of this preamble. I found beauty and poetic expression far beyond the whole history of elegance in Micronesia. I commend the authors of this preamble and I congratulate them for a task well done. They have been able to contain and articulate the genuine feelings and aspirations of the whole people of Micronesia. In this preamble, Mr. President, every district is discovered and from this preamble every district is served. Let me elaborate and let me make one quotation from this preamble which I found very beautiful:

> "Our ancestors, who found their homes on these islands, displaced no other people. We, who remain, wish no other home than this. Having known war, we hope for peace. Having been divided, we wish unity. Having been ruled, we seek freedom.
>
> "We extend to all nations what we seek from each: Peace, friendship, cooperation, and the recognition of our common humanity. Micronesian life began in the days when men explored islands in ships. The Micronesian nation is born in an age when men voyage among the stars, our world itself an island. With this Constitution we, who have been the wards of other nations, become the proud guardian of our own islands, now and forever."

Mr. President, I hope that this Convention will adopt the language and expressions in this preamble as part of our Constitution. Thank you very much. (Applause)

President Nakayama: Thank you very much. Any other miscellaneous business? Mr. John Ngiraked?

Delegate Ngiraked: Mr. President, I think it is only proper and in order this morning to address ourselves to a very important task before this Convention providing a Constitution for Micronesia, being the freedom of expression. The Committee on Civil Liberties has lived up to the spirit by making it the first priority on the calendar by reporting their task, their job, to the Convention. This is also in line with the concern that has been expressed in the Convention about the quality and responsibility of reporting and journalism. In the past few days several speeches have been made in the Convention to indicate our concern in this area. Mr. President, since the Guam Pacific Daily News is giving us most of the services in reporting our business and the progress of the Convention to the reading public, and since most everybody who is to address themselves to the quality of reporting, the responsibility of reporting, have expressed themselves on this floor, I think this morning, Mr. President, we should give the official representative of the Guam Pacific Daily News an opportunity to express some of her actions and some of the news which has been reported by the Pacific Daily News of Guam. I wish, on behalf of that newspaper, to take this opportunity, in case somebody does not know who she is, to ask this Convention to formally recognize Mrs. Joan King, the official representative of the Pacific Daily News. (Applause) I think it is only fair, Mr. President, that a response be put in the Journal and this has been presented by Joan King, courtesy of the Palau Delegation. I move that this statement be incorporated in our Journal of today.

The motion was seconded by Delegate Sawaichi.

The Chair recognized Delegate Nimwes for a point of information.

Delegate Nimwes: If that article is not too long, may I ask the Secretary to please summarize it?

Delegate Ngiraked: Let me request the Secretary to read the full text before the motion.

Floor Leader Tmetuchl: Mr. President, in order to allow the statement to be read and heard by the Convention, I move that the Convention suspend Rule 45 of our Rules of Procedure.

The motion was seconded by Delegate Nakamura.

President Nakayama: It has been moved and seconded that Rule 45 of our Rules of Procedure be suspended. That Rule pertains to the reading of messages in this Convention.

The motion carried and the Chair requested the Convention Secretary to read the entire text of the message. It was as follows:

"This week, statements concerning the Pacific Daily News have been made during the plenary sessions.

"These statements have reflected and caused a great deal of confusion.

"Since the people of Micronesia should understand what is being done here and since the Pacific Daily News is a major source of information to the people of Micronesia, it seems important the delegates of this convention understand the workings of the Pacific Daily News regarding this convention.

"We should recognize that the speeches of the previous days have dealt with two separate issues. Earlier in the week there was discussion about an article that appeared in the PDN under the byline of Joan King. That article like any article with her name on it is written by her, based on her own investigation, observations, and discussions with people."

"Usually those articles are printed without change and she stands behind the content of the stories with her name on them. The headlines, of course, are written in Guam by an editor and occasionally editing errors may be made in Guam.

"Yesterday, however, a speech was delivered on the floor by Delegate Luke Tman concerning an article appearing in yesterday's PDN.

"It should be understood that Delegate Tman's speech dealt with an objection of Delegate Tman and our Con Con Public Information Office against the actions of the Pacific Daily News editorial staff in Guam. The Guam editorial staff mistakenly changed the contents of a Con Con Public Information Release published in the paper.

"Although this was not made clear yesterday, Joan King was not involved in that dispute and is not in anyway responsible for the article objected to. Joan King is the PDN reporter assigned to Micronesia. It is in the interest of everyone at this convention and Joan that we be able to work together in a relationship of mutual trust and understanding.

"Hold Joan King responsible for Sunday's article--that's fair. But don't blame her for yesterday's article or for everything that appears in the Pacific Daily News."

The Chair called a division of the house on the voice vote for the motion. Upon vote by raising of hands, the motion carried.

The Chair recognized Floor Leader Tman.

Floor Leader Tman: In reference to the statement that the Convention just approved for printing in the Journal, there is reference that it was not clear whether Joan King was involved in the article that misquoted me. In my remarks yesterday I referred four times to the Pacific Daily News and twice to a press release issued by the Convention staff. That ought to be clear that the statement was not meant for Mrs. King. Additionally, Mr. President, the press seems to have found its way to present its views in the Plenary Session of this Convention. I think, Mr. President and fellow Delegates, that we should be careful our proceedings here will not be diverted again in such a manner.

Delegate Falcam: Mr. President, I would not wish to belittle the issue, however, I would like to remind my fellow Delegates that the action we have taken this morning has set a precedent and should, following this day, similar action be taken, I trust my fellow Delegates will proceed accordingly. I believe that setting precedents is very important. Consequently, all Delegates should bear this in mind. Thank you, Mr. President.

Delegate Wiliander: Some miscellaneous business, Mr. President. I will try to ask this Convention to recognize the presence of a friend of the Micronesian people. The director of the controversial Micronesian Legal Services, his name is Ted Mitchell. (Applause)

Delegate Ngiraked: Mr. President, I hope we are not overdoing this, but if we are reasonable, responsible Delegates here, let me tell you it is only fair that when a statement is inserted in our Journal in direct response to a newspaper article, we have opened the door. And I think as fair people we should afford the opportunity to those people who are directly involved to explain their action. It was my concern in the beginning that this Convention has gone as far as replying to newspaper articles. I think the action the Convention has taken is only fair to our media.

Delegate John Heine: Mr. President, I cast my vote on the negative side for the reason that I did not have enough time to digest the paper that has just been introduced to be inserted in our very, very important Journal. I do not know why we have to do this sort of thing; railroad some kind of document like that. So, please, next time before we wish to insert anything in our Journal, give us time to look it over and think about it. It is very, very important. Our Journal is not a joke.

ANNOUNCEMENTS

Delegate Philippo: The Subcommittee No. 2 on General Provisions will have a meeting tomorrow at 9:30 a.m. in their assigned room. Thank you.

Delegate Fritz: The Subcommittee on Judiciary of your Committee on Governmental Structure will meet at nine o'clock tomorrow morning, which is Saturday.

Delegate Tun: I merely wish to remind the members of your Committee on General Provisions that the meeting with Public Affairs postponed from last Wednesday will be held in Room 1 at two o'clock this afternoon. The purpose is to review the results of the recent referendum.

Floor Leader Tman: Mr. President, since there are several subcommittee meetings tomorrow morning and since we hope to act on the first Committee Proposal on Monday morning, I move that the Convention recess until 11:00 o'clock Monday morning.

Delegate Olikong seconded and the motion carried. The Convention recessed at 11:42 a.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

Saturday, August 9, 1975

TWENTY-NINTH DAY

There was no session on this date.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

Sunday, August 10, 1975

THIRTIETH DAY

There was no session on this date.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

THIRTY-FIRST DAY

Monday, August 11, 1975

The Micronesian Constitutional Convention was called to order at 11:05 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 50 Delegates present. Delegates Borja, Haruo, John Heine, Manglona and Salii were excused. Delegates Palacios and Pangelinan were absent. A quorum was present.

ADOPTION OF JOURNALS

Floor Leader Tman moved that the Journals of the 28th, 29th and 30th Days be adopted. Delegate Tacheliol seconded, and the motion carried. The Journals of the 28th, 29th and 30th Days were adopted by the Convention.

REPORTS OF STANDING COMMITTEES

Delegate Carl Heine moved that Standing Committee Report No. 2 from the Committee on Civil Liberties relating to Committee Proposal No. 1 be adopted by the Convention. Floor Leader Tman seconded the motion.

There being no discussion, Standing Committee Report No. 2 from the Committee on Civil Liberties was adopted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

Convention Secretary: We have Committee Proposal No. 1, entitled "A Proposal providing for Freedom of Speech and Press.", from the Committee on Civil Liberties.

Delegate Carl Heine moved that Committee Proposal No. 1 from the Committee on Civil Liberties be passed on First Reading. Floor Leader Tman seconded, and the motion carried. Committee Proposal No. 1 from the Committee on Civil Liberties passed First Reading by the Convention.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 113, entitled "A Proposal relating to the Capital of Micronesia.", was introduced by Delegates Namwarki Max Iriarte and Naniken Heinrich Stephen.

Delegate Proposal No. 114, entitled "A Proposal relating to an authorization for the national legislature to adopt national symbols.", was introduced by Delegate Apis.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 106, entitled "A Proposal relating to qualifications as legislators.", was referred to the Committee on Governmental Structure.

Delegate Proposal No. 107, entitled "A Proposal relating to the exercise of tax power.", was referred to the Committee on Public Finance and Taxation and the Committee on Governmental Functions.

Delegate Proposal No. 108, entitled "A Proposal relating to government indebtedness.", was referred to the Committee on Public Finance and Taxation and the Committee on Governmental Functions.

Delegate Proposal No. 109, entitled "A Proposal relating to district economic negotiations with foreign nations.", was referred to the Committee on General Provisions.

Delegate Proposal No. 110, entitled "A Proposal relating to Forced Marriages.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 111, entitled "A Proposal relating to advice by traditional chiefs on laws affecting tradition and custom.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 112, entitled "A Proposal relating to Freedom of religion.", was referred to the Committee on Civil Liberties.

INTRODUCTION OF RESOLUTIONS

Resolution No. 15, entitled "A Resolution relating to the role of traditional chiefs in the Government of Micronesia.", was introduced by Delegates Falanruw, Apis and Williander.

REFERRAL OF RESOLUTIONS

Resolution No. 13, entitled "A Resolution expressing the desire to establish a Federal Republic of Micronesia.", was referred to the Committee on Governmental Functions and the Committee on Governmental Structure.

Resolution No. 14, entitled "A Resolution expressing the continued interrelationship between Micronesian and democratic traditions." was referred to the Committee on General Provisions

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Carl Heine.

Delegate Carl Heine: It is not very often that the Marshalls District gets any visitors to visit this Convention; however, this morning it is my pleasure to request that this Convention recognize the presence of a lady who is not only a leader in the Marshalls District but is also a member of the House of Representatives of the Congress of Micronesia. Mr. President, I am speaking, of course, of Congressperson Carmen Milne Bigler. (Applause)

ANNOUNCEMENTS

The Chair recognized Delegate Toribiong.

Delegate Toribiong: I wish to announce to all the members of the Subcommittee on Legislative Functions to meet with me and the staff tomorrow at 9:30 a.m. in Room 2.

Delegate Heinrich Iriarte: Your Committee on Governmental Structure will meet at 2:00 p.m. in Room 4. Also, this is a reminder that your Subcommittee on Executive of Governmental Structure will hold a hearing in this hall at 9:00 a.m. Tuesday morning.

Delegate Ismael: I would like to ask all members of your Committee on Governmental Functions to meet at two o'clock to discuss the proposal on eminent domain. Thank you.

Delegate Tun: Your Committee on General Provisions will meet in executive session at two o'clock this afternoon in Room 1. I wish to urge all the members of the Committee to attend this meeting. It is a very important meeting. Thank you.

Delegate Otter: I would like to remind the members of your Committee on Public Finance and Taxation of a meeting tomorrow at 9:00 a.m.

Delegate Tacheliol: This is not an announcement, but with leave of the Convention I would like to say a few things concerning some problems that I have encountered and also by some of my Delegate colleagues. Several times I have gone down to the bank to cash some checks and they have asked for identification as to my being a member of this Convention. I don't have that identification to indicate that I am a member of this Convention. I only have a dated certificate from the High Commissioner and I cannot fit that in my wallet. I would suggest that somebody take action on this and maybe issue small cards that can fit in the wallets so that we can present it to whoever asks for the purpose of cashing checks or other related matters. Thank you, Mr. President.

Floor Leader Tmau: This is a reminder that the Administration Committee will meet right after the plenary session.

If there is no further business, I move that the Convention recess until 11:00 a.m. tomorrow.

Delegate Olikong seconded, and the motion carried.

The Convention recessed at 11:20 a.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

THIRTY-SECOND DAY

Tuesday, August 12, 1975

The Micronesian Constitutional Convention was called to order at 11:05 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 50 Delegates present. Delegates Cruz, Haruo, Namwarki Max Iriarte, Kendall and Manglona were excused. Delegates Palacios and Pangelinan were absent. A quorum was present.

ADOPTION OF JOURNAL

Floor Leader Tman moved that the Journal of the 31st Day be adopted. Delegate Olikong seconded, and the motion carried. The Journal of the 31st Day was adopted by the Convention.

SECOND READING OF COMMITTEE PROPOSALS

The Convention Secretary informed the Chair that Committee Proposal No. 1, providing for Freedom of Speech and Press, was on the calendar for Second Reading.

The Chair recognized Delegate Nimwes.

Delegate Nimwes: Mr. President, are we going to go into the Committee of the Whole to discuss this particular proposal or are we free to discuss it at the Plenary Session?

President Nakayama: I will refer that question to the Floor Leader.

Floor Leader Tman: Mr. President, we are supposed to go into the Committee of the Whole. The Chairman of the Committee on Civil Liberties was to move that the the Convention resolve itself into the Committee of the Whole.

Delegate Carl Heine so moved; Floor Leader Tman seconded, and the motion carried.

The Convention resolved itself into the Committee of the Whole at 11:10 a.m.

The President requested that Delegate Falcam preside over the Committee of the Whole.

The Convention reconvened in Plenary Session at 12:17 p.m.

President Nakayama: I believe we have a report forthcoming from the Committee of the Whole and I am told Mr. Leo Falcam will present that report. Delegate Falcam?

Delegate Falcam: Thank you, Mr. President. Mr. President, your Committee of the Whole had extensive discussion of Committee Proposal No. 1. I would like to report that your Committee of the Whole was unable to reach a consensus on this matter and recommends that this proposal be taken up again by the Plenary Session and that it be placed on the calendar for Thursday, this week, for consideration. Thank you, Mr. President.

Floor Leader Tman moved for adoption of the oral report on the Committee of the Whole. Delegate Olikong seconded, and the motion carried. The oral report was adopted by the Convention.

President Nakayama: The proposal will be placed on the calendar for Thursday for Second Reading.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 115, entitled "A Proposal relating to ethnic representation in the legislature of Micronesia.", was introduced by Delegate Limes.

Delegate Proposal No. 116, entitled "A Proposal relating to the appointment of judges of the Supreme Court.", was introduced by Delegate Tacheliol.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 113, entitled "A Proposal relating to the Capital of Micronesia.", was referred to the Committee on General Provisions.

Delegate Proposal No. 114, entitled "A Proposal relating to an authorization for the national legislature to adopt national symbols.", was referred to the Committee on Governmental Functions.

REFERRAL OF RESOLUTIONS

Delegate Resolution No. 15, entitled "Resolution relating to the role of traditional chiefs in the Government of Micronesia.", was referred to the Committees on Governmental Functions and Governmental Structure.

ACTION ON RESOLUTIONS

The Convention Secretary informed the Chair that action on Resolution No. 16, relating to the Convention's administration during the recess, was to be delayed until Wednesday, August 13, 1975.

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Apis: Mr. Chairman, may I request the Convention to recognize two distinguished guests from Ponape who are at present sitting in the gallery? They are Mr. Yasuo Yamada, who is Area Superintendent, Education Department, Ponape District, Kolonia. The other guest is Glenn Petersen of Columbia University. He is an anthropologist who has been working in Ponape on a doctoral thesis on "Economic and Social Change" in Ponape and he is also the writer of the news article in the Micronesian Independent, "Ponape Has Spoken". [Applause]

Delegate Ngiraked: Mr. President, this morning I noticed the presence of two distinguished guests from the Hawaii State Legislature, Senators Joseph Kuroda and T. C. Yim. Because of the schedule of their work they have left the Convention Hall, and I wish to have placed in the record of the Convention that their presence was recognized this morning in the Convention Hall, and their presence here on the island of Saipan. [Applause]

Delegate Cabrera: Mr. President, I should like to ask the Convention to recognize the presence of Mrs. Hilary Tacheliol, wife of Delegate Tacheliol. [Applause]

Delegate Falcam: Mr. President, I should like the Convention to recognize the presence of the District Attorney from Ponape District, Mr. Minor Pounds, right behind me. [Applause]

ANNOUNCEMENTS

Delegate Philippo: Mr. President, may I inform the Subcomittee of your Committee on General Provisions that there will be a meeting this afternoon at two o'clock in Room 1?

Delegate Olter: Mr. President, your Committee on Finance was rained out this morning and could not meet. I would like to call the members again for a meeting tomorrow at 9:30 a.m. in the same room.

Delegate Ismael: Mr. President, I would like to remind the members of your Committee on Governmental Functions of the meeting tomorrow at two o'clock in this Chamber.

Delegate Heinrich Iriarte: Mr. President, I would like to remind your Committee on Governmental Structure that there will be a meeting at four o'clock this afternoon in Room 4.

Delegate Cabrera: Mr. President, due to circumstances beyond the control of the Public Information Office, the papers that are usually found in the office are available right by the door. Any person wishing to purchase today's paper can do so right at the door.

Floor Leader Tman: Mr. President, if there is no further business, I move the Convention recess until 11:00 a.m. tomorrow.

Delegate Nimwes seconded, and the motion carried. The Convention recessed at 12:25 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

THIRTY-THIRD DAY

Wednesday, August 13, 1975

The Micronesian Constitutional Convention was called to order at 11:05 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 48 Delegates present. Delegates Haruo, Heinrich Iriarte, Kalles, Kijiner, Manglona, Ngiraked and Salii were excused. Delegates Palacios and Pangelinan were absent. A quorum was present.

ADOPTION OF JOURNAL

Floor Leader Tman moved that the Journal of the 32nd Day be adopted. Delegate Tacheliol seconded, and the motion carried. The Journal of the 32nd Day was adopted by the Convention.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 117, entitled "A Proposal relating to the admission of new States.", was introduced by Delegate Tatasy Wainit.

Delegate Proposal No. 118, entitled "A Proposal relating to an Executive Council for Micronesia.", was introduced by Delegate Luke M. Tman.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 115, entitled "A Proposal relating to ethnic representation in the legislature of Micronesia.", was referred to the Committee on Governmental Structure.

Delegate Proposal No. 116, entitled "A Proposal relating to the appointment of judges of the Supreme Court.", was referred to the Committee on Governmental Functions.

INTRODUCTION OF RESOLUTIONS

None

ACTION ON RESOLUTIONS

The Convention Secretary announced that Resolution No. 16 was introduced on Monday, had been distributed to the Delegates, and was ready for action. The title of such Resolution was "A Resolution relating to the Convention's administration during the recess.".

The Chair recognized Delegate Carl Heine.

Delegate Carl Heine: Mr. President, a point of order. May we go back in the Order of Business to number eight? Your Committee on Civil Liberties has a Committee Report to introduce.

Floor Leader Tman: Point of information, Mr. President. Did I hear correctly that the Chairman of the Committee on Civil Liberties has a report to make?

President Nakayama: Yes.

Floor Leader Tman: In that case, Mr. President, I move that we suspend the Order of the Day and move back to item number eight.

Delegate Olikong seconded, and the motion carried. The Order of Business for the Day was suspended in order to move back to item number eight, Reports of Standing Committees.

REPORTS OF STANDING COMMITTEES

Delegate Carl Heine: Mr. President, your Committee on Civil Liberties has a standing committee report to be introduced this morning.

President Nakayama: Do we need to act on the report this session or during the next session? Mr. Tman?

Floor Leader Tman: I did not hear too well. Is the report referring to a new Committee Proposal, or does it refer to Committee Proposal No. 1?

The Chair called on Delegate Carl Heine to answer the question.

Delegate Carl Heine: Mr. President, this is a standing committee report not yet assigned a number. It is being introduced this morning.

Floor Leader Tman: My suggestion, Mr. President, is that the report be submitted to the Secretary and it will be on tomorrow's calendar.

ACTION ON RESOLUTIONS

President Nakayama: We will now proceed on item number 15 of our Order of Business, Action on Resolutions. Mr. Tman?

Floor Leader Tman: Mr. President, I believe the Secretary has read the title of the Resolution. In order for the Delegates to consider the Resolution more thoroughly, I move that the Convention resolve into the Committee of the Whole.

Delegate Tun seconded, and the motion carried.

The Convention resolved itself into the Committee of the Whole at 11:15 a.m.

The President requested that Delegate Nimwes, Vice President, preside over the Committee of the Whole.

The Convention reconvened in Plenary Session at 11:53 a.m.

President Nakayama: Before this Convention is Resolution No. 16. The Chair will now receive the report of the Committee of the Whole.

Delegate Nimwes: Mr. President, your Committee of the Whole had lengthy deliberation on Resolution No. 16 and I am very pleased to report that the Committee recommends adoption of Resolution No. 16.

President Nakayama: Is there a motion for the acceptance of the oral report of the Committee of the Whole?

Floor Leader Tman: Mr. President, I move that the oral report presented by the Chairman of the Committee of the Whole be accepted.

Delegate Nimwes seconded, and the motion carried. The oral report of the Committee of the Whole was accepted by the Convention.

Floor Leader Tman: Mr. President, pursuant to the recommendation of the Committee of the Whole, I move that Resolution No. 16 be adopted by the Plenary Session.

Delegate Nimwes seconded, and the motion carried. Resolution No. 16 was adopted by the Plenary Session.

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Olikong: Mr. President, I would like to ask this Convention to recognize the presence in our gallery this morning of a long time friend of the people of Micronesia. He is a prominent man in the field of insurance and his name is Edwin Kawahara, C.L.U. He is the Executive Vice President of American Mutual Life Insurance Company of Hawaii. (Applause)

ANNOUNCEMENTS

Delegate Nakamura: Thank you, Mr. President. I would like to request the members of Subcommittee No. 3 of your Committee on General Provisions to remain in this Convention Hall after the Plenary Session this morning for a short meeting.

Delegate Ismael: Mr. President, I would like to remind the members of your Governmental Functions Committee that we will have a meeting today at two o'clock in this Chamber.

Delegate Olter: I would like to inform the distinguished members of your Finance Committee who missed this morning's meeting, that your Committee on Finance has decided not to hold any meetings until Monday of next week, the 18th. This long recess is to allow certain member volunteers to come up with complete finance article proposals for consideration by the Committee. It is the feeling of your Committee that piecemeal Proposals as submitted and assigned to this Committee are not sufficient or comprehensive enough in content and scope to comprise what the Committee feels may constitute the Articles on Finance. The Committee will, therefore, try to compose what it feels may be the complete finance package, of course, accommodating all of the Proposals assigned to the Committee so far. Then the Committee will, or hopes to, consider that package and submit the complete package to the Plenary Session. Thank you, Mr. President.

Delegate Fritz: Mr. President, the Subcommittee on Judiciary of your Committee on Governmental Structure will meet at two o'clock today in Room 4. I request the members to be present in that meeting.

Delegate Tacheliol: Mr. President, I would like to inform the members of Executive of your Committee on Governmental Structure that we will not have a meeting tomorrow. I would urge the members to study Resolution No. 15 and then we will meet day after tomorrow, same room, same time.

Delegate Tun: Mr. President, your Committee on General Provisions will meet in executive session at one o'clock this afternoon in Room 1.

Delegate Philippo: Thank you, Mr. President. May I ask the Chairman of the Committee on General Provisions to delay the meeting from one o'clock until 1:30?

Delegate Tun: The meeting will start at one o'clock. (Laughter)

The Chair recognized Floor Leader Tman.

Floor Leader Tman: If there is no further business, I move that the Convention recess until eleven o'clock tomorrow morning.

Delegate Nimwes seconded, and the motion carried. The Convention recessed at 12:00 noon.

Respectfully submitted,

Victorio Uherbelau

Victorio Uherbelau
Convention Secretary

THIRTY-FOURTH DAY

Thursday, August 14, 1975

The Micronesian Constitutional Convention was called to order at 11:00 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 49 Delegates present. Delegates Andrike, Cruz, Haruo, Mangiona, Olter and Sound were excused. Delegates Palacios and Tangelinan were absent. A quorum was present.

ADOPTION OF JOURNAL

Floor Leader Tman moved that the Journal of the 33rd Day be adopted. Delegate Olikong seconded, and the motion carried. The Journal of the 33rd Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Ismael, who stated that he had a Committee Report to present, along with a Committee Proposal.

The Chair recognized Delegate Carl Heine.

Delegate Carl Heine: Mr. President, I move for the acceptance of Committee Report No. 3.

Floor Leader Tman seconded, and the motion carried. Standing Committee Report No. 3 from the Committee on Civil Liberties regarding the Right to Petition and Peaceably Assemble was accepted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

The Chair recognized Delegate Carl Heine.

Delegate Carl Heine: I move for the adoption of Committee Proposal No. 2 on First Reading.

Floor Leader Tman seconded.

The Chair requested that the Convention Secretary read the title of Committee Proposal No. 2.

The Convention Secretary read the title of Committee Proposal No. 2: "A Proposal providing for the Right to Petition and Peaceably Assemble."

The motion carried. Committee Proposal No. 2, entitled "A Proposal providing for the Right to Petition and Peaceably Assemble." from the Committee on Civil Liberties was adopted by the Convention on First Reading.

SECOND READING OF COMMITTEE PROPOSALS

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Pursuant to our Rules of Procedure and the motion of August 12, I move that the Convention resolve itself into the Committee of the Whole to discuss Committee Proposal No. 1.

Delegate Tachelial seconded and the motion carried.

The Convention resolved itself into the Committee of the Whole at 11:10 a.m. and the Chair requested that Delegate Ngiraked preside over the Committee of the Whole.

The Convention reconvened in plenary session at 3:25 p.m.

President Nakayama: May we now hear the report from the Committee of the Whole? Delegate Ngiraked.

Delegate Ngiraked: Thank you, Mr. President. Mr. President, your Committee of the Whole, to which was referred this morning Committee Proposal No. 1, wishes to make the following report: The Committee deliberated and discussed and argued on the measure extensively, and it was the consensus of the Committee of the Whole to report to the plenary session and to request the plenary session to have the measure assigned to the Special Conference Committee and to ask the Conference Committee to come out with some decision on the procedural aspect of our deliberations on this important measure before the Convention. The question which was the main concern of the Committee of the Whole, Mr. President, was whether or not this Convention should treat the question of incorporating some due respect and consideration about traditional customs and laws in our Constitution as a separate provision, or should we treat it every time we discuss different provisions of the Constitution? And with this question, Mr. President, the Committee of the Whole requests the measure be assigned to the Special Conference Committee for some deliberations.

Floor Leader Tman moved for acceptance of the oral report of the Chairman of the Committee of the Whole. Delegate Nimwes seconded, and the motion carried. The oral report of the Committee of the Whole was accepted by the plenary session.

Floor Leader Tman moved that Committee Proposal No. 1, along with the proposed amendment, be referred to the Special Conference Committee with instructions to the Committee to come up with procedural recommendations with respect to the question of recognizing customary laws and traditions.

Delegate Ngiraked seconded, and the motion carried. Committee Proposal No. 1 was assigned to the Special Conference Committee.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 119, entitled "A Proposal relating to the application of Micronesian customary law and United States case law to the courts of Micronesia.", was introduced by Delegate Toribiong.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 117, entitled "A Proposal relating to the admission of new States.", was referred to the Committee on General Provisions.

Delegate Proposal No. 118, entitled "A Proposal relating to an Executive Council for Micronesia.", was referred to the Committees on Governmental Structure and Governmental Functions.

INTRODUCTION OF RESOLUTIONS

Resolution No. 17, entitled "Resolution relating to the distinction between the Draft Compact of Free Association and the Constitution of Micronesia.", was introduced by Delegates Namwarki Max Iriarte, Naniken Stephen, Apis, Falcam and Yoma.

Resolution No. 18, entitled "Resolution designating Ponape Island as the site for the permanent capital of Micronesia.", was introduced by Delegates Apis, Weital, Falanruw, Albert, Falcam, Andrike, Carl Heine, Philippo, Sony, Olter, Sigrah, Stephen, Eperiam, Mateak, Robert, Limes and Heinrich Iriarte.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Sony.

Delegate Sony: Thank you, Mr. President. I know that we already adopted the motion to refer the Committee Proposal, but I would like to make a few remarks. I know this will be my last opportunity to exercise my right to freedom of expression.

Mr. President, honorable Chiefs, fellow Delegates:

I would like to make a few remarks this afternoon on the question of freedom of press or speech. Should these freedoms be included in our Constitution? If so, should they be included with or without some Constitutional restraints?

Mr. President, Micronesia has only just begun to develop its human resources. To develop these resources properly requires freedom of expression. If such freedoms are not included in our Constitution, our whole society may stagnate.

In the speech which opened the Convention, our President said it was now or never for Micronesia. I think, as I'm sure all Delegates do, that it must be now. And one of the things we have to do now is provide freedom, provide room for future generations to grow -- future scientists, future political leaders, future citizens of all sorts. Without freedom of expression their talents may be lost to us.

To develop character, to attain truth, to make correct decisions, to defend the past and prepare for the future, the free flow of ideas is essential.

How will the future Micronesia identify its leaders if those leaders are unable to express themselves, unable to meet and exchange ideas, unable to learn and grow, unable to experiment, make mistakes, learn from experience?

"You shall know the truth, and the truth shall make you free," said Abraham Lincoln. How shall our children know the truth, unless we include these freedoms? A true law, said the Roman thinker Cicero, is "right reason in agreement with nature." How shall our future legislators make true laws, unless they can reason freely?

Mr. President, again and again Delegates have indicated their concern that the exercise of these freedoms may cause problems, may cause conflict with customs and tradition. Mr. President, no Constitution ever written by human beings for human beings can guarantee the absence of conflict or the absence of problems. These are part of life. But I believe that our ancestors have already laid down the restraining principles which a member of society should know, and be guided by, when dealing with his fellowmen. In Truk, for instance, one of our ancestors named a tree, belonging to the betelnut family, KINIAU. Translated literally, this means "Beware of the fruit of your tongue." The name suggests that you may express your opinion -- but not without regard to others. So let us have freedom of speech in our Constitution at the same time we remember the lesson of our ancestors: Beware the fruit of your tongue.

Thank you, Mr. President. [Applause]

The Chair recognized Delegate Olikong.

Delegate Olikong: Thank you, Mr. President. I have a few remarks to make

Mr. President, fellow Delegates:

Throughout this Convention, the Palau Delegation has gone out of its way to be honest with the rest of Micronesia, even at the risk of being considered too demanding, or too direct. We presented this Convention with a petition expressing our requirements for the unity of Micronesia. Just a short time ago, we incorporated our main points in a draft Constitution which has been presented to this Convention for consideration. Mr. President, it can be fairly said that no delegation here has done more to develop a position, and no delegation has been quicker to communicate its position, than the Palau Delegation.

In developing our Palau petition and our Palau Constitution, we thought we would be answering questions. Instead, the result of our efforts has been to raise more questions -- Why did we do this? Why did not we do that? Are we bluffing? Are we here to wreck this Convention? And, finally, do we mean what we say?

Mr. President, we do mean what we say, and we think what we say is reasonable. As this Convention approaches its halfway point, I ask, I plead with other Delegates to read the documents which we have presented. Try to see them as Palau sees them. We said that we were presenting a formula for unity in Micronesia. And that is exactly what we attempted to do.

Many have commented on the fact that our goals are nonnegotiable. They ask, if we are not here to negotiate, why we are here at all? Well, Mr. President, our terms are nonnegotiable because we have already negotiated. We have already compromised. We have compromised between our loyalty to Palau and our commitment to the rest of Micronesia, and what we give you is the only possible compromise. We are not arguing over the price of a car. We are not debating the cost of a piece of land. It is not a matter of you raising your bid and me lowering mine and our splitting the difference between us. There is only one possible compromise, and that is the one we presented: A 50-50 compromise between Palau and the rest of Micronesia.

Instead of worrying about who made these proposals, or why they made them, or whether they meant them seriously, I ask Delegates to visualize how the arrangement we describe would actually work. It has been said that the Palau petition and the Palau Constitution place fatal limitations on the power of the central government. Mr. President, this is not the case; we insist on starting with a small central government because that is the only kind of central government we think Micronesia is now able to afford. This does not mean that the central government cannot grow. If the Districts are willing to support a larger central government, then let them do so. Our point is that we should not start with a larger central government than we can afford.

Last of all, Mr. President, let me say that Palau does want to be a part of the future Micronesia. That is why we are here. We came to this Convention because we had some hopes for the future unity of Micronesia. We came to this Convention with proposals which would make our hopes a reality. We remain at this Convention to present and to support our positions.

We will soon be returning to our districts. When I return to Palau, I will be able to say that the positions of Palau have been presented. The positions of Palau have been clarified and defended. I can say that the rest of Micronesia knows what Palau wants. Can the other delegations say the same things about themselves?

Thank you, Mr. President. [Applause]

The Chair recognized Delegate Tacheliol.

Delegate Tacheliol: Thank you, Mr. President, I am not going to give a speech, but with leave of the Convention, I would like to ask the Convention to recognize the presence of a distinguished observer here with us this afternoon in the gallery. She is the wife of the Deputy District Administrator in the Marianas, and also my sister-in-law. Mrs. Evelyna Akimoto. [Applause]

Delegate Sawaichi: Mr. President, I would like to ask the Convention to recognize the presence of Harry Brown, formerly Social Security Administrator, and now the Budget Officer of the Congress of Micronesia. [Applause]

Delegate Yoma: Mr. President, I would like the Convention to recognize the presence of a friend of Micronesia and formerly the Representative of the 19th District of the State of Pennsylvania, the Honorable Neiman Craley, Jr. [Applause]

Delegate Cabrera: Mr. President, I am not making a speech, just a request. It occurred to me during the roll call this morning I did not respond when Delegate Cruz's name was called. I should like to ask the record to reflect that he is excused.

Delegate Emperiam: Mr. President, I would like to announce to this Convention that even though our order of business today does not show there are miscellaneous communications, there really is one. In fact, it is Miscellaneous Communication No. 12. Before I request, Mr. President, to let the Secretary of this Convention read this communication to the Convention, I would like to make it known to the Convention and to the whole wide world that whatever is going to be read by the Secretary came out of my own personal selfish mind and judgment, just in case someone has some kind of wonder about how it came about. May I now ask the President to let the Secretary read that?

The President so directed the Convention Secretary, and the Secretary read the following:

"Miscellaneous Communication No. 12

"Dear Mr. President:

"I am writing this letter in support of the language proposed in the preamble of Delegate Proposal No. 100, also referred to as the Palauan Draft of the Micronesian Constitution. I strongly feel that the language used in that preamble correctly and eloquently expresses my opinions concerning the fundamental equality among our peoples, our cultures, and our present administrative districts. It also articulates the abiding faith Micronesians share in our historical ties and our shared experiences, as well as our committment (sic) to a self determined future.

"For these reasons, I offer my unqualified support for the inclusion of the Palauan preamble in the Micronesian Constitution and I hope my fellow Delegates will join with me.

"Sincerely,

"William Epcriam"

The Convention Secretary noted that the communication would be duplicated and distributed to the Delegates tomorrow, August 14, 1975.

ANNOUNCEMENTS

Delegate Sawaichi: Mr. President, I would like at this time to announce that your Special Conference Committee will meet tomorrow at nine o'clock sharp. I urge that the staff attorneys and all the members be present.

Floor Leader Tman: Mr. President, if there are no further announcements and no further business, I move that the Convention recess until 11:00 a.m. tomorrow.

Delegate Olikong seconded, and the motion carried. The Convention recessed at 3:50 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

THIRTY-FIFTH DAY

Friday, August 15, 1975

The Micronesian Constitutional Convention was called to order at 11:15 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 51 Delegates present. Delegates Andrike, Borja, Haruo and Mangiona were excused. Delegates Palacios and Pangelinan were absent. A quorum was present.

ADOPTION OF JOURNAL

Floor Leader Tman moved that the Journal of the 34th Day be adopted. Delegate Nimwes seconded.

Delegate Sony called the attention of the Chair to an error in his speech of the 34th Day, asking that it be corrected. President Nakayama stated that he would ask the Secretary to make a technical correction so there would be no need for a motion to amend the same.

There being no further corrections, voice vote was taken and the motion carried. The Journal of the 34th Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

Delegate Ismael: Mr. President, there are two reports from your Committee on Governmental Functions designated as Committee Report No. 4 and Committee Report No. 4(A). Committee Report No. 4 indicates the majority consensus of your Committee relative to the Proposal on eminent domain power. Report No. 4(A) is a minority aspiration which may be interpreted as an alternative to the majority consensus. The Proposal attached to Report No. 4(A) may be treated as an amendment to Committee Proposal No. 3 should the Convention so decide. In view of this short explanatory report, I move for the acceptance of the two reports.

Floor Leader Tman seconded and the motion carried. The Committee Reports Nos. 4 and 4(A) were accepted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

The Chair recognized Delegate Ismael.

Delegate Ismael: Mr. President, I move for passage of Committee Proposal No. 3, relating to the power of eminent domain, on First Reading.

Delegate Tman seconded the motion and after reading of the title of the Proposal, voice vote was taken. The motion carried and Committee Proposal No. 3 was passed by the Convention, thereby passing First Reading.

SECOND READING OF COMMITTEE PROPOSALS

The Chair recognized Delegate Carl Heine.

Delegate Carl Heine: Mr. President, your Committee on Civil Liberties has presented one of the items to be included in the Bill of Rights, the right to petition and peaceably assemble. These particular rights were passed by this Convention on First Reading yesterday, and today they are up for Second Reading.

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Mr. President, in order to consider the Committee Proposal more informally and more thoroughly, I move that this Convention resolve itself into the Committee of the Whole.

Delegate Tacheliol seconded and the motion carried.

The Convention resolved itself into the Committee of the Whole at 11:25 a.m. and the Chair requested that Delegate Tun preside over the Committee of the Whole.

The Convention reconvened in Plenary Session at 12:00 noon.

The Chair called the meeting to order and recognized Delegate Tun for the report of the Committee of the Whole.

Delegate Tun: Thank you, Mr. President. Your Committee of the Whole met and deliberated on Committee Proposal No. 2 and finally decided that action on the subject Proposal would be deferred until tomorrow. That is the recommendation of your Committee of the Whole. I move for the acceptance by this Convention of the oral report.

Floor Leader Tman seconded and the motion carried. The Convention adopted the oral report of the Committee of the Whole.

The President inquired of the Floor Leader if it was necessary for a motion to put in the recommendation of the Committee of the Whole.

Floor Leader Tman: For the record, in accordance with the recommendation of the Committee of the Whole, I move that Committee Proposal No. 2 be deferred until tomorrow's calendar.

Delegate Tacheliol seconded and the motion carried to defer action on Committee Proposal No. 2 until Saturday, August 16, 1975.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 120, entitled "A Proposal relating to the government of the United Republics of Micronesia.", was introduced by Delegates Leo A. Falcam, Strik Yoma, Heinrich Iriarte, William Eperiam, Kikuo L. Apis, Heinrich Stephen, Daro Weital, Apinel Mateak, Bailey Olter and Hirosi Ismael.

Delegate Proposal No. 121, entitled "A Proposal relating to the representation of minority groups in the Congress of Micronesia by nonvoting representatives.", was introduced by Delegates Kikuo L. Apis and Bailey Olter.

Delegate Proposal No. 122, entitled "A Proposal relating to Local Customs.", was introduced by Delegate Isaac Lanwi.

Delegate Proposal No. 123, entitled "A Proposal relating to privileges and immunities and extradition.", was introduced by Delegate Tatasy Wainit.

Delegate Proposal No. 124, entitled "A Proposal relating to public finance.", was introduced by Delegates Bailey Olter, Wilfred Kendall, Tipne Philippo and Luke M. Tman.

Delegate Proposal No. 125, entitled "A Proposal relating to designation of the National Legislative Body.", was introduced by Delegate Manuel Sound.

Delegate Proposal No. 126, entitled "A Proposal relating to laws in effect upon the effective date of the Constitution.", was introduced by Delegate Manuel Sound.

Delegate Falcam was recognized by the Chair.

Delegate Falcam: Mr. President, point of privilege. I should like to introduce a Proposal and at the appropriate time make a statement regarding this Proposal and other matters.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 119, entitled "A Proposal relating to the application of Micronesian customary law and United States case law to the courts of Micronesia.", was referred to the Committee on General Provisions and the Committee on Civil Liberties.

INTRODUCTION OF RESOLUTIONS

None

REFERRAL OF RESOLUTIONS

Resolution No. 17, entitled "A Resolution relating to the distinction between the Draft Compact of Free Association and the Constitution of Micronesia.", was referred to the Committee on General Provisions.

Resolution No. 18, entitled "A Resolution designating Ponape Island as the site for the permanent capital of Micronesia.", was referred to the Committee on General Provisions.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Falcam.

Delegate Falcam: Thank you very much, Mr. President. In response to the request made yesterday by my good friend, Delegate Santos Olikong from Palau, I would like to make a statement for the record at this time.

President Nakayama: Please proceed.

Delegate Falcam: Thank you. Mr. President, fellow Vice Presidents and Delegates:

The statement I am about to make, I make as an individual Delegate and not on behalf of the Ponape Delegation to the Micronesian Constitutional Convention. After a great deal of individual reflection and after numerous discussions with Delegates to this Convention, I have developed a position. I would like to share this position with the other Delegates. This I do in a spirit of cooperation and hope. I make no effort to command this Convention. I place no demands before it. But I do have a position. I do have a response to what has happened so far in this Convention. And I do have some hopes--high hopes--for the remainder of this Convention.

Mr. President, I believe that we are here on a most important mission. We are all here to do but one job--to lay the foundation upon which our Micronesian nation will be built and grow. This foundation must be built on solid ground, based upon solid principle and experience. Surely, we can learn from our past experience in Micronesia. At the same time, however, we should realize that this Convention gives us a chance for a fresh start. We are starting a new turn in our voyage toward self-determination, on board a new vessel. I suggest that past storms in the several districts, in the Congress of Micronesia, in Trust Territory Headquarters, at the Department of Interior or the United Nations should not hamper us in our work today. We should respect the past...but we cannot permit ourselves to be paralyzed by it. To the extent that it is possible for human beings to do so, we should leave fear, distrust, pessimism, outside this Hall.

I respect the opinions of other Delegates and of other districts. I believe that all measures introduced to this Convention should be carefully considered. I am continuing my deliberations on the Petition introduced by the Palau Delegation a few weeks ago and on the draft Constitution introduced last week. Although I feel that some points are definitely in need of clarification, I still would like to express my reaction to major points incorporated in the Petition and Constitution.

I am in essential agreement with the Palau Delegation's opinion that the central government must be limited, must have no more power than those which are expressly delegated to it by the districts. Furthermore, I have no problem with the Constitution's recognizing that the most fundamental unit of our future Micronesian government will be the respective districts. But, having agreed with the Palau Delegation in principle on the role and size of the central government, I believe something more must be said on this point.

I believe the central government, however limited, must be flexible. It must have room to change and--if necessary--room to grow. It must have the power and the money to perform the tasks which we delegate to it, and to handle future contingencies, unforeseen by us today. I think it would be an unfortunate mistake for this Convention to lock the central government into a rigid position.

The role of any central government, however small, is complicated and expensive and subject to change. Consider this one example. Even the advocates of a limited central government--even the Palau Delegation--acknowledge that one of the tasks of the central government will involve postal service. That sounds simple. That sounds limited. But it is costly. It involves setting up offices, hiring personnel. It involves supervision. It involves postal rates, postal regulations, contracts with air and surface shippers, liaison with other governments. It involves protection of the postal services against theft and fraud and...possibly... obscenity and contraband. To handle these duties, and others that may arise, the central government must have power and it must have money.

Thus, while I agree that the central government should be limited, I also insist that it should be able to do the jobs we assign to it. A limited central government is one thing. A meaningless, hopeless, poverty-stricken central government is something else.

The Palau Delegation also calls for a unicameral legislature in which all districts would be equally represented, regardless of size. This is a position which I now find impossible to support. While maintaining the appearance of equality among districts, the proposal is inherently unfair to many individual voters. It is basically undemocratic. I cannot support a proposal whereby, if there were five representatives per district, Yap would have one representative for 1,500 people, Ponape one representative for each 3,000 persons, Truk, one representative for each 6,000 people. This simply is not equal representation by any democratic formula.

The Palau Delegation also calls for district control of land. It calls for district power of eminent domain. This proposal seems agreeable to me.

I now come to two related demands, one calling for equal contributions from each district to the national treasury, the other requesting equal division of outside funds. If I understand these proposals correctly, I cannot support them. Certainly, we torture the meaning of equality if we insist that Yap pay as much as Ponape or Truk. And we virtually destroy our central government if, in the name of equality, we insist that Palau and the Marshalls pay as little as Yap and Kusaie. Gentlemen, we have limited wealth in Micronesia. We cannot protect our district peculiarities to a degree that makes our people suffer. And if we insist on equal contributions, equal distribution of outside aid, people will suffer.

Finally, the Palau Delegation asks that the self-determination of each district be recognized. With this I agree. The Palau Delegation further requests that each district be permitted to withdraw, unilaterally, from the Micronesian nation. With this, I do not agree. I do not think secession is the answer to anybody's problems. Unilateralism in the Security Council of the United Nations has been used, and abused, to the point where it has all but made a bad joke of that organization. Unilateralism in any district would likewise make a bad joke of our Micronesia. Unilateralism is the child of suspicion, distrust and fear. It puts any organization permanently on the edge of suicide. Any district, however minor, can be escalated into a matter of life and death. Probably, death.

Furthermore, the Palau Delegation has demanded that the seat of the central government be situated in Palau. I suggest that this decision be left to our new legislative body, and that we trust that body to come up with the right answer in a spirit of trust and confidence.

This concludes my reaction to the certain Petition and important Constitution presented by the Palau Delegation. But it is not enough for me simply to respond to the Palau Delegation's positions. I owe them, I owe this Convention, and I owe my people, more than this. Those who disagree --as I do--with the majority of the positions taken by the Palau Delegation must come up with some constructuve alternatives. Saying no, or saying nothing, is not euough.

Today I am introducing a proposal which expresses my beliefs about the structure of our future Micronesian government, to be called the United Republics of Micronesia.

Each district of Micronesia, including the future district of Kusaie, is to be a self-governing republic for all internal matters. Each republic will have substantial freedom in establishing its own government and in selecting its representatives to the national government. Each republic will be able to contribute to the national government and at the same time, be protected against any attempted inroads on its self-government.

Specificially, my proposal incorporates both separation of powers and checks and balances. It also incorporates equal protection of all republics by providing for equal representation in the plural Executive and in one of the two houses of the legislature, and also by requiring unanimity in the Superior Court to over turn a decision from a Republic Court. In addition, at least one citizen from each republic must sit on this highest court of the United Republic of Micronesia.

The national government of the new nation will have a plural Executive, a cabinet composed of one minister from each republic. The cabinet will select one of its members to be prime minister, and may remove him. Also included in the executive branch is a council of chiefs--one representative of the traditional leaders in each republic--to oversee traditional matters.

The Parliament of the new nation is bicameral, the lower house based on population while there will be equal representation in the upper house. Acts of the Parliament may be vetoed by the Prime Minister, and if they involve traditional matters by the Council of Chiefs.

The Superior Court will be the highest court in the nation, and will be the final interpreter of the Constitution. There also may be a Land Claims Appeal Court to hear appeals from decisions of republic courts on land.

My proposal does not amount to a complete Constitution. It leaves many issues up to this Convention. For one thing, though I assign taxation and foreign affairs powers to the central government, my document is silent

on the distribution of other powers. I leave a multitude of decisions up to this Convention. But I do hope that my proposal has provided a framework within which these decisions can be made.

Mr. President, my fellow Delegates from Palau have been firm and eloquent in the presentation of their Petition and Constitution. They have made clear that what they have presented represents a compromise between their duty to Palau and their commitment to Micronesia. The position I present to you today represents a similar effort on my part. I commend it to all Delegations in the hope that, by working together we may reach agreement. Let us--let all of us--continue to work together and not stop working together until our task is completed. Thank you, Mr. President. (Applause)

The Chair recognized Floor Leader Tman.

Floor Leader Tman: With the leave of my chiefs and the members of my Delegation, I humbly request this Convention to recognize the presence of my fellow Delegate's wife and family, Mrs. Margie Falanruw, with Timothy, Leona and Lubuu Falanruw. They are from Rull Municipality in Yap District. (Applause)

Delegate Wainit: Mr. President, I move for a short recess, subject to the call of the Chair.

Delegate Olikong seconded, and the motion carried. The Convention recessed at 12:20 p.m.

RECESS

The President called the Convention to order at 12:38 p.m.

The Chair recognized Delegate Philippo.

Delegate Philippo: Before I say a short statement, I would like to congratulate Delegate Falcam on his very eloquent, constructive and comprehensive statement that was just put out. (Applause)

Mr. President:

For the sake of expediting the work of this Convention, I would like to go on record expressing my concern with respect to committee consideration of Delegate Proposals which have been introduced to date. Well over 100 official Delegate Proposals have been submitted and have been assigned by this body to its Standing Committees. These committees are charged with the responsibility of considering all measures referred to them. These committees then have the obligation to report back to this Convention their findings and recommendations.

Based on a personal hunch or my intuition, I have a feeling that if present patterns of procrastination continue, committees will be unable to fully consider all Delegate Proposals in the limited time of this Convention. It appears as if the Standing Committees are really sitting committees. Mr. President, the committees are sitting on Delegate Proposals. The committees may not understand the reason for the Proposal or the serious intent of its sponsor. Members of the Standing Committees may fail to give due consideration to a Proposal because it is not reflective of their political philosophy or personal desire.

Mr. President, if my personal hunch is correct, the failure of our Standing Committees to consider all Proposals assigned to them may cause delays, frustration, and fragmentation in the later stages of this Convention.

May I urge that Delegate Proposals be given full consideration by our committees. I feel that every Delegate Proposal has an important message in

it to this assembly. Mr. President, these Delegate Proposals--the good ones and the ones with less merit--are the foundation upon which we construct our Constitution. They should not be ignored. They must be reviewed by our Standing Committees and if the Proposal is undesirable or unacceptable by such committee, the reasons for not acting favorably on it should be documented for consideration by this Convention. Your attention is directed to Rule No. 33 of our Rules of Procedure which requires all committees, before reporting adversely on any Delegate Proposal, to notify the Delegate presenting the Proposal in order to give him an opportunity to explain such Proposal prior to the Committee Report.

Mr. President and fellow Delegates, it is out of a sense of fairness that I urge our Standing Committees to consider all Delegate Proposals assigned to them. Thank you. (Applause)

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President and fellow Delegates, on behalf of the Palau Delegation I wish to extend to the honorable Delegate from Ponape, Delegate Falcam, our appreciation for the interest and concern he has taken about the Palau Proposal. Of couse, we must state at this time that the Palau Delegation considered the variances of opinion and approach and concept presented in this Proposal as a rejection of the Palau Proposal in important aspects. Mr. President, we are aware that this Proposal is an individual Proposal on the part of Delegate Falcam and we hope that as his position acquires aspects of specific terms and provisions as it is processed through the Convention, that this Convention shall find ways and means to reconcile the differences that his position presents in relation to the Palau Delegation so that we may achieve unity of Micronesia without declaring war against and among the Delegates or Delegations. Mr. President, the Palau position is clear and, as Delegate Falcam has stated, we are here to represent the people of Palau and the Palau Delegation represents our loyalty to the people we represent and our commitment to this Convention, and I hope that Mr. Falcam and this Convention shall take the Palau Delegation Proposal in this light. (Applause)

Delegate Yoma: Mr. President, I am not going to make a statement but I would like this Convention to recognize the presence of a distinguished visitor from our District of Ponape and the Municipality of Uh, a gentleman who is also the uncle of Delegate Falcam, Mr. Martin Dosolua. (Applause)

Delegate Falcam: I merely want to thank my friend and fellow Delegate from Palau for his kind remarks, Mr. President. Thank you.

Delegate Cabrera: I would like to ask that this Convention recognize the presence of three Saipan residents, Sister Betty, Sister Isabel Seman, and the Honorable Joaquin S. Torres, who is a Saipan Municipal Councilman and Congressional Liaison Officer for the Marianas District. (Applause)

Delegate Ngiraked: I have two announcements to make. The first is that someone has asked the U-Drive services or rental car services to service his car and his key has been returned to the Palau Delegation. The car is a Datsun 1600, blue color. I think it belong to Sai-U Rent-a-car. So, anybody who is missing his car can pick up the keys on my desk. Mr. President, I wish to take this opportunity to ask the Convention to recognize the presence of a very distinguished visitor and guest from Palau. She is no less than the wife of the High Chief Ibedul, Mrs. Dona Yutaka. With her is Mr. Mariano Carlos. (Applause) Mr. Carlos is also from Palau and a member of the Legal Services.

Delegate Toribiong: I would like to ask this Convention to recognize the presence of a good friend, a former Senator from the Marianas, Senator Edward DLG. Pangelinan. He is also the President of the Marianas Political Status Commission. (Applause)

Delegate Apis: I would like this Convention to recognize the presence of a constituent who is an information specialist with the Public Information Division of Public Affairs, Mr. Derson Ramon. (Applause)

Delegate Cruz: I want all my colleagues to know that I went to church this morning and I prayed for all of you, and particularly for Delegate Dr. Lanwi.

Delegate Isaac Lanwi: Amen! (Laughter) I would like to have the Convention recognize some beautiful ladies who are going to entertain after the session and I would like to request that each and every one of us remain in our chairs until they enter this Chamber. They are residents of Saipan but they are from the Marshalls...but they will become Commonwealth. (Laughter) (Applause)

ANNOUNCEMENTS

Delegate Carl Heine: I would like to inform the members of the Committee on Civil Liberties that we will have a serious and very important meeting at two o'clock today in Room 3. I particularly invite the Chairman of the Palau Delegation and whoever in that Delegation that wishes to attend our meeting.

Delegate Isaac Lanwi: I forgot to mention that this entertainment or reception is for everybody in the gallery and the staff of the Convention.

Delegate Ismael: I would like to urge that each member of your Committee on Governmental Functions meet at 2:30 p.m. to consider what we might consider as the most crucial issue confronting the Committee relative to a comprehensive plan.

Delegate Heinrich Iriarte: Your Committee on Governmental Structure will not meet today. An announcement will be made at a later date for the next meeting.

Delegate Falanruw: I would like to announce that the members of the Sub-committee on Executive and Judiciary will not have a meeting today, nor this weekend, but we will have one on Monday at 9:30 a.m. in Room 2.

Delegate Tun: Your Committee on General Provisions will meet in executive session this afternoon in Room 1 at three o'clock.

Floor Leader Tman: Since this is the last weekend before we take a recess and we also have other important matters now pending in the Convention, I wish to risk a motion that the Convention recess until 1:00 p.m. tomorrow.

Delegate Olikong seconded and the motion carried. The Convention recessed at 12:55 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

THIRTY-SIXTH DAY

Saturday, August 16, 1975

The Micronesian Constitutional Convention was called to order at 1:35 p.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 46 Delegates present. Delegates Andrike, Borja, Cabrera, Haruo, Mangkona, Mateak, Ngiraked, Philippo and Satii were excused. Delegates Palacios and Pangelinan were absent. A quorum was present.

ADOPTION OF JOURNAL

Floor Leader Tmau moved that the Journal of the 35th Day be adopted. Delegate Toribiong seconded, and the motion carried. The Journal of the 35th Day was adopted by the Convention.

DISTRIBUTION OF PROPOSED AMENDMENTS TO RULES OF PROCEDURE

Proposed amendments to the Rules of Procedure were distributed, pursuant to Rule No. 70, as follows:

Amendment to Subsection a of Rule 26. Delete the first sentence and substitute the following:

> "The Special Conference Committee shall be composed of 12 general delegates, two delegates selected from each district. In addition, each district shall have the option of appointing one traditional leader to become a full member of the Committee."

Inclusion of Rule 62a:

> "Rule 62a. Amendment to Committee Proposal. An amendment to a Committee Proposal, whether at Plenary Session or in Committee of the Whole, shall be presented in writing to the Secretary before the convening of the session at which the Committee Proposal will be considered. The Secretary shall duplicate the amendment for distribution to Delegates in advance of its being moved. Any amendment to the amendment may be made orally, but may be required to be reduced to writing and duplicated before being voted on."

PETITIONS AND MEMORIALS

None

REPORTS OF SPECIAL COMMITTEES

Delegate Sawaichi moved for the acceptance of Special Committee Report No. 2 from the Special Conference Committee regarding Committee Proposal No. 1. Floor Leader Tmau seconded the motion.

The Chair recognized Delegate Sawaichi.

Delegate Sawaichi: I believe that everybody has received and read a copy of the Committee Report. It is very brief and somewhat self-explanatory, but I would like to point out that if the procedure recommended in the report is accepted by the Convention, it will accomplish two things for the Convention. One is, there will be a provision in the Bill of Rights which will be equal in rank with the other Bill of Rights to protect and preserve

our Micronesian customs, traditional laws and morality. Secondly, it will help speed up the work of the Convention because if there is a provision in there it will eliminate unnecessary and lengthy debate concerning the relationship of customs and traditions to every civil right's measure that comes up for consideration on the floor of the Convention. Mr. President, if we want to protect our customs and traditions, if we want to see the work of the Convention speed up, since our days are numbered, I strongly urge that this report be accepted.

There being no further discussion, the motion carried to accept Special Committee Report No. 2 from the Special Conference Committee regarding Committee Proposal No. 1.

REPORTS OF STANDING COMMITTEES

Delegate Carl Heine moved for acceptance of Committee Report No. 5 from the Committee on Civil Liberties.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 5, regarding Committee Proposal No. 4, was accepted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

Delegate Carl Heine: Mr. President, your Committee on Civil Liberties, with proper instruction from your Special Conference Committee, met yesterday to discuss its mandate from that Special Conference Committee, which was to come up with a provision with respect to customary rights of Micronesia to be placed in the Bill of Rights. Your Committee on Civil Liberties has come up with a proposal which has been submitted today as Committee Report No. 5 for Committee Proposal No. 4, and I wish to place that on First Reading this afternoon.

Floor Leader Tman moved that Committee Proposal No. 4 be passed on First Reading. Delegate Olikong seconded.

The Chair requested that the Convention Secretary read the title of Committee Proposal No. 4, as follows: "A Proposal providing for the preservation of local customs."

The motion carried to pass Committee Proposal No. 4 from the Committee on Civil Liberties on First Reading.

SECOND READING OF COMMITTEE PROPOSALS

The Chair recognized Delegate Carl Heine.

Delegate Carl Heine: Your Committee on Civil Liberties asked for Second Reading this afternoon of Committee Proposal No. 1, but this afternoon I offered Amendment No. 1 to Committee Proposal No. 1, which has been distributed. Since this amendment has just been introduced this afternoon and since the action on Micronesian cultural and traditional rights will come up Monday for Second Reading, I wish to defer action on the amendment until Monday for the consideration on the matter of rights of speech and press. I so move, Mr. President.

Delegate Olikong seconded.

Delegate Falcam: We have just accepted this afternoon the report of the Special Conference Committee. The Special Conference Committee report stipulates that a single provision recognizing the traditional customs of the Micronesian people be provided. This was based upon my amendment to Committee Proposal No. 1. I wonder where we stand now as far as that amendment is concerned?

Floor Leader Tman: I believe we are on Second Reading calendar. If the Secretary will read the proposals listed under Second Reading calendar, after which we might go into the Committee of the Whole to discuss all the proposals listed, at that point in time if the Chairman of the Committee on Civil Liberties wishes to defer action on Committee Proposal No. 1 and the proposed amendment he has already distributed to the Delegates, he may do so at that point. As to the inquiry as to the status of the amendment proposed by Delegate Falcam to Committee Proposal No. 1, that is still in the Civil Liberties Committee, and we have taken action on Committee Proposal No. 4 which emanated from that committee in response to that amendment.

Delegate Falcam: I would like to thank the Delegate from Yap, Mr. Tman. If that is the case, Committee Proposal No. 4, which we have just seen this afternoon, does not in my opinion do justice to my amendment at all. Consequently, I suggest that whatever action is taken this afternoon or whatever action the Convention takes up this afternoon that we consider giving a chance for this Convention to review carefully Committee Report No. 5, reference Committee Proposal No. 4. I believe this proposal dilutes quite extensively my amendment to Committee Proposal No. 1 and the intent of this report does not reflect the intent of my amendment. Thank you, Mr. President.

Delegate Carl Heine: I have already indicated that your Committee on Civil Liberties is requesting to defer action on both the amendment and Committee Proposal No. 4. With respect to the comment from Delegate Falcam with regard to his amendment, our instructions from the Special Conference Committee did not indicate whether we should accept that amendment in full or not. It simply gave the mandate to the Committee on Civil Liberties to study the whole matter of Micronesian customary rights. Thank you, Mr. President.

The President asked that the Convention Secretary read the titles of the Committee Proposals under Second Reading calendar.

Convention Secretary: Listed under Second Reading calendar are:

Committee Proposal No. 1, "Providing for Freedom of Speech and Press."
Committee Proposal No. 2, "Providing for the Right to Petition and Peaceably Assemble."
Committee Proposal No. 3, "Relating to the power of eminent domain."

The Chair recognized Delegate Chief Bossy.

Delegate Chief Bossy: Point of privilege. Allow me to make a few remarks with respect to the issue of eminent domain.

President Nakayama: Please proceed.

Delegate Chief Bossy: Mr. President, the question as to whether we should empower the national government to have the unrestricted power of eminent domain is an extremely sensitive and very brittle issue. For some people it is a matter of life and death.

I do not know what the situation is in all districts, but I am very familiar with the situation in my home district of Truk, and especially on my home island of Moen. In Truk, on Moen, the Trust Territory Government has exercised its power of eminent domain on many occasions.

Many of my people have had the misfortune of owning beautiful parcels of land which the Trust Territory Government wanted, and the government took, through the exercise of this very power of eminent domain. My people are totally against giving the government such power when they have no way of preventing it from being used unfairly and unjustly. The people in the district center--the ones most affected by eminent domain--oppose its use by the central government.

The Trust Territory Government has taken some of my people's land without their approval, without fair or just compensation. I know some of us might try to assure me that our new government, which we are trying to build, will not unfairly exercise the power of eminent domain, but no one here can guarantee that.

I do not think we can accept such shaky assurances. I do not think we can gamble with our land.

I hear that the future government will be Micronesian. But some of the very people who took land on behalf of the Trust Territory Government were Micronesian. The fact that they were Micronesian did not stop them from taking land in the past. Why should it stop them in the future? The very same people may do the very same thing in the future government that they are doing now. That they are Micronesian is not, by itself, an adequate protection.

Furthermore, Mr. President, I doubt that the limited national government we plan here will have the money to fairly and justly compensate landowners.

We have talked about civil liberties here. We have talked about protecting people from the government. The issue of eminent domain involves just such a protection. Our people need the most protection they can get. They need their land more than they need their civil liberties.

We have talked about democracy here. We agree that we should build a democratic form of government in Micronesia. Well, Mr. President, I say that a government which takes people's property without their consent, without just compensation, is not democratic.

I ask those Delegates who are western educated, who favor western ways, not to forget the wishes of their constituents, their people. I ask those Delegates who hold high positions in the Trust Territory Government to remember that they are representing their people, not the government. I ask those Delegates who come here from areas which may not be affected by eminent domain to try to understand our position, the position of the people who have been, and would be, affected by such power.

Mr. President, land is extremely scarce in Micronesia. Where would the future government put the people whose property they take? Remember the problems of dislocated people. Look at our fellow Micronesians in the Marshalls, the people of Bikini and Enjwetok. Do we want their unhappiness repeated?

Mr. President, fellow Delegates, if we permit the government to exercise the unrestricted power of eminent domain, we threaten the very source of our people's existence. Take their land away and we destroy the very people we seek to protect in this Constitution.

Thank you, Mr. President. (Applause)

Floor Leader Tman moved that the Convention resolve itself into the Committee of the Whole to consider the proposals under Second Reading calendar.

Delegate Carl Heine seconded, and the motion carried.

The Convention resolved itself into the Committee of the Whole at 2:00 p.m., and the Chair requested that Floor Leader Tman preside over the Committee of the Whole.

The Convention reconvened in plenary session at 2:56 p.m.

President Nakayama: We will now receive a report from the Committee of the Whole.

Floor Leader Tman: Thank you, Mr. President. Your Committee of the Whole which deliberated on Committee Proposals No. 1, No. 2 and No. 3, reports as follows:

In view of the fact that there was a proposed amendment to Proposal No. 1, distributed earlier this afternoon, and in view of the other proposal with respect to traditional and customary laws, it was the recommendation of the Chairman of your Committee on Civil Liberties to defer action on Proposal No. 1 and the proposed amendment to Proposal No. 1 until Monday.

With respect to Proposal No. 2, the Committee of the Whole has amended the proposal so it should now read, "Committee Proposal No. 2, Committee of the Whole, Draft No. 1". Your Committee of the Whole accepted the amendment and recommends that Proposal No. 2, as amended, now be referred to the Committee on Style and Arrangement before Second Reading.

As for Proposal No. 3, relating to the power of eminent domain, the Convention yesterday accepted the minority report which proposed a different version to Proposal No. 3. The minority proposal was treated in your Committee of the Whole as a proposed amendment. After discussion and deliberation, your Committee of the Whole decided and therefore recommends to the Plenary Session that Proposal No. 3, including the proposed amendment to that proposal, be deferred until September 16, the second day of the reconvening of the Convention. This is because many Delegates felt that the question of eminent domain is a very vital issue in Micronesia which should be taken to the people to consult with them with respect to that question as these two proposals have emerged from the committee.

Mr. President, that is the summary report of the Committee of the Whole. I now move for acceptance of the oral report of the Committee of the Whole.

Delegate Nimwes seconded, and the motion carried. The oral report of the Committee of the Whole was accepted by the Convention.

Floor Leader Tman moved that Committee Proposal No. 1 and the proposed amendment to Committee Proposal No. 1 be deferred until Monday's calendar.

Delegate Nimwes seconded, and the motion carried to defer action on Committee Proposal No. 1 and the proposed amendment to Proposal No. 1 until Monday.

Floor Leader Tman moved that Committee Proposal No. 2, as amended by the Committee of the Whole, be referred to the Committee on Style and Arrangement and that the Plenary Session await the recommendation of that committee before it takes final action on Second Reading.

Delegate Nimwes seconded, and the motion carried. Committee Proposal No. 2, as amended by the Committee of the Whole, is to be referred to the Committee on Style and Arrangement.

Floor Leader Tman moved that Committee Proposal No. 3, including the minority proposal treated as an amendment, be deferred until September 16.

Delegate Nimwes seconded, and the motion carried to defer action on Committee Proposal No. 3, until September 16.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 127, entitled "A Proposal relating to the non-recognition of local customs and traditions.", was introduced by Delegate Isaac Lanwi.

Delegate Proposal No. 128, entitled "A Proposal relating to national defense.", was introduced by Delegates Namwarki Max Iriarte and Naniken Heinrich Stephen.

Delegate Proposal No. 129, entitled "A Proposal relating to changing district boundaries, creating new districts, and adding new territory.", was introduced by Delegates Apis and Carl Heine.

Delegate Proposal No. 130, entitled "A Proposal relating to standards of professional ethics.",was introduced by Delegate Wainit.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 120, entitled "A Proposal relating to the government of the United Republics of Micronesia.",was primarily referred to the Committees on Governmental Functions and Governmental Structure, and specifically referred by Articles as follows:

Article on Executive:

Sec. 1 - Cabinet - Governmental Functions
Sec. 2 - Ministers - Governmental Structure
Sec. 3 - Terms of Ministers - Governmental Structure
Sec. 4 - Duties of Ministers - Governmental Functions
Sec. 5 - Prime Minister - Governmental Structure
Sec. 6 - Term of Prime Minister - Governmental Structure
Sec. 7 - Vacancy in Office of Prime Minister - Governmental Structure
Sec. 8 - Duties of Prime Minister - Governmental Functions
Sec. 9 - Council of Chiefs - Governmental Structure and Civil Liberties
Sec. 10 - Oath of Office - General Provisions

Article on Parliament

Sec. 1 - Parliament of Micronesia - Governmental Structure
Sec. 2 - Senate - Governmental Structure
Sec. 3 - General Assembly - Governmental Structure
Sec. 4 - Qualifications and Removal - Governmental Structure
Sec. 5 - Salaries - Finance and Taxation
Sec. 6 - Bills - Governmental Functions
Sec. 7 - Powers - Finance and Taxation
Sec. 8 - Limitations - Civil Liberties

Article on Judiciary:

Sec. 1 - Courts - Governmental Structure and Governmental Functions
Sec. 2 - Judges of Superior Court - Governmental Functions and Governmental Structure
Sec. 3 - Powers of Superior Court - Governmental Functions and Governmental Structure
Sec. 4 - Land Claims Court - Governmental Functions and Governmental Structure
Sec. 5 - Judicial Oath - Governmental Structure

Article on Amendment:

Sec. 1 - Procedure for Amendment - General Provisions

Article on General:

Sec. 1 - United Republics of Micronesia - General Provisions
Sec. 2 - Flag and Seal - General Provisions
Sec. 3 - Staggering of First Terms - Governmental Structure
Sec. 4 - Transitional Provisions for Prime Minister - Governmental Structure
Sec. 5 - First General Assembly - Governmental Structure

Delegate Proposal No. 121, entitled "A Proposal relating to representation of minority groups in the Congress of Micronesia by nonvoting representatives.", was referred to the Committee on Governmental Structure.

Delegate Proposal No. 122, entitled "A Proposal relating to Local Customs.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 123, entitled "A Proposal relating to privileges and immunities and extradition.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 124, entitled "A Proposal relating to public finance.", was referred to the Committee on Finance and Taxation.

Delegate Proposal No. 125, entitled "A Proposal relating to designation of the National Legislative Body.", was referred to the Committee on General Provisions.

Delegate Proposal No. 126, entitled "A Proposal relating to laws in effect upon the effective date of the Constitution.", was referred to the Committee on General Provisions.

INTRODUCTION OF RESOLUTIONS

Resolution No. 19, entitled "A Resolution relating to the Style Committee's phrasing of constitutional language referring to Districts.", was introduced by Delegate Sony.

Resolution No. 20, entitled "A Resolution expressing the continuing desire of the honorable delegates to this Convention to solicit participation of the Chiefs of Marshall Islands.", was introduced by Delegates Namwarki Max Iriarte and Naniken Heinrich Stephen.

REFERRAL OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

None

MISCELLANEOUS COMMUNICATIONS

President Nakayama: The Chair wishes to direct your attention to the Miscellaneous Communication (No. 13--letter of resignation) from Hon. Joaquin Pangelinan. We will take proper action on the question on Monday.

ANNOUNCEMENTS

The Chair recognized Delegate Falcam.

Delegate Falcam: I should like to request the Convention to recognize a good friend of mine, a citizen of Ponape, the Chief of the Immigration Office, Mr. Quirino Mendiola, who is in the gallery. (Applause)

Delegate Cruz: I respectfully request this Convention to recognize a very distinguished visitor in the gallery, a leader in the Marianas District from Tinian, District Congressman Herman M. Manglona. (Applause)

Delegate Carl Heine: Your Committee on Civil Liberties will have a meeting on Monday at eight o'clock in Room 3. I respectfully urge every member to be present at that time. Thank you.

Delegate Tun: Your Committee on General Provisions will meet right after the Plenary Session this afternoon.

Delegate Cruz: I just want to congratulate Delegate Chief Bossy for his very fine remarks made earlier today on the issue of eminent domain. I want him to know that I share his view and I will support him accordingly. Thank you.

Delegate Otter: I would like to notify the members of your Committee on Finance and Taxation that there will be a meeting on Monday at 9:00 a.m. in the same room.

Delegate Ismael: This is a reminder to the members of your Committee on Governmental Functions that our meeting scheduled for two o'clock on Monday afternoon still remains the same.

Delegate Tacheliol: I would like to remind the members of the Subcommittee on Executive of your Committee on Governmental Structure that we will have our meeting at nine o'clock, Monday morning. I urge all the members and the staff attorneys to attend. Thank you, Mr. President.

President Nakayama: I would like to make two announcements. One is to request the members of the Administration Committee to have a short meeting right after the afternoon session. The second announcement has to do with our number one-uniformed Sergeant-at-Arms, who I understand is having his badges taken off and, in lieu, he is going to receive more stripes. I would like the Convention to recognize this promotion of Mr. Thomas Naron. (Applause)

Floor Leader Tman: I move that the Convention recess until 11:00 a.m., Monday.

Delegate Nimwes seconded, and the motion carried. The Convention recessed at 3:10 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

Sunday, August 17, 1975

THIRTY-SEVENTH DAY

There was no session on this date.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

THIRTY-EIGHTH DAY

Monday, August 18, 1975

The Micronesian Constitutional Convention was called to order at 11:05 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 46 Delegates present. Delegates Andrike, Borja, Cruz, Haruo, Ismael, Manglona, Philippo, Naniken Stephen, and Yoma were excused. Delegates Palacios and Pangelinan were absent. A quorum was present.

During the calling of the roll, Delegate Cabrera asked for and was given the floor by the President.

Delegate Cabrera: Point of privilege, Mr. President. I have here a copy of a letter which was addressed to you from a Delegate of the Marianas. I do think that the letter itself is self-explanatory and it does put the Convention in a better position to make a decision as to what should be done in a case where a Delegate has resigned. I would like to ask the Secretary, Mr. President, to read the text of the letter in full. Thank you.

The Secretary read the following:

"August 11, 1975

"Tosiwo Nakayama, President
Micronesian Constitutional Convention
P.O. Box 1051
Saipan, Mariana Islands 96950

"Dear Mr. Nakayama:

"It is with great pleasure in honoring your request of August 5, 1975, by officially submitting my resignation as an elected delegate to the Micronesian Constitutional Convention to be effective August 15, 1975.

"I believed that it is not fair for me to participate in the formulation of a great Constitution for the people of Yap, Palau, Truk, Ponape and the Marshalls when my beloved people of the Marianas, have officially made known to the World on June 17, 1975 that their desire is for a close political relationships with the United States.

"I believed that it is unethical for me to participate only to disrupt your real desire and intention and your work and so with this feeling, I am happy to submit my resignation, and also extend my deepest and sincere good luck to you and the rest of your colleagues and may the Constitution of Micronesia be established with success.

"Sincerely,

"Joaquin I. Pangelinan"

ADOPTION OF JOURNAL

Floor Leader Tman moved that the Journals of the 36th and 37th Days be adopted. Delegate Toribiong seconded, and the motion carried. The Journals of the 36th and 37th Days were adopted by the Convention.

ACTION ON PROPOSED AMENDMENTS TO RULES OF PROCEDURE

1. Proposed amendment to Rule No. 26, Subsection a, regarding membership of the Special Conference Committee.

2. Proposed amendment to Rule 62a, regarding amendments to Committee Proposals.

The Chair recognized Delegate Falcam.

Delegate Falcam: Thank you very much, Mr. President. The proposed amendment to Rule 26, Subsection a, relating to membership of the Special Conference Committee, is before the Convention, and I would like to indicate here that as we view the Special Conference Committee, the responsibilities and duties assigned to it, it is very important, so we feel the membership on that committee should be expanded to include a representative of the traditional leaders. I strongly urge the Convention to act favorably upon this amendment. Mr. President, I would like to move that this proposed amendment be adopted by the Convention. Thank you.

Floor Leader Tman seconded.

Floor Leader Tman: Mr. President, I have two technical amendments to propose. On the first line, where it reads "The Special Conference Committee shall be composed of 12 general . . .", I would like the word "general" to be deleted because there is no distinction between general and special delegates. On the last line, where it reads ". . . leader to become a full member . . .", I would like the word "full" to be deleted because there are no full or partial members of the Convention. Mr. President, with that suggestion, I move that the word "general" and the word "full" be deleted from the amendment.

Delegate Ngiraked seconded, and the motion carried. The amendment to the amendment was adopted by the Convention.

President Nakayama: Is there any further discussion on the main motion, as amended, to amend Rule 26, Subsection a?

There was no discussion and the motion, as amended, to amend Rule 26, Subsection a, of the Rules of Procedure carried.

Delegate Ngiraked: Mr. President, what would be the rule, as amended by the motion just passed? I would like to settle that.

At the direction of the Chair, the Convention Secretary read the following:

"The Special Conference Committee shall be composed of 12 delegates, two delegates selected from each district. In addition, each district shall have the option of appointing one traditional leader to become a member of the Committee."

Delegate Weital: Point of information, Mr. President. On the last sentence of the proposed amendment, does this line indicate that each district, if they want to, can select one chief if they want; if they don't want to, they do not? I just want to be clear on this.

President Nakayama: Would anyone care to respond to the question of Delegate Weital? I do not have the amendment before me.

Floor Leader Tman: Point of information, Mr. President. Mr. President, I thought we had already announced the result of the vote on the amendment.

President Nakayama: Yes. It seems there was a point of privilege and I felt we should respond to it, but the amendment version states -- I am reading the last sentence here -- "In addition, each district shall have the option of appointing one traditional leader to become a member of the Committee." It would seem to me the composition of the committee is 12 members and, therefore, each district could appoint one of the two as a traditional leader, and each district could do so, but it is not incumbent on them to go ahead and change the composition.

Delegate Ngiraked: Mr. President, I think it is the rule of this Convention that committee members are appointed by the President. Now are we delegating the authority to each delegation to appoint a member to this particular committee?

President Nakayama: It is not a delegation; it says two delegates selected from each district. It doesn't affect the rule that gives the presiding officer the authority to appoint. That still stands. Any further discussion on the amendment?

Delegate Nimwes: Mr. President, I am somewhat confused. I thought the amendment to these rules had been discussed and adopted, so why are we spending time on it?

President Nakayama: We acted on the proposed amendment and then there was a motion to amend the proposed amendment. We voted on the motion to amend the amendment. We have not voted on the main motion to adopt Rule 26.

Floor Leader Tman: Mr. President, I believe my proposed amendment to the amendment has been adopted and the proposed amendment, as amended, is adopted. However, there were some no votes and if it is the wish of the Convention, we will subject it to Rule 70 which requires two-thirds of the membership to amend the rules. I ask for division of the house.

Delegate Falcam: Mr. President, I believe the Chair announced that the motion carried, so I am not quite sure what further discussion we are having.

Delegate Nimwes: Mr. President, I move for a short recess, subject to the call of the Chair.

Delegate Olikong seconded, and the motion carried. The Convention recessed, subject to the call of the Chair, at 11:22 a.m.

RECESS

The Convention reconvened at 11:36 a.m.

President Nakayama: Before we took a short recess, there were questions raised on a point of privilege and we entertained those. The result of the voting on the amendment was announced and, therefore, the announcement stands, although there was a request for division of the house. The ruling for that, since there was business that interfered between the announcement and the request for division, is that that was out of order. Therefore, we will proceed to item 11.

(Note: Action on the amendment to Rule 62a. was delayed.)

SECOND READING OF COMMITTEE PROPOSALS

Convention Secretary: Mr. President, we have for Second Reading, Committee Proposal No. 1, providing for freedom of speech and press, originating from the Committee on Civil Liberties, and Committee Proposal No. 4, providing for the preservation of local customs, originating from the same committee.

Floor Leader Tman: Mr. President, in order to consider these two Committee Proposals, I move that the Convention resolve into the Committee of the Whole.

Delegate Nimwes seconded, and the motion carried. The Convention resolved itself into the Committee of the Whole at 11:40 a.m. The Chair requested that Vice-President Ngiraked preside.

The Convention reconvened in Plenary Session at 1:06 p.m.

President Nakayama: We will receive the report of the Committee of the Whole, Delegate Ngiraked.

Delegate Ngiraked: Thank you, Mr. President. Your Committee of the Whole, to which was assigned Committee Proposal No. 1 and Committee Proposal No. 4, met and deliberated on the measures and made a decision to report to the floor of the Convention as follows:

Committee Proposal No. 1, as amended by the Committee of the Whole, was duly adopted by the Committee of the Whole to be reported to the plenary session for favorable action and that it be transmitted to the Style Committee for necessary processing.

On Committee Proposal No. 4, Mr. President, the Committee of the Whole took action to report back to this Convention to defer action on the proposal to allow the Committee on Civil Liberties and their staff attorneys to do some further work on the measure.

Mr. President, on the basis of the action of your Committee of the Whole, I move that the oral report, as presented, be accepted by the Convention.

Floor Leader Tmau seconded, and the motion carried. The oral report of the Committee of the Whole was adopted by the Convention.

Floor Leader Tmau: Mr. President, in accordance with the recommendation of the Committee of the Whole, as reported by the Chairman, I move that Committee Proposal No. 1, as amended, be referred to the Committee on Style and Arrangement.

Delegate Nimwes seconded, and the motion carried. Committee Proposal No. 1, as amended, was referred to the Committee on Style and Arrangement.

Floor Leader Tmau: Mr. President, as recommended by your Committee of the Whole, I move that Committee Proposal No. 4 be deferred until tomorrow.

Delegate Nimwes seconded, and the motion carried. Committee Proposal No. 4 was deferred until August 19, 1975.

(SECOND READING CALENDAR) -- REFERRAL OF COMMITTEE PROPOSALS

2. Committee of the Whole Draft No. 1 (CoW 1), "Freedom of peaceable assembly, association and petition.", was referred to the Committee on Style and Arrangement.

3. Committee Proposal No. 3, "Relating to the power of eminent domain.", was deferred until September 16, 1975.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 131, entitled "A Proposal relating to the codification of basic Micronesian tradition.", was introduced by Delegate Chief Joseph.

Delegate Proposal No. 132, entitled "A Proposal relating to the rights of Micronesian Nationals.", was introduced by Delegate Sony.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 127, entitled "A Proposal relating to the non-recognition of local customs and traditions.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 128, entitled "A Proposal relating to national defense.", was referred to the Committee on General Provisions.

Delegate Proposal No. 129, entitled "A Proposal relating to changing district boundaries, creating new districts, and adding new territory.", was referred to the Committee on General Provisions.

Delegate Proposal No. 130, entitled "A Proposal relating to standards of professional ethics.", was referred to the Committee on Governmental Functions.

INTRODUCTION OF RESOLUTIONS

None

REFERRAL OF RESOLUTIONS

The Convention Secretary announced that assignment of the following resolutions, which were introduced on Saturday, August 16, 1975, had not been made as yet:

Resolution No. 19, entitled "A Resolution relating to the Style Committee's phrasing of constitutional language referring to District."

Resolution No. 20, entitled "Resolution expressing the continuing desire of the honorable delegates to this Convention to solicit participation of the Chiefs of the Marshall Islands."

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Falanruw.

Delegate Falanruw: Thank you, Mr. President. This is a point of clarification. Last Friday, question was raised by Delegate Chief Bossy regarding the Committee on Functions not adhering to Rule No. 33 in our Rules of Procedure. [Rule 33. Notice of Adverse Reports. All committees, before reporting adversely on any Delegate proposal, shall notify the Delegate presenting the proposal when and where he may meet with such committee to explain such proposal before the committee reports. Such notice shall be made to the Delegate not less than 24 hours before so reporting.]

Mr. President, I would like to clarify this for the record. Your Committeee on Functions did not abuse this Rule 33. Delegate Proposal No. 52, which deals with power in district governments only could either still be dealt with in another provision in the Micronesian Constitution or the district constitutions and/or the district legislation. So, I wish to report this just for the record that your Committee on Functions did not abuse Rule No. 33. Thank you.

The Convention Secretary informed the Chair that it was necessary to act on Miscellaneous Communication No. 13, a letter of resignation from the Honorable Joaquin I. Pangelinan as a Delegate to the Convention from the Marianas District.

Floor Leader Tman: Mr. President, if there is no objection from the Convention, may I request that the Chair declare this seat vacant as a result of the resignation letter?

President Nakayama: The Chair so declares that the seat formerly occupied by Delegate Pangelinan is hereby declared vacant by virtue of the letter of resignation sent in by Mr. Pangelinan.

ANNOUNCEMENTS

Delegate Heinrich Iriarte: Thank you, Mr. President. Your Committee on Governmental Structure will meet in Room 4 at 2:30 this afternoon.

Delegate Otter: Mr. President, your Committee on Finance will meet again in Room 3 at 9:30 tomorrow morning.

Delegate Tun: Mr. President, your Committee on General Provisions' meeting was scheduled to be held at two o'clock. I wish to inform the members that that meeting has been delayed until 2:30.

Delegate Carl Heine: Mr. President, your Committee on Civil Liberties will meet this afternoon at three o'clock in Room 3, and I would urge every member to please be present.

Delegate Nakamura: Mr. President, I have two announcements to make. First, I would like to request the members of Subcommittee No. 3 of General Provisions to meet with me and the staff tomorrow at 8:30 a.m.

Second, I would like to warn all cigarette smokers that there is a monster, a man-made monster just outside this hall. I am referring to the cigarette machine. It has stolen $1.50 from me since yesterday. [Laughter]

Floor Leader Tman: Mr. President, if there is no further business, I move that the Convention recess until 11:00 a.m. tomorrow.

Delegate Tun seconded, and the motion carried. The Convention recessed at 1:15 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

THIRTY-NINTH DAY

Tuesday, August 19, 1975

The Micronesian Constitutional Convention was called to order at 11:05 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 46 Delegates present. Delegates Andrike, Borja, Haruo, Heldart, Kalles, Manglona, Matcak, Olikong and Philippo were excused. Delegate Palacios was absent. A quorum was present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 38th Day be adopted. Delegate Nakamura seconded, and the motion carried. The Journal of the 38th Day was adopted by the Convention.

SECOND READING OF COMMITTEE PROPOSALS

Convention Secretary: Mr. President, we have Committee Proposal No. 4, entitled "Providing for the preservation of local customs.", which originated from the Committee on Civil Liberties, on the calendar this morning for Second Reading.

Floor Leader Tman: Mr. President, in order for the Convention to deliberate on Committee Proposal No. 4 more freely, I move that we resolve into the Committee of the Whole.

Delegate Nakamura seconded, and the motion carried. The Convention resolved itself into the Committee of the Whole at 11:10 a.m.

The President requested that Delegate Tun preside over the Committee of the Whole.

The Convention reconvened in Plenary Session at 12:01 p.m.

President Nakayama: We will now receive the report of the Committee of the Whole which is to be presented by Delegate Tun.

Delegate Tun: Mr. President, your Committee of the Whole deliberated on Committee Proposal No. 4 and the proposed amendment thereto. The Committee finally adopted the Proposal, as amended, and the Committee, therefore, recommends that the Proposal, as amended, be assigned to the Committee on Style & Arrangement. I move for the acceptance of the oral report of the Committee of the Whole.

Floor Leader Tman seconded, and the motion carried. The Convention adopted the oral report of the Committee of the Whole.

Floor Leader Tman: Mr. President, as recommended by the Chairman of the Committee of the Whole, I move that Committee Proposal No. 4, as amended, be referred to the Committee on Style & Arrangement.

Delegate Falanruw seconded the motion.

Convention Secretary: Committee Proposal No. 4, as amended by the Committee of the Whole, Draft 1, is as follows:

"Protection of Micronesian Tradition. The traditions of the Micronesian people may be protected by legislation and administrative action taken pursuant thereto. If challenged as violative of any of the provisions

of this Article, the essentiality of the Micronesian tradition protected may be considered as a compelling social purpose warranting such governmental action."

President Nakayama: Any discussion? The question is to refer the Committee Proposal No. 4, as amended, to the Committee on Style & Arrangement.

Delegate Ngiraked: Mr. President, in referring this measure to the Committee on Style & Arrangement, I would like to go on record as expressing my concern over a term used in the Proposal. This terminology appears on line 4; it's the word "challenge." The word "challenge" has a connotation of conflict and contradiction. Maybe we can achieve the same purpose with a more articulate language and I would like just to state that point.

Delegate Falcam: I would like the record to indicate here that I am in opposition to the amendment. I feel this amendment clearly indicates, to me, that every time an alleged violation of our traditions and customs is taken to the court, the court's ruling is final and that ruling prevails. This means to me, further, Mr. President, that should a court in Micronesia rule against tradition and custom, one by one, our tradition and custom will undergo a very, very slow death. These customs and traditions which we are supposedly attempting to protect will slowly disappear from the face of Micronesia. I regret to say that there may be no Micronesia that we can identify ourself with. I trust that the Convention realizes this and I would like to suggest that it is quite obvious to me that some of us in this Convention are a few steps ahead of most of us and are a few steps ahead of most Micronesians. My only plea is that those of us that are a few steps ahead slow down and look back and wave at those behind us. Thank you, Mr. President.

Delegate Tun: Point of information. Are we discussing the amendment now or the motion to refer the Proposal, as amended?

President Nakayama: The question is the referral to the Style Committee, which I think is not debatable. We will now vote.

The motion carried. The Committee referred Committee Proposal No. 4, as amended, to the Committee on Style & Arrangement.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 133, entitled "A Proposal denying use of the power of eminent domain in Micronesia." was introduced by Delegate Limes.

Delegate Proposal No. 134, entitled "A Proposal relating to fundamental rights and protections."; was introduced by Delegate Mwety.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 131, entitled "A Proposal relating to the codification of basic Micronesian tradition.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 132, entitled "A Proposal relating to the rights of Micronesian Nationals.", was referred to the Committee on General Provisions.

INTRODUCTION OF RESOLUTIONS

Resolution No. 21, entitled "A Resolution designating Saipan Island as the site for the permanent capital of Micronesia.", was introduced by Delegates Luis M. Limes, Jose Cruz and Lorenzo LG. Cabrera.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Cruz.

Delegate Cruz: Mr. President and fellow Delegates:

For over a month now, we have worked together to formulate a Constitution for our new nation. As an individual Delegate, I have tried in good faith and conscience to uphold my duties and responsibilities and to accept the challenges of our awesome task with enthusiasm and dignity. In that spirit, I have participated in and followed our deliberations with patience. I believe the volume of our work in the forms of Delegate and Committee Proposals, as well as the eloquent speeches delivered in this chamber, clearly manifest the dedication with which we conduct ourselves and carry on our task. As a member of this Convention I wish to commend each of you for your dedication, hard work and enthusiasm. You have conducted yourselves with great dignity and honor, and in the true spirit of Micronesian cooperation, bringing pride not only to yourselves but to those whom you represent.

Inasmuch as in a few days, we will take temporary leave from our task in order to consult with our constituents, I believe it is my duty to speak my mind and make a few personal observations. I offer these observations for your consideration during the recess. These observations are not made in haste to impress any of you. Rather, they have been developed over the past weeks, based on our performance, and accomplishments during that time. With your indulgence, I wish to offer the following observations:

I. POLITICAL STATUS

In this Convention we are here on a most important mission. As Delegate Falcam said last week, "We are all here to do but one job--to lay the foundation upon which our Micronesian nation will be built and grow. This foundation must be built on solid ground, based upon solid principles and experience." We all know that a house built upon a shaky foundation in Micronesia will not stand the first assault of a banana typhoon. I wish to raise this question: Can we as Delegates lay the foundation of our Micronesian nation on solid ground without the resolution of our political status? I believe that the issue of political status contains the mortar and concrete from which that solid foundation is to be built. I am afraid that unless we first resolve the important issue of political status for Micronesia, the Delegates of this Convention are taking a dangerous voyage in a leaky vessel into rough waters.

I am sure that at some time this issue has crossed your minds and, like a bad dream, you hoped it would disappear when you awaken. Unfortunately, political status is here to haunt each and every one of us each day of this Convention until it is resolved. From my own personal experience, I must confess it has been most difficult, if not embarrassing and uncomfortable for me and my fellow colleagues from the Marianas to participate effectively in this Convention when we are fully cognizant of the decision taken on June 17 by our constituents regarding our own district political status. On occasion I have been tempted to read the minds of my fellow Delegates from the other districts whose district legislatures are embarking on a similar course toward the resolution of their district political status. Unless this political status issue is resolved, I am sure before too long this Convention will be needing the services of a psychiatrist.

II. RULES OF PROCEDURE

During the past week I have been impressed by the eloquent remarks made by many of our colleagues about their concern for their traditional values, their culture and heritage. Yet, ironically, in this Convention we have adopted foreign values for the conduct of our proceedings. What has happened to our Micronesian way of having open discussion unrestrained by rules of procedure? In the deliberation of important issues that have far-reaching implications affecting every one of us, do we need these rules of procedure to conduct our proceedings? Why can't we have bull sessions with frank and open discussion to speak our minds in this most important

mission? I believe that much can be accomplished in this Convention if we take the trouble to have informal, open discussion on what we are striving to achieve. Frankly, the way we have been proceeding, it will take several years and millions of dollars of taxpayers' money before we can come up with even half of a draft constitution to present to our people. We preoccupy ourselves preparing individual Delegate Proposals, without the slightest concern for constitutional priorities. This Convention is running a contest for the most introduction of Proposals. I believe it is high time for us to give serious consideration as to where we are now, what are we trying to accomplish and the best manner to proceed in order to achieve our goal.

III. NONNEGOTIABLE DEMANDS

As a Delegate, I am aware of the instructions that each of us carried with him to be presented in this Convention. In most cases, these instructions reflect the interests, rights and prejudices of each of our districts. In the light in which some of these instructions have manifested themselves during the past weeks, they have provided us with the opportunity to ask whether or not these instructions can be accommodated. To a degree that they cannot be accommodated, what can we do to prevent destructive influences that may well seriously jeopardize the life of the Convention? I am thinking of the nonnegotiable demand of the Palau Delegation that Palau be designated the capital of Micronesia. I am thinking of the demand of the Ponape Delegation that preservation of traditional values take priority over such civil liberties as freedom of speech and press. Can such demands be reconciled at the expense of strangling the very existence of the Convention?

These, Mr. President, are most urgent matters. This Convention has the responsibility not only to formulate a Constitution for our people but also to provide the leadership in this crucial time of nation-building. Leadership is badly needed to find solutions for these outstanding issues. Unless we find the cures, the patient, the nation of Micronesia, may not survive.

Thank you. (Applause)

Delegate Max Iriarte: Mr. President, I would like to request that somewhere along the line, Resolution No. 20 be presented for consideration before we recess.

Delegate John Heine: Mr. President, the first question I have in my mind; I would like to know what that Resolution No. 20 is. And, secondly, I would like to know what will happen to our staff and our pages when we take our leave.

Delegate Cabrera: Mr. President, honorable Chiefs, fellow Delegates:

The Marianas Delegation takes pride in announcing to the Convention that at the recently concluded Miss Universe Contest in El Salvador, Micronesia was represented. And Micronesia was well represented in the person of Belen DLG. Tomokane, who is here with us this morning. (Applause)

ANNOUNCEMENTS

Delegate Ismael: Your Committee on Governmental Functions will meet at 2:30 this afternoon for a very important meeting. I urge each and every one of the members to attend.

Delegate Olter: Mr. President, your Committee on Finance will continue their meeting tomorrow morning at nine o'clock in Room 3.

Delegate John Heine: Will the Secretary read to us Resolution No. 20? That was my question, Mr. President.

Floor Leader Tmau: Mr. President, I believe that Resolution No. 20 has been duplicated and distributed to all members.

President Nakayama: Resolution No. 20 is not before the Convention for action at this time. We are on the "Announcements" part of the Order of the Day. We will see to it that you get a copy of the Resolution later on, after the recess.

Delegate John Heine: Mr. President, is this Convention refusing to honor my request?

President Nakayama: We will give you a copy as soon as we recess.

Delegate John Heine: I have a copy but I requested that the Secretary please read it.

Delegate Ngiraked: Mr. President, maybe we can ask the Secretary to read it in the form of an announcement. (Laughter)

President Nakayama: All right. In the form of an announcement, let's have the Secretary read it for your benefit. The Resolution that was requested by the Namwarki of Ponape to be placed on tomorrow's calendar will now be read by the Secretary. Please listen carefully.

Convention Secretary: Resolution No. 20, "A Resolution expressing the continuing desire of the honorable delegates to this Convention to solicit participation of the Chiefs of the Marshall Islands."

WHEREAS, in the early history of ocean adventure, our ancestors traversed these oceans in quest for land, life and freedom; and

WHEREAS, using only the stars, sealanes, seamarks, and waves we sought each other by tribes and clans between islands known by names common to us; and

WHEREAS, our lores are also witness to our common roots, despite the evolutionary changes that have metamorphosed our mores and practices; and

WHEREAS, for the past three hundred years we have been under common colonial rules; and

WHEREAS, in this Convention we are taking the opportunity to answer the long recognized call of the common ancestral blood within our veins to reflect upon our beginnings and to reaffirm our identity in the modern world; and

WHEREAS, we believe that this identity must be a fusion of our ancestral identity and our modern values; and

WHEREAS, the repositories of our traditional values are those who are most intimately involved in our traditional ways; and

WHEREAS, our traditional leadership of two entire chains of islands are not amongst us at this Convention to chart our new course of life; now, therefore,

BE IT RESOLVED at this Constitutional Convention that the honorable delegates and the traditional leaders at this Convention request the participation of the Iroij Laplap(s) and Leroij(es) of the Marshall Islands; and

BE IT FURTHER RESOLVED that this request be formally expressed, by the President of this Convention, to the Nitijela and the Chiefs of the Marshall Islands.

Date: August 16, 1975 Offered by: Namwarki Max Iriarte
Naniken Heinrich Stephen

Delegate John Heine: Mr. President, with due honor to the Namwarki of Ponape, Max Iriarte, I would like to request that this Resolution be placed on the calendar for day after tomorrow, rather than tomorrow. I am speaking as an individual Delegate from the Marshalls, but I am very concerned with that Resolution. I wish my good friend from Ponape would accept my plea and wait until day after tomorrow.

Delegate Heinrich Iriarte: Your Committee on Governmental Structure will have a very important meeting today at two o'clock in Room 4, and again tomorrow at nine o'clock, same room. All members are urged to attend.

Delegate Cabrera: Because of the news we have received that some of the Delegates are leaving Saipan on Friday, and because of the concern we have with respect to having each and every one of you present at the reception we are hosting, the date for the reception has been changed to Thursday instead of Friday, at the same time and at the same place. We want each and every one of you to be present.

Floor Leader Tman: Mr. President, there being no further business, I move that the Convention recess until eleven o'clock tomorrow morning.

The motion was seconded by Delegate Nakamura. Motion carried and the Convention was recessed at 12:30 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

FORTIETH DAY

Wednesday, August 20, 1975

The Micronesian Constitutional Convention was called to order at 11:20 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 49 Delegates present. Delegates Andrike, Borja, Haruo, Kendall, Manglona and Philippo were excused. Delegate Palacios was absent. A quorum was present.

President Nakayama: Before we go on to the Adoption of the Journal, I would like at this time to introduce a distinguished visitor who is in the gallery this morning. She is a member of the House of Representatives, United States Congress, representing the 37th District in California. She is also a member of the House Committee on Interior and Insular Affairs and a member of the Subcommittee on Territorial and Insular Affairs. She is visiting Micronesia, accompanied by Mr. Thomas Dunmire, who is the Minority Consultant to the Subcommittee on Territorial and Insular Affairs. This distinguished visitor is the Honorable Shirley N. Pettis. We are very happy to have her with us. (Applause)

ADOPTION OF THE JOURNAL

Floor Leader Tmau moved that the Journal of the 39th Day be adopted. Delegate Sawaichi seconded, and the motion carried. The Journal of the 39th Day was adopted by the Convention.

ACTION ON PROPOSED AMENDMENT TO RULES OF PROCEDURE

Proposed amendment to Rule 62a, regarding amendments to Committee Proposals.

Floor Leader Tmau: I suggest that we defer action on the proposed amendment until Friday.

Delegate Olikong so moved and Delegate Nimwes seconded. The motion carried to defer action on the proposed amendment to Rule 62a.

REPORTS OF STANDING COMMITTEES

Delegate Tun moved for the acceptance of Committee Report No. 6 from the Committee on General Provisions.

Delegate Weital seconded, and the motion carried. Committee Report No. 6, regarding Committee Proposal No. 5, was accepted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 5, "A Proposal relating to the Preamble to the Constitution of Micronesia."

Delegate Tun moved that Committee Proposal No. 5 be passed on First Reading. Floor Leader Tmau seconded. The motion carried to pass on First Reading Committee Proposal No. 5 from the Committee on General Provisions.

SECOND READING CALENDAR -- REFERRAL OF COMMITTEE PROPOSALS

Committee Proposal No. 4, Committee of the Whole Draft No. 1 (CWD 1), entitled "A Proposal providing for the preservation of local customs.", was referred to the Committee on Style and Arrangement.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 135, entitled "A Proposal relating to a Chamber of Chiefs in the Legislative Branch, with the Prime Minister as Head of State.", was introduced by Delegates Naniken Stephen, Namwarki Max Iriarte, Ismael and Mateak.

Delegate Proposal No. 136, entitled "A Proposal relating to freedom of night activities.", was introduced by Delegate Isaac Lanwi.

The Chair recognized Delegate Naniken Stephen.

Delegate Naniken Stephen: I just introduced a Delegate Proposal which I feel is very important. I have some remarks to make regarding this proposal but I would like to do so at an appropriate time in our order of business of today. However, if I may I would like to give out informational copies to the Delegates so that they can familiarize themselves with it before I make my remarks later. For this reason, Mr. President, I move for a short recess, subject to the call of the Chair, and that the pages distribute the copies of this proposal.

Delegate Olikong seconded, and the motion carried. The Convention recessed, subject to the call of the Chair, at 11:30 a.m.

RECESS

The Convention reconvened at 11:45 a.m.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 133, entitled "A Proposal denying use of the power of eminent domain in Micronesia.", was referred to the Committee on Governmental Functions.

Delegate Proposal No. 134, entitled "A Proposal relating to fundamental rights and protections.", was referred to the Committee on Civil Liberties.

INTRODUCTION OF RESOLUTIONS

Resolution No. 22, entitled "A Resolution relative to curfew hours.", was introduced by Delegate Isaac Lanwi.

ACTION ON RESOLUTIONS

Resolution No. 20, "Expressing the continuing desire of the honorable delegates to this Convention to solicit participation of the Chiefs of the Marshall Islands." (Placed on calendar at the request of Delegate Namwarki Max Iriarte.)

Floor Leader Tman moved for the adoption of Resolution No. 20. Delegate Tacheliol seconded the motion.

The Chair recognized Delegate John Heine.

Delegate John Heine: Mr. President, I would like to offer my support of Resolution No. 20. If I may have the floor, I would like to say a few words.

President Nakayama: Please proceed.

Delegate John Heine: Mr. President, fellow Delegates:

Yesterday, in Resolution No. 20, we received a message of great importance to this Convention and of particular significance to the Marshall Islands. Two

members of the Ponape Delegation presented an important plea for the chiefs of the Marshall Islands to participate in this Convention.

The language of the Resolution presented by the two Ponape Delegates is eloquent and convincing. They declare that our Micronesian identity must be "a fusion of our ancestral identity and our modern values." They note that our repositories of our traditional values are those people most in touch with our traditional ways--the chiefs. They note--and they regret--that the traditional leadership of the Marshall Islands is not present today.

Mr. President, this message from Nanmwarki Max Iriarte and Naniken Heinrich Stephen is loud and clear. The chiefs of Ponape are asking their brother chiefs from the Marshall Islands to join them at this Convention. They want the Marshalls chiefs to join Chief Luktun and Chief Mathey from Yap, the Chief Ibedul and Acting Chief Reklai from Palau, Chief Fichita Bossy and Chief Kintoky Joseph from Truk, so that together they can protect and defend our Micronesian traditions at this Convention.

Mr. President, I feel that some explanation must be made of the absence of the Marshall Islands traditional leaders from this Convention. There is an incorrect impression that the chiefs of the Marshalls have all decided not to participate in this Convention. This is not the case. The Congress of Micronesia law which established this Convention did not specify which leader in each district was to call a meeting of traditional chiefs to decide who would attend the Convention. Since the law was silent on this matter, and since the more than thirty Marshallese chiefs in many ways regard each other as equal, no one chief was willing to take the initiative of calling the meeting. This does not mean that they oppose this Convention. On the contrary, Mr. President, there are many Marshallese chiefs who wish they were sitting here today and casting their votes.

Some people have pointed out that more than a year ago, at the time that revenue sharing was being heatedly debated, some traditional leaders in the Marshalls signed a statement opposing participation in this Convention. I would like to point out two important facts about this statement by the traditional leaders. First of all, fewer than half of the traditional leaders in my district signed that statement. Some names appearing on the statement were signed by representatives and by relatives rather than by the chiefs themselves. In some cases, the signature was made without the knowledge of the particular chiefs involved.

More important, the Convention was the innocent victim of disputes which have been settled or are out of our hands. Surely the question of revenue sharing is not in our hands.

The question of whether traditional leaders should vote here has been settled--the chiefs are here, they are voting, and I for one would not have it any other way. My whole point is that the Marshalls chiefs should be here and voting, too.

Mr. President, it is not my purpose to review the history of past controversies. The question now before this Convention is how can we facilitate the appearance of the traditional leaders from the Marshalls. I think that Resolution introduced by the two traditional leaders from Ponape is an important beginning and I appreciate it. But I think we must do something more. We must urge that the traditional leaders in the Marshalls come together and select their two representatives to this Convention. I think that the meeting of traditional leaders can be convened in one of two ways. We can ask either the two Senators from the Marshalls to call such a meeting, or, if we want to emphasize that this is a cultural and not a political event, we should ask perhaps the two eldest chiefs of the Marshalls, Limijwa and Lojelan, to call such a meeting. I would prefer that we make our request to the chiefs rather than to the Senators, but either method is acceptable to me. My point above all is that we want and we need the

attendance of all our traditional chiefs in this Convention. We are thankful for the chiefs who are here, and we plead for the presence of those who are missing.

Thank you, Mr. President. (Applause)

The Chair recognized Delegate Isaac Lanwi.

Delegate Isaac Lanwi: Thank you very much. I want to apologize before I make my statement to the Namwarki of Ponape, their leaders and their delegation. What I am going to ask this Convention is if this is an official term for my kings, because I don't call them, and they don't want to be called, chiefs. I am sorry but I missed this one. I was helping the Namwarki draft this but I missed this term "chiefs" because to me I won't call the Reklai in Palau a chief because he is a Reklai and the Marshalls Iroij is the term. I just want to make sure that we can delay action on this until we make this minor amendment because, even myself, I do not like to call the Namwarki of Ponape "chief" because this is a Navy term. It is a low rank. This is just for respecting my Iroij, Namwarki and Reklai and the other bosses from Yap. I don't know the term they use in Yap but perhaps the "Iroij" Luktun will correct me. (Laughter) This is only one minor point. Don't mind me if I am wrong. Off the record please all I said. (Laughter)

Delegate Cruz: Mr. President, I certainly appreciate the Resolution now under discussion, and I was wondering whether we should include the Marianas. The paramount chief from the Marianas, Dr. Francisco T. Palacios, is also not attending this Convention and it is just food for thought whether we should include him.

Delegate Namwarki Max Iriarte: Thank you, Mr. President. First of all, I would like to thank Delegate John Heine and Delegate Isaac Lanwi for their comments and for the minor change proposed by Delegate Isaac Lanwi. We accept and appreciate the correction to be made in the Resolution. We further would like to ask that if it is proper, so as not to delay action, to make amendments to the particular sections of that Resolution now. I would like also to comment on Delegate Cruz' mention of the paramount chief of the Marianas and would like also to recognize that and to duly present an invitation for Dr. Palacios to be present here. Thank you very much.

Delegate Nimwes: Point of information. I wonder if we are not forcing the Iroij in the Marshalls to come to this Convention by adopting this Resolution. There may be a good reason why they are not coming.

Delegate Isaac Lanwi: I did not read the Resolution very carefully but last week the main idea was to continue the desire. This is just a Resolution and in the title it says, "Expressing the continuing desire..."--courtesy in tradition for them. We are not forcing them to come but to express our desire for them that we miss them in this Convention and if my friend and Delegate, Chutomu Nimwes, wants to get more clarification, I think we should have all introduced our own ideas. Mr. President, I think it is your jurisdiction to invite them and appropriate money for their expenses to come here. It is understood that they cannot come without compensation. Thank you.

Floor Leader Tman: Although the title and some other places in the Resolution refer to the word "Chiefs", I note that it is in upper case. The main resolving clause in the Resolution refers to the "Iroij Laplap(s) and Leroij(es)". In order to accommodate the changes that the use of "Chiefs" is not acceptable in Marshallese custom and also to accommodate the wish of Delegate Cruz to include the paramount chief of the Marianas, with the leave of the Convention I move that Resolution No. 20 be referred to the Committee on Civil Liberties for appropriate amendments before the consideration of this Plenary.

Delegate Olikong seconded and the motion carried to refer Resolution No. 20 to the Committee on Civil Liberties.

REFERRAL OF RESOLUTIONS

Resolution No. 21, entitled "A Resolution designating Saipan Island as the site for the permanent capital of Micronesia.", was referred to the Committee on General Provisions.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Nanniken Stephen.

Delegate Nanniken Stephen: Mr. President, Honorable Chiefs, fellow Delegates:

Since the first day of this Convention, every one of us has been concerned with the role that traditional leaders will play in the new government of Micronesia. Today I have introduced a Delegate Proposal (No. 135) which I believe will assure the continuation of our Micronesian culture. My proposal is somewhat unique in that it establishes a tricameral legislature with an upper house of traditional leaders. It is further unique in that the chairman of the upper house, called the Chamber of Chiefs, is also the symbolic head of state.

The Chamber of Chiefs would consist of two delegates from each district, chosen in accordance with their district's local customs. Each would serve a two-year term in the chamber and be eligible for re-selection. The chamber would choose its own chairman, called the Prime Minister, who would serve a two-year term, performing ceremonial duties and representing Micronesia as head of state, in addition to his duties in the Chamber of Chiefs. In his capacity as head of state, the Prime Minister could be of great assistance to the chief executive of Micronesia by assuming many of the roles expected of the head of a nation. He could represent Micronesia overseas, attend state functions, act as a special ambassador, and in many ways free the executive head of government to more effectively carry out his duties in administering Micronesia.

In addition to selecting a Prime Minister, the chamber would have some very important functions as a legislative body, though the members of the chamber could not initiate legislation. All bills originating in either the House or the Senate would originally be filed in the Chamber of Chiefs. The chamber would then have a few days to comment upon such bills before returning them to the house of their origin. Once a bill passed both lower houses, the Chamber of Chiefs could return it to the lower houses for reconsideration. This would not be a veto, but only a check upon the power of the Senate and the House of Representatives. The chamber could require reconsideration of any measure which it might feel to be against the nation's best interests. The lower houses could once again pass any measure returned to them, sending it directly to the executive for approval and bypassing the Chamber of Chiefs the second time around.

The Chamber of Chiefs would also have some veto power. By consensus, they could kill any bill relating principally to chiefly titles, traditional law, custom, or traditional land rights.

The Chamber of Chiefs would also send delegates to the other two houses of Congress. The delegates could speak, debate, and attend committee meetings, but could not vote on any measure or in committees.

The language of my proposal refers to two other houses of Congress—the House and the Senate. I used this language for ease of drafting, and by submitting this proposal I am in no way committing myself to two other legislative houses. I feel my proposal will work just as well with one other house of Congress with minor changes in language. My proposal is not dependent upon one form or another of an executive branch. It will work just as well with a single executive as with a plural one. By the same token, I have no objection to the Convention changing the terminology used to describe the Prime Minister or the Chamber of Chiefs. In a word, I am not concerned about names and details.

Honorable Delegates, I would urge you to seriously consider my proposal. I feel that it effectively merges our time-honored culture into the modern government which we are establishing here today. I feel that it blends the best of both worlds, recognizing the traditional values and traditional ways and their role in the Twentieth Century. It is fair to both the customary and to the contemporary in that it assures the continuation and preservation of our great Micronesian heritage while not locking Micronesia irretrievably in the past. And, most of all, my friends, it is a solution to the question of tradition which is before the Convention today. It is a solution which ensures that our children and our children's children may enjoy our rich Micronesian way of life while at the same time tasting the fruits of the exciting world of the future.

Thank you. (Applause)

Delegate Ismael moved for a short recess.

Delegate Olikong seconded, and the motion carried. The Convention recessed, subject to the call of the Chair, at 12:10 p.m.

RECESS

The Convention reconvened at 12:40 p.m.

The Chair recognized Delegate Ismael.

Delegate Ismael: Mr. President, fellow Delegates:

We are all about to return to our districts. We are returning for the specific purpose of consulting with our people and clarifying our own positions on matters before this Convention.

Today, your Committee on Governmental Functions is presenting a document which should accompany every Delegate to his home district. It should be read, and re-read, by each Delegate. It should be commented upon and criticized. It should form the basis for our renewed efforts when we return here September 15.

This document to which I refer is a long "Working Paper" from your Committee on Governmental Functions. The Working Paper, and the proposal which accompanies it, summarize our thinking to date about the future government.

Before I comment on the paper itself, I had best remind the Delegates of the job you have given my committee to do.

The Committee on Governmental Functions is required to consider the functions of government, the division of those functions between central, district, and municipal governments, and the application of the national constitution to the districts. In other words, Mr. President, we were asked to consider what jobs we want our government to do, what powers it should have. We were asked to decide how and by whom these jobs should be performed.

All of us will recall that, several weeks ago, this Convention was presented with two Resolutions from this same committee. The Resolutions were an effort to find out what were the wishes of the Convention. Did we want a loose federation, with a weak, limited central government as indicated in Resolution No. 1, or did we favor a tightly unified Micronesia with a strong central government, as described in Resolution No. 6?

These Resolutions were introduced to promote discussion. As you will recall, they failed to do so. The Convention was, at that time, reluctant to commit itself to one Resolution or another. The effect of this, Mr. President, was that the Committee on Governmental Functions was forced

to operate in the absence of any instructions, any guidance, from the full Convention.

Well, Mr. President, we did the best job we could. We took a step-by-step approach. Instead of worrying in advance about whether we were supporting a strong or a weak central government, instead of worrying about labels, we went through the various functions of government, one by one, trying to decide at what level each job could be best performed. Today, you are being presented with the results of our efforts.

I can anticipate the questions now in the minds of all the other Delegates. It is this: What did we come up with? Are we pushing for a strong central government or a weak one? How should our proposal be labeled?

Well, Mr. President, turnabout is fair play. The Convention failed to give us a label in advance. Now, we are refusing to label what we have come up with. Delegates will simply have to sit down and read our document and decide for themselves what it adds up to.

I can assure you of this, however. Our proposal is a collective effort. It does not incorporate the particular position of any Delegate, or any Delegation. Rather, it is a composite of various proposals from inside and outside of the committee. It expresses all of the views on which my committee was able to reach a consensus.

Very briefly, the proposal we submit establishes a federal system, with the national constitution as the supreme law of the land, and with sovereignty residing in the central government. The central government is assigned certain jobs to do and it is given all necessary power to perform those jobs, today and in the unforeseen future. The districts retain substantial residual powers, however.

That is a brief description of the system we propose. I deliberately avoid a longer account because I think Delegates should be compelled to read our proposal, all of it, by themselves and make up their minds about it.

I am obliged to add, Mr. President, that there were some issues upon which the committee could not reach consensus. These issues include the taxing powers, emergency powers of the central government, the jurisdiction of the national courts, and the nature of the national public service system that should operate.

Thus, we have many issues left to decide on the floor of this Convention. I hope that if Delegates give our Committee Proposal the attention it deserves, our decisions may be more clearly focussed and more quickly resolved.

Mr. President and fellow Delegates, the other Delegates to this Convention gave us an assignment. We have done our best. Now, we in turn, give the other Delegates some homework.

Thank you, Mr. President. (Applause)

The Chair recognized Delegate Namwarki Max Iriarte.

Delegate Namwarki Max Iriarte: Thank you, Mr. President. I would like to ask at this time, though perhaps it is not the proper time, to make sure that the Secretary places Resolution No. 20 back on tomorrow's Order of the Day.

President Nakayama: The Resolution is now in the hands of the Committee on Civil Liberties.

Delegate Namwarki Max Iriarte: It is in the hands of the Committee on Civil Liberties; however, we feel that to expedite matters we should ask at this time to make sure that it is placed, as amended, on the calendar and returned from the Civil Liberties Committee. I will later ask the Chairman of the Committee on Civil Liberties to coordinate this.

Delegate Carl Heine: I haven't had a chance to read the report presented by the Committee on Governmental Functions, but I have glanced through various pages and I want to offer my personal congratulations for their effort in presenting at this early stage of the game a fairly comprehensive study on the whole functions of government. As a Delegate, I intend to study them and make my comments after we come back from the recess.

Delegate Falcam: Thank you, Mr. President. I do not usually wish to do this, but I would like to straighten up some records regarding my position before the Convention. I am prompted to do this because of an article which appeared in today's paper--the article entitled "Salii Joins Palau Status Unit". I feel very strongly that my position as interpreted and printed in this article is rather distorted. I presented my position in this Convention, not as a District Administrator, but as an elected Delegate from one election district. I further would like to clarify that when mentioning a position of a particular Delegate, I think it is journalistic courtesy to talk to that particular Delegate. I think my position is in the Journal rather clearly, and it is also in the Summary Report of the Committee of the Whole. My position regarding the Palau Draft Constitution is clear, and it is in the record. My position regarding civil liberties and bills of rights is also clear and in the record. To say that I am placing traditional customs above civil liberties or civil rights is in error. I am not doing that and the record would indicate so. I would like the newspaper article to be correct and corrections be taken out of the record of this Convention which is clear. Thank you, Mr. President.

Delegate Yoma: Belated as it is, I would like to congratulate Mr. Joe Cruz for his speech of yesterday which commented on the work of this Convention. Second, I would like to congratulate Miss Helen Tomokane for representing Micronesia in the beauty contest in El Salvador. It is encouraging and a source of inspiration that there are still people in the Commonwealth of the Marianas who still do things and want to do things for Micronesia.

Delegate Cruz: I just want to thank my friend and colleague from Ponape for his very kind remarks about me. Thank you.

MISCELLANEOUS COMMUNICATIONS

14. Letter re. Working Paper No. 1 and Draft Committee Proposal from the Committee on Governmental Functions.

ANNOUNCEMENTS

The Chair recognized Delegate Carl Heine.

Delegate Carl Heine: In view of our discussion this afternoon with respect to Resolution No. 20, I would like to call a meeting of your Committee on Civil Liberties to discuss that particular Resolution. I would like to invite to the meeting Delegates Isaac Lanwi and Joe Cruz and any other traditional leaders or anybody who wishes to make amendments to that Resolution. This meeting will be held at three o'clock today in Room No. 3.

Delegate Tun: Your Committee on General Provisions will meet in executive session this afternoon in Room 1 at 2:30 p.m.

Delegate Heinrich Iriarte: Your Committee on Governmental Structure will meet at three o'clock this afternoon at the Ponape Delegation office. The Committee will also meet at nine o'clock tomorrow morning in Room 4.

Delegate Ismael: I would like to ask all members of the Committee on Governmental Functions to meet at ten o'clock for a short meeting in this chamber tomorrow morning.

Delegate Olter: I would like to inform the members of the Finance and Taxation Committee that there will be a meeting in Room 3 at 9:30 a.m. tomorrow.

Floor Leader Tman: Mr. President, if there is no further business or announcements, I move that the Convention recess until 11:00 a.m. tomorrow.

Delegate Toribiong seconded, and the motion carried. The Convention recessed at 12:55 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

FORTY-FIRST DAY

Thursday, August 21, 1975

The Micronesian Constitutional Convention was called to order at 11:20 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 45 Delegates present. Delegates Andrike, Borja, Haruo, Max Iriarte, Kendall, Mangiona, Ngiraked, Olter, Philippo and Salii were excused. Delegate Palacios was absent. A quorum was present.

Delegate Cabrera: Mr. President, I know it is not customary during this part of the Order of the Day, but I would like to beg the indulgence of the Chair, the Chiefs and fellow Delegates to allow me, on behalf of the Marianas Delegation, to present to this Convention two very distinguished members of the Marianas Community: the Honorable Francisco C. Ada, District Administrator, and his wife, Ines. (Applause)

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 40th Day be adopted. Delegate Nimwes seconded, and the motion carried. The Journal of the 40th Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

Delegate Heinrich Iriarte moved for the acceptance of Committee Report No. 7 from the Committee on Governmental Structure.

Floor Leader Tman seconded and the motion carried. Committee Report No. 7, regarding Committee Proposal No. 6, was accepted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 6, "A Proposal providing for a three-branch Central Government."

Delegate Heinrich Iriarte moved that Committee Proposal No. 6 be passed on First Reading. Floor Leader Tman seconded. The motion carried to pass on First Reading Committee Proposal No. 6 from the Committee on Governmental Structure.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 5, "A Proposal relating to the Preamble to the Constitution of Micronesia."

Floor Leader Tman: Mr. President, in order for the Delegates to consider Committee Proposal No. 5 more thoroughly and more freely, I move that this Convention resolve into the Committee of the Whole.

Delegate Tun seconded and the motion carried. The Convention resolved itself into the Committee of the Whole at 11:27 a.m.

The President requested that Delegate Nimwes preside over the Committee of the Whole.

* * *

The Convention reconvened at 11:37 a.m.

President Nakayama: This Convention is now called to order. We will now receive the report of the Committee of the Whole. Delegate Nimwes?

Delegate Nimwes: Thank you, Mr. President. It is my pleasure to report that your Committee of the Whole has considered Committee Proposal No. 5 and recommends its passage. I move for the acceptance of the oral report of the Committee of the Whole.

Floor Leader Tman seconded the motion. Motion carried and the oral report of the Committee of the Whole was accepted by the Convention.

Floor Leader Tman: Mr. President, as indicated by the Chairman of the Committee of the Whole, I move that Committee Proposal No.5 is adopted by the Convention and referred to the Committee on Style & Arrangement.

Delegate Tun seconded the motion. Motion carried and Committee Proposal No. 5, entitled "A Proposal relating to the Preamble to the Constitution of Micronesia.", was adopted by the Convention.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 137, entitled "A Proposal relating to secession.", was introduced by Delegates Kikuo L. Apis, Carl Heine, Tacheliol, Sony, Sigrah, Falcam and Falanruw.

Delegate Proposal No. 138, entitled "A Proposal relating to amendment of the Constitution.", was introduced by Delegates Kikuo L. Apis, Carl Heine, Tacheliol, Sony, Sigrah, Falcam and Falanruw.

Delegate Proposal No. 139, entitled "A Proposal relating to misconduct.", was introduced by Delegate Isaac Lanwi.

Delegate Proposal No. 140, entitled "A Proposal relating to the constitutional interpretation and the common law.", was introduced by Delegates Bossy, Mwoty and Nimwes.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 135, entitled "A Proposal relating to the Chamber of Chiefs in the Legislative Branch, with the Prime Minister as Head of State.", was referred to the Committee on Governmental Structure and the Committee on Governmental Functions.

Delegate Proposal No. 136, entitled "A Proposal relating to freedom of night activities.", was referred to the Committee on Civil Liberties.

INTRODUCTION OF RESOLUTIONS

None

REFERRAL OF RESOLUTIONS

Resolution No. 22, entitled "A Resolution relative to curfew hours.", was referred to the Committee on Civil Liberties.

Delegate Isaac Lanwi: Thank you, Mr. President. There is a Resolution in front of us this morning. It is not only a Resolution, but it is my remarks on Delegate Proposal No. 136 and it is not a joke. It is a serious matter. If we are going to have a new nation and a new Constitution we must look back to the Spanish times, the German times, the whalers' times, the Japanese times, etc. We have been governed by somebody else and it's been twenty-six years now that I've been fighting not to have curfew hours because it is not our custom. In Japanese time they blew their whistle at ten o'clock and nobody walked on the road except Christian people. (Laughter) This is why I do not like this kind of law. Now, therefore, some of us committed sin; except for

two districts because they don't have curfew hour. In my own district the Municipal Council was going to do the same thing and I opposed them. I was their enemy because I did not agree with this curfew hour. The reason of their bringing it up was because their children were not doing good at night. My children wanted to play games on the beautiful beach in front of my house and they could not because their children were not behaving at night. This is why, Mr. President, I want everyone to consider this seriously...that we free our children and our people. One night when I was conducting Congressional Committee work I was arrested because of curfew hour. (Laughter) I was doing my official work, but it was late, around 2:30. (Laughter) I was arrested because it was the law. I want to free our people from all this kind of law. Let us have the same feeling I have; we came here to free all the unnecessary laws from the past. And let the legislative body enact laws to protect our rights and our people. So, Mr. President, this is why I take this opportunity, and I thank you for giving me the chance to make my remarks as pertaining to Resolution No. 22. Please read it carefully and it means a very serious matter.

Delegate Weital: Mr. President, point of privilege. I just want to commend the Delegate from the Marshalls for coming out with a Resolution with 21 "whereas's", just one short of Resolution No. 22.

ACTION ON RESOLUTIONS

Resolution No. 20, entitled "A Resolution expressing the continuing desire of the honorable delegates to this Convention to solicit participation of the Chiefs of the Marshall Islands."

Floor Leader Tman: Mr. President, I move that this Convention adopt Resolution No. 20.

Delegate Tun seconded.

Delegate Carl Heine: Mr. President, your Committee on Civil Liberties met yesterday to consider three minor amendments which were made in the plenary session yesterday. This morning, Mr. President, I am pleased to report your Committee has made three minor amendments to Resolution No. 20. I wish to move for the adoption of amendments 1, 2 and 3 to Resolution No. 20.

Delegate Tun seconded.

President Nakayama: Mr. Secretary, would you read the proposed amendments to Resolution No. 20?

Convention Secretary: Amendment No. 1: Page 1, the introduction, delete the words "Chiefs of the Marshall Islands." and insert the words "traditional leaders of the Marshall Islands and the Mariana Islands." in lieu thereof.

Amendment No. 2: Page 2, lines 9 and 10, delete the words "Iroij Laplap(s) and Ieroij(es) of the Marshall Islands;" and insert the words "traditional leaders of the Marshall Islands and the Mariana Islands." in lieu thereof.

Amendment No. 3: Page 2, line 13, delete the words "Chiefs of the Marshall Islands." and insert the words "traditional leaders of the Marshall Islands and the Mariana Islands." in lieu thereof.

The motion carried. The amendments to Resolution No. 20 were adopted by the Convention.

Delegate Mwety: Mr. President, let me first clarify that I am not necessarily raising any objection to this Resolution. I will support the position of this Convention, however, I am a little bit doubtful about the positive effect of this Resolution. Two conferences for traditional leaders were held in Ponape and Truk. The traditional leaders from the Marshalls and the Marianas did not participate. Ample information was also given that Micronesian traditional representatives of each district's traditional leaders would participate in this Constitutional Convention. This Resolution requests that some traditional

leaders attend this Convention. Why should we make such a request? Perhaps they have legitimate problems among themselves which we are not aware of. If they do have legitimate problems among themselves which prevent them from attending this Constitutional Convention, is it not possible that we may very well intensify such problems by accepting only two out of their groups? Thank you, Mr. President.

Delegate Cruz: Mr. President, I appreciate and I respect the comment made by the distinguished Delegate from Truk. I just want to bring a few things up as information to the Delegates. In connection with the Marianas Chiefs, at that time the United Carolinian Association was not organized. But today we have a very strong, active Association in the Marianas and it is very important that a Chief to represent these minority citizens be in this Convention. Perhaps some of these chiefs, with all due respect, failed to understand the importance of their participating in this Convention and if we allow some extra effort to make them understand, I am sure they will agree, ultimately. So, I am in support of the amendments on this Resolution.

Delegate Limes: Mr. President, just a point of information. At the time Delegate Cruz was referring to, there was some miscommunication between our people concerned. Thank you.

Delegate Lanwi: In response to the statement made by my friend Delegate Mwoty, I feel responsible for my traditional leaders. That's why I agreed to help draft the Resolution with the Namwarki of Ponape. It would be more appropriate for them to be here so they will express something we do not understand about their culture, their tradition and their customs. I know them because I talked with them personally before the election last year, after the election, and just before I came out here. I know they are willing to come but they just don't know who is going to call a meeting for them all. We tried many tactics to call some of our Pre-convention members to come meet with them, but we failed. The HiCom has vetoed the bill to have another election in the Marshall Islands and they thought they were coming if the bill was passed or approved by the High Commissioner. And, yet, the bill was not passed. They still want to come here. But there is some provision, I think, that the Convention is the sole judge of getting their members. So, that's why I urge you, Mr. President, to see to it that we can get them out here during the second part of this Convention. It would be better. But if the Delegates don't want them to come, it's okay with the Marshall Islands.

Delegate Sony: Mr. President, we are discussing subject matter which should be dealt with in the most traditional way. That means we are trying to use, in inviting the traditional chiefs of the districts, a Western way. So, I wonder whether there is something else that we could use that the chiefs would be more responsive to. Maybe we should send them a rope, twine, autographed by all the chiefs, attached with all the symbols of open arms?

President Nakayama: Thank you. We will now vote on the motion to adopt Resolution No. 20, as amended.

Motion carried and Resolution No. 20, as amended, was adopted by the Convention. Motion carried unanimously.

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Faianruw: Mr. President, I request leave of this Convention to exercise my freedom of speech and say a few words regarding my observations about this Convention's progress.

Mr. President, honorable Chiefs, fellow Delegates:

Today and tomorrow are the last days of the first part of our Convention. This is a time to pause and reflect on what has been accomplished during the past weeks on Saipan. Next week we will be meeting with our constituents to report our progress along the difficult road leading to a unified nation under one Constitution of our own making.

Gentlemen, I am troubled because it seems to me that what we have accomplished thus far is not in proportion to the amount of time that we have spent here on Saipan. We could have done more. I have tried to identify the obstacles to our progress. It seems to me that the following things stand in our way:

1) Do we truly understand, and accept the great task before us? We speak of unity as a great thing but our actions show that it is only a theory to most of us. We are not taking the steps to assure unity. We sit here fighting among ourselves, wanting to protect our own district from others — as if the others were outsiders. Gentlemen, I am afraid that we underestimate the magnitude of our task. We are not creating another foreign government for Micronesia. For the first time in our history, we are creating a Micronesian government. In doing this our greatest foes are ourselves. The seed of disunity is nourished from within, not from outside. If we fail, we will have no one but ourselves to blame.

We should feel a sense of urgency about what we are doing. As we go on recess, the people of Papua New Guinea will be beginning their independence celebration. This will leave us the only unresolved territory floating in the Pacific. If we don't take command of our own fleet of canoes, someone else will.

We must decide now whether we want to be allied with each other or tied to bigger powers, tagging along in their wake. If we choose to ally ourselves with each other, then we must commit ourselves to this task now. It can't be put off as a nice dream. Now is the time to make it come true.

2) I'm afraid this Convention has become a stage for people seeking political fame. Individual and district political aspirations have greatly hampered our progress. I trust that during the recess each Delegate will examine himself and ask whether he is out to make himself great or to make Micronesia great. Becoming humble is a difficult task but it is necessary if we are to achieve our goal. Ask not how politically great this Convention can make you but how great you can make Micronesia at this Convention.

3) There seem to be a number of rivalries that began in Congress and elsewhere which have been carried over onto this floor. Gentlemen, our task is tough enough, let's not try to settle all our disputes here at once. We've enough to do in building a nation. There will be plenty of time for dealing with old rivals once the more important business is accomplished.

4) This Convention has been troubled by demands and confrontation. Some individuals and districts have gone to great lengths to show their face and make their wants known to us all. This leaves the rest of us with a feeling that perhaps we too should stand up and say something brave. We don't like to advertise the fact, but we of the Yap Delegation feel a need to say that we, too, came to this Convention prepared. We held many, many meetings with our people prior to this Convention and discussed many issues that would arise here. We conducted our own poll of our people's desires and have studied the results so that we know where our people stand. Then we came here as representatives of our people ready to help in the writing of a Micronesian Constitution, but not to hold these results up in front of this august body. We came as Micronesians from Yap to work together with you toward a common goal.

Everyone is talking about our brothers to the West and their ultimatum. The Palau Delegation has said "Let us be honest with each other" — and, indeed, they have been in presenting their 50/50 compromise: 50% for them and 50% for the rest of Micronesia! Now they do have a way of putting their best foot forward! Should we spend all our time fighting over this ultimatum or accept it as "Now that's a Palauan for you!", and accept our brother to to the West for what he is. Though no one has said anything about it yet, I'm sure that we are all mindful that Palauan one-upmanship has garnered them a lot of first places in the present administration. Rather than reacting

negatively about this, can we not learn from the Palauans and adopt their character when we deal with the rest of the world? We are certainly going to need to put our best foot forward when we meet the rest of the nations of this world.

What we have accomplished during this first part of our Convention has been a more or less traditional showing of face to one another. Behind the scenes a mountain of proposals has piled up. Some proposals are designed to show face while others attempt to deal with matters at hand.

During our recess, let us consider the many proposals dealing with specific matters at hand and come back talking as Micronesians. Let's get down to business. Rather than saying "I want," or "my district wants..," let us say "we Micronesians want."

One of the real problems that has emerged to date and which lies behind a lot of the proposals made thus far, is the question of power of elected public servants. I'm afraid that sooner or later we're going to have to face this conflict and resolve it in some way. I am mindful of one wise man during Biblical times, who advised "Render unto Caesar the things which are Caesar's, and render unto God the things which are God's." Perhaps the task before us is to determine what things are in the province of our chiefs. Central to this problem is the matter of our traditions. Our traditional homage belongs to our chiefs, there is no question about that. What of chiefs in the modern world, however? Many have donned the secular robes of elected officials -- and many seek nontraditional power and goods and money.

Let me make a few statements that I think we need to bear in mind during this Convention or we will always face a disorderly society:

1) It seems that we must guard ourselves against the few chiefs who claim to protect the "interest of the people," but are really after power to keep the people down as their traditional subjects. This practice will certainly prevent this new society from moving ahead. Let all the chiefs be mindful of this. If chiefs are truly concerned with preserving traditions, let them take action where those traditions most apply -- in their home districts. Trying to fortify their positions at the national level is somewhat beside the point. If traditions live or die, they will live or die in the districts.

2) Let all the chiefs know that we are not here to murder our customs and traditions. On the contrary, we are here to uphold those customs and traditions. They are our best hope for preserving and guarding our social welfare and harmony. Our orderly community, friendliness, our closeness to nature and respect for each other are built upon the foundation of our traditions. Let every Micronesian be mindful of this.

3) This Constitution will call for many necessary, good aspects from the outside world. At the same time, it must preserve much of our customs and traditions. This Constitution is necessary if we wish to enter into the world community. To do this, we will all have to tolerate some changes. This Constitution will necessarily have to change some customs and traditions, only so that this nation can pursue better economy. Our posterity must be free to move about, think independently, voice their opinions and seek higher standards of living. We will need our customs and traditions to hold us together. We will need our Constitution to keep us together, and help us take our place in the world.

Thank you, Mr. President. (Applause)

Delegate Wainit: Mr. President, I would like to congratulate my good fellow Delegate from Yap for being straightforward and honest in his remarks.

Delegate Ismael: Mr. President, with the leave of the Convention, I would like to have this Convention recognize some distinguished visitors from Kusaie.

First is the Chief Magistrate, Alex Palsis. (Applause) And Transition Committee members Frank Lonno, Thurston Siba and Gayus Nedfil. (Applause)

Delegate Nakamura: Mr. President, before I request the leave of this Convention, I would like to congratulate my fellow Delegate from Yap for his very fine remarks. Secondly, I would like this Convention to recognize two distinguished gentlemen from the Department of Resources and Development. Mr. Hiromi Rdialil, business advisor, and Mr. Haruo Esang, also a business advisor. (Applause) I would like to note that both of them are my constituents.

Delegate Cabrera: Just a short reminder of the shindig, or reception, that we are having this evening. We are going to have a band and if any of you have a ladyfriend, please bring her along.

Delegate Falcam: What I am going to say will not create any applause, I am sure, but I still want to say it. Yesterday I inserted in the Journal the objection I have regarding some distorted article in the Guam Daily News, and I requested that it be corrected. This request apparently has fallen on deaf ears. Consequently, it is my view that I would resort to other means to correct the alleged positions as indicated in the paper. I believe in accurate reporting; I believe in courteous journalistic approach. I, for one, do not welcome this kind of reporting and this kind of reporter. If this Convention is to be reported out to the world accurately, I submit that we have no place for this kind of reporting. I maintain that there are things, there are home-works, there are readings to be done before an article is printed in a paper that circulates around some part of the world. (Applause)

Floor Leader Tman: Just a reminder that if any Delegate has not had a chance to have his picture taken, he should report to Room 2 and have his picture taken for his I.D. card.

ANNOUNCEMENTS

Delegate Yoma: I would like to echo the previous observation with regard to the fine statement delivered by our fellow Delegate from Yap District. I would like the record to show that I do share his very fine remarks.

Delegate Willander: I wish to announce that your Committee on Style and Arrangement should look on their desks for Committee on Style & Arrangement Memorandum No. 1, the subject of which is a committee meeting at two o'clock today in this Convention Hall Chamber.

Delegate Wainit: Mr. President, there will be a meeting of your Committee on Finance & Taxation at nine o'clock tomorrow morning. We urge all members to attend.

Delegate Heinrich Iriarte: Your Committee on Governmental Structure will not have any more meetings until after they have seen their constituents.

Delegate Carl Heine: Your Committee on Civil Liberties will have their last meet beginning at two o'clock this afternoon.

Delegate Fritz: The Subcommittee on Judiciary of your Committee on Governmental Structure will have a meeting tomorrow morning at nine o'clock in Room 4.

Delegate Tun: I wish to announce that your Committee on General Provisions will meet in Room 1 at 2:30 this afternoon.

Delegate Ismael: Mr. President, I would like to urge my fellow Delegates to read the report and proposal reported out as Miscellaneous Communication No. 14 during the recess. And I would like to announce to the members of your Committee on Governmental Functions that the first part of next week I will be working with the staff preparing a further proposal tightening up this Proposal and will be communicating with the members of this Committee so we

will have a better chance to sit down and study this Proposal and come up during the reconvening with better amendments or insertions to this proposed proposal. With that in mind, we will not be meeting until we come back from the recess.

Delegate Nakamura: Mr. President, I would like to remind the members of Group No. 3, your Committee on General Provisions, that we will have a short meeting at 8:30 tomorrow morning. For the benefit of this Convention, I would like to introduce the members of this Subcommittee. They are Daro Weital, Maketo Robert, and, of course, Delegate Kendall is not here. (Applause) And, Mr. President, I would like to correct my announcement the other day that there is a great monster outside the Convention Hall. It's not really a monster because this morning it returned my money or my cigarettes to me.

Floor Leader Tman: Mr. President, if there is no further business or announcements, I move that the Convention recess until 11:00 a.m. tomorrow.

Delegate Tun seconded, and the motion carried. The Convention recessed at 12:22 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

FORTY-SECOND DAY

Friday, August 22, 1975

The Micronesian Constitutional Convention was called to order at 11:25 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Chair recognized Delegate Cabrera.

Delegate Cabrera: Mr. President, I would like again to disrupt momentarily the Order of the Day and ask the Convention to recognize the presence of the Honorable Peter T. Coleman, Deputy High Commissioner of the Trust Territory, who is here with us today. [Applause] Also, Mr. President, a distinguished member of the Marianas District Legislature, the Honorable Manuel D. Muna. [Applause] Thank you.

The Convention Secretary called the roll. There were 43 Delegates present. Delegates Andrike, Borja, Ibedul Gibbons, Haruo, Namwarki Max Iriarte, Kendall, Mary Lanwi, Manglona, Philippo, Acting Chief Reklai Termeteet, Toribiong, and Weital were excused. Delegate Palacios was absent. A quorum was present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 41st Day be adopted. Delegate Falanruw seconded, and the motion carried. The Journal of the 41st Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Wiliander.

Delegate Wiliander: Mr. President, your Committee on Style and Arrangement submits a progress report on Committee Proposals Nos. 1, 2 and 4. Now, in summary, Mr. President, Proposals No. 1 and No. 2 pertain to personal freedoms and Proposal No. 4 pertains to protection of local customs.

Your Committee on Style and Arrangement met on Thursday, August 21, and after serious consideration, concluded that it would be best not to report these proposals out for adoption, but rather, give the Delegates an opportunity to return from the recess and also give your Committee another opportunity to do further studying. So, therefore, Mr. President, I move for acceptance of the progress report from your Committee on Style and Arrangement.

Floor Leader Tman seconded and the motion carried. Standing Committee Report No. 8 was accepted by the Convention.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 6, "A Proposal providing for a three-branch Central Government."

Floor Leader Tman: Mr. President, in order to discuss Proposal No. 6 more freely, I move that the Convention resolve into the Committee of the Whole.

Delegate Olikong seconded, and the motion carried. The Convention resolved itself into the Committee of the Whole at 11:35 a.m.

The President requested that Delegate Cabrera preside over the Committee of the Whole.

The Convention reconvened in plenary session at 11:40 a.m.

President Nakayama: We will now receive a report from the Committee of the Whole.

Delegate Cabrera: Mr. President, the Committee of the Whole, to which Proposal No. 6 was referred, has acted favorably on the proposal and recommends approval by the plenary session and I hereby move for adoption of the report.

Delegate Ngiraked seconded, and the motion carried.

Floor Leader Tman: Mr. President, pursuant to the report of the Committee of the Whole, I move that Committee Proposal No. 6 be referred to the Committee on Style and Arrangement.

Delegate Ngiraked seconded, and the motion carried. Committee Proposal No. 6 was referred to the Committee on Style and Arrangement.

SECOND READING CALENDAR (COMMITTEE REFERRAL)

Committee Proposal No. 5, "A Proposal relating to the Preamble to the Constitution of Micronesia.", was referred to the Committee on Style and Arrangement.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 141, entitled "A Proposal relating to the disadvantaged.", was introduced by Delegate Eperiam.

Delegate Proposal No. 142, entitled "A Proposal relating to the taxation of government property.", was introduced by Delegates Kalles, Kendall and Kijiner.

Delegate Proposal No. 143, entitled "A Proposal relating to prohibition of smoking in public places.", was introduced by Delegate Isaac Lanwi, by request.

Delegate Proposal No. 144, entitled "A Proposal relating to effective date of the Constitution.", was introduced by Delegate Tun.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 137, entitled "A Proposal relating to secession.", was referred to the Committee on General Provisions.

Delegate Proposal No. 138, entitled "A Proposal relating to amendment of the Constitution.", was referred to the Committee on General Provisions.

Delegate Proposal No. 139, entitled "A Proposal relating to misconduct.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 140, entitled "A Proposal relating to constitutional interpretation and the common law.", was referred to the Committees on Governmental Functions and Governmental Structure.

INTRODUCTION OF RESOLUTIONS

Resolution No. 23, entitled "Resolution expressing the earnest desire on behalf of non-smokers not to be subject to noxious quantities of smoke at the plenary sessions of the Micronesian Constitutional Convention.", was introduced by Delegate Isaac Lanwi, by request.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Salii.

Delegate Salii: Mr. President, fellow Delegates:

This Convention, Mr. President, has a problem. It has gone nowhere. It has not worked. So far it has been a complete failure.

In forty days we have accomplished a great deal of nothing. Today we end the first phase of the Convention and tomorrow we begin a twenty-day recess. I understand that the reason for the recess is to let the Delegates rest and consult with their constituents.

Rest from what, may I ask? Consult on what?

Mr. President, this Convention has failed because individual Delegates and Delegations came here unprepared. It has failed because it has too many committees. It has failed because its Rules of Procedure are too cumbersome and complex, designed to allay the timidity of whoever suggested them in the first place, rather than to assist the work of this Convention. The Convention has failed because of the poor staff support that the Delegates have received. It has failed because it has taken a piecemeal approach to the drafting of the Constitution, providing no framework to place and evaluate individual proposals.

Let's talk about how this Convention has operated, in committees and in full session. The system we have now has been used for six weeks. And, as we say in Palau, it's NOT working. Individual committees look to the Convention for answers. The Convention looks to the committees for answers. Back and forth we go, with nobody getting any answers. Why? Partly because the structure of committees itself is unsound. But mainly because Delegates and Delegations arrived unorganized and unprepared. And unorganized and unprepared they remain.

Now, let's talk about staff work and support. I regret to observe that there has been an appalling lack of professionalism among some Convention staff. Some staff members appear to be deeply attached to their cherished personal visions of what Micronesia should be, and seek to impose their personal visions on this Convention. Some have enormous emotional investments in the outcome of those proceedings and preconceived ideas of what the outcome ought to be. The staff are not here to mastermind the Convention, not here to direct or steer us. They are here to render professional services. If they cannot give us their services without promoting their emotional and philosophical considerations, they should -- and this Convention should --- reconsider their position.

Now, Mr. President, let's talk about how Delegates prepared themselves for this Convention. The Palau Delegation came to this Convention prepared. We had positions. We told you about them. We had drafted a Constitution. We told you what we required of you if Palau was to be part of you. Out of all the Delegations here, none has responded to us. Out of all the Delegates here, I know of only three individual responses. Out of those responses there have been some rather naive suggestions that we forget the past as we draft the Constitution of the future. Those Delegates and Delegations who want to forget the past are free to do so at their own risk. To the Palau Delegation, the past is the surest way to indicate the future. And so to the suggestion that we forget the past, our answer is no, we shall not!

To those who think that they can dismiss the Palau position and draft by clever use of words and phrases, who think that their mere eloquence can solve our problems, who twist our position to say that Palau wants 50% of Micronesia for Palau and 50% for the rest of Micronesia, I say that you have totally misunderstood that formula in your haste to be the Patrick Henrys and John Hancocks of this gathering.

That 50%-50% formula means that Palau will sacrifice 50% of itself for Micronesia. It requires that Yap, Truk, Ponape, Kusaie and the Marshalls do the same. To us, the mere fact of joining you is a big sacrifice. And so to you, who complain about this, we say that the question is not how much --- or how little --- Palau is willing to offer for the unity of Micronesia. The question we have put forth to you and which requires an answer from you is will --- or will not --- Palau be able to be part of you.

Tomorrow we begin a long session to rest and consult. I grant that everyone is tired from the big strain of accomplishing nothing. Rest well and return refreshed. As for consultation, the Palau Delegation has given you enough to think about and to consult with your people.

To the officers of this Convention, I say that if you want this Convention to get off the ground and start going somewhere, if you want it to work, you should stay right here after the rest of us go in recess, and take the necessary time to prepare for the implementation of two steps to go into effect after the recess:

First, I suggest you abolish all the standing committees and create a single constitutional drafting committee. This Committee should prepare a full draft Constitution and present it to the Convention as soon as possible. I further suggest that the Palau draft be the basis of the work of this drafting committee.

Second, let us cut our staff to a workable size, retaining only those professionals who can help the Convention without being hampered by personal ideologies or emotional preoccupations.

Unless these steps are taken, Mr. President, you and the rest of us might as well forget it.

Thank you. [Applause]

The Chair recognized Delegate Apis.

Delegate Apis: Thank you, Mr. President. I have a few remarks, but this is not in reply to Delegate Salii.

Mr. President, fellow Delegates:

I have introduced a short, but most important proposal which I hope you will agree ought to be part of our Constitution. Indeed, my proposal goes to the very heart of our Constitution. My proposal says that no state or part of a state may withdraw from the future nation of Micronesia.

Mr. President, if we have any confidence in the work that we do here, if we have any hope for the future of Micronesia, we should not permit any part of that nation to withdraw. The right of secession places a knife against the throat of the future government. It permits any district legislature, any local group of politicians to cut that throat.

I realize, Mr. President, the people seeking the right of secession are concerned about whether their district will prosper under the future government. I respect that concern. But I also think that any nation we form should be given a fair chance. I think that a secession clause is unfair to the new nation. It puts and keeps the infant nation in critical condition from the day of its birth.

If we think enough of Micronesia to write a Constitution, if we think enough of Micronesia to appear at this Constitutional Convention, we should also think enough of Micronesia to keep it together and united forever. Let us give Micronesia a vote of confidence by forgetting about secession. Let us make our unity permanent. If we can solve the problem of writing a Constitution,

we can solve our other problems too. Mr. President, we are here to solve problems --- not to create them. The right to withdraw creates a problem. It creates endless problems. Let us avoid those problems by denying the right of withdrawal and making unity a permanent fact of life in Micronesia.

Thank you, Mr. President. [Applause]

The Chair recognized Delegate Tacheliol.

Delegate Tacheliol: Thank you, Mr. President. With the leave of the Convention, I would like to take this opportunity to request the Convention to recognize the presence of a distinguished guest from Yap District, who is a Yap District Legislator, Floor Leader of the Yap District Legislature, and also a member of the Trust Territory Environmental Protection Board. His name is John Tou. Will you please stand up for our recognition? [Applause]

The Chair recognized Delegate Wainit.

Delegate Wainit: Mr. President, if I may, I would like to make a few remarks for the record.

Mr. President, honorable traditional leaders, fellow Delegates, ladies and gentlemen:

Usually on a day like today, the last day concluding the first phase of our Convention, it is only customary that some of us are bound to reaffirm our desires, aspirations, commitments and objectives for the future. It is also on this day that, as friends and Delegates working together, we bid farewell and goodbye, but as we say goodbye, there is that feeling of uncertainty creeping in our minds that we all want to ask each other. Are we really going to be able to come back and achieve our goal? Will we be able to come up at the end of our limited time with a Constitution upon which the future nation of Micronesia will be born, a Constitution which will smooth out our differences and bring us together by our similarities and ultimately unite Micronesia?

My good fellow Delegates, let's search our hearts for the answer. It is within our hearts the answer lies. If unity of Micronesia is what we really want and the very reason for our sacrifices here as we torture ourselves to explore and implore our human desires and differences, my good fellow Delegates, let's have open hearts. And let unity come true and be a dream no more. I hope that as we go back and see our constituents, we use a little different approach from what we may have used before we came to this Convention. Let's not reaffirm with our people our previous commitments or aspirations, but let's negotiate with our own people on behalf of the unity of Micronesia to be achieved in this Convention.

My good fellow Delegates, let's make this recess worthwhile. Let's start now during this recess to enlighten and broaden our own people's frame of mind, reasoning and thinking. Let's remind them that we have sisters, brothers, mothers and fathers scattered all around Micronesia. We are really one people.

My fellow Delegates, let's not push individual districts' desires, aspirations or goals. Let's start first with Micronesia and let our districts come second.

Fellow Delegates, let's be honest and frank with our people during our recess. It is only this important body that can make the unity of Micronesia come true. If we fail, Micronesia will disintegrate into the unknown and be wiped from the face of this earth, and the Micronesia that we are proud of today will survive only as a legend.

Fellow Delegates, let me conclude by asking each and every Delegate here to pronounce ourselves emissaries for good will to our own people to promote but one thing --- the unity of Micronesia.

Thank you. [Applause]

The Chair recognized Delegate John Heine.

Delegate John Heine: Mr. President, I do not have a prepared statement to offer, but I would like to say from the heart that I do not believe that we have wasted our time here during the first part of our Convention here on Saipan. I think we have approached our problem not in the American way — the white man's way — but in the Micronesian way. It may be slow, but very firm in the end. I would like to congratulate all these distinguished Delegates and gentlemen who have come from their districts, elected by their own people. Because there was faith that their people entrusted in them, they have come and we all have pooled our minds together and we have accomplished something. I do not think that we want to get into a rat race type of society. We want to maintain traditions. It may be slow, but again I say it is firm and I have my trust and faith that when these distinguished gentlemen come back, we will do our work. Let's not worry about how long it takes to write this Constitution. Even the wise Americans — it took them more than two years to do that job. How about us? We are only in the learning process and I think we are doing very well.

I would like to endorse the statement made by the speakers on the floor this morning who said we must forge or bring together a very solid united Micronesia rather than a very loosely related Micronesia because united we stand; divided we fall.

In conclusion, Mr. President, I would also like to say this, because today will be our last day. I would like to thank the media, the news media, that has been with us. I think they have sometimes made mistakes in the reporting and sometimes I have lost my faith in the freedom of press, but, again, I would like to reaffirm my faith in them today that without them the world, I think, will not know what is going on in this Chamber.

So, with this, Mr. President, I would like to conclude my remarks and I would like to now introduce a very good friend of mine, Shigehito Iwabu. He has been in Saipan for the past two and a half years, and he is working with Micronesia Photo Service in Chalan Kanoa, District 3, Saipan. Maybe you have seen him walking around inside this Hall. He is right over here. Will you please recognize him. [Applause]

And, Mr. President, when I go back to my islands, I am not going to tell my people we have failed; I'm going to tell them we have done our part and let's all come back and do a better job.

Thank you, Mr. President. [Applause]

The Chair recognized Delegate Cruz.

Delegate Cruz: Thank you, Mr. President. I don't have a prepared speech, so without any further ado, first I want to express my profound appreciation to all the Delegates and staff for their friendship, patience, support and understanding in these few weeks that I have been a member of this Convention. Since today is the day for us to begin the first day of recess, and as all of you know the decision of the people of the Northern Marianas, as expressed in the June 17th plebiscite, that your sister district of the Marianas would like to become a permanent part of the United States of America under a Commonwealth status, and since there is one more step before the United States Congress, before these people in this district — the Marianas — can realize such political aspiration, during the recess there is a possibility that the United States Senate will also approve the Covenant for the Marianas, so today I want to say once again, thank you for the opportunity. I have learned a lot. I came to respect all of you and even though the Marianas is going for a complete separation, I want all of you to know that I care so much for the future of the Trust Territory.

So, Mr. President and distinguished delegates of this Convention, I would like to say farewell and thank you and good luck and God bless you all. I am saying this because there is a possibility that the Senate will approve the Covenant before we reconvene in September of 1975.

Thank you very much. [Applause]

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President and fellow Delegates, I have a few words of parting. I did not write or prepare this speech in advance, but what I am going to say is in full sincerity and determination.

Fellow Delegates, at the beginning of the Convention I came from Palau with several questions on my mind about the Convention, the prospects, and I am going home with these resolutions as a result of participating in this Convention. I love Palau and I love to be a Palauan. I am proud to be a Micronesian and I am very happy and proud to have known you during the past weeks and months. So, ladies and gentlemen, on behalf of the people of Palau and the Palau Delegation, I will say to the Marshallese, Yokwe Yok; and say to the Ponapeans, Kasehelelia; and I say to the Trukese, Kele nom; and to our friends from Saipan, Hafa Adai; and to those from Yap, Kafel; and to the Palauans, Mesulang.

And for those who only know our national language, I say so long; it's been good to know you and I will see you back here in the Convention.

Thank you very much. [Applause]

The Chair recognized Delegate Isaac Lanwi.

Delegate Isaac Lanwi: So long -- on the record, please. [Laughter] I am sorry to say that my long prepared speech, I am sure, is inside my wife's suitcase, but I am pleased to be with you here to make you mad. The speeches we listened to made me happy but now I am going to make you mad by making some rebuttal to the speeches I heard from my friends.

First, to my friend, Delegate Lazarus Salii, in his speech he said that we were not prepared; that we have been doing nothing. Well, my rebuttal to this is that I was prepared to come here as C.I.A. [Laughter] to watch what you do and Delegate Salii said we have done nothing, but I say today that the Palau Delegation has done a very, very good job for the Marshalls people of presenting the 50-50 share. This was the cause of the Marshallese people not joining this Convention because of this 50-50 problem, so we thank the Palau Delegation. We are in the same boat of getting 50-50 for Micronesia and for our own district. That's why I don't say goodbye, because I am going back and report to the people and my Iroij that Palau agrees to join us in working out a 50-50 compromise, and I know I am going to be promoted by my Iroij [Laughter] because I agree that Palau has done a good job for us. That is why I don't say goodbye because in Marshallese goodbye means Jebil Mij. Jebil Mij means, "Goodbye, you die" so we don't say goodbye in Marshallese because we are going to die. [Laughter]

Thank you very much. [Applause]

The Chair recognized Delegate Falcam.

Delegate Falcam: Thank you, Mr. President. I would like to request the Convention to please recognize the presence of the wife of one of our Delegates, Heinrich Iriarte. Mrs. Iriarte, in the corner here. [Applause]

The Chair recognized Delegate Cabrera.

Delegate Cabrera: Thank you, Mr. President. I will not take the time to discourse on the progress or lack of progress the Convention has made, but I would like to say this, however, that I do think that the rest of the members of the Marianas Delegation to the Con Con, the people of Saipan, and all the people of the Marianas District share my profoundest appreciation for the time well spent here in Saipan and wish you luck during the recess and also welcome you back to resume the very important task that the people of Micronesia have bestowed upon us. Thank you all. [Applause]

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Thank you. Mr. President, distinguished chiefs, fellow Delegates.

As we conclude our business today and look ahead for the 23-day recess, I have some mixed feelings, because I, for one, do not see the need to have a recess. My Delegation came to this Convention prepared to face the challenge of 90 days. It is true that we did not come here with predetermined articles of the Convention. We came here to join the community of Micronesia because we believe in the unity and solidarity of Micronesia.

This recess, however, gives a chance for many of us to return to our respective home districts, perhaps to renew their mandate and to renew their confidence in the task before us. What has transpired here or what has not transpired in this Convention, in the light of the situation we are now faced with, I return home, not to enjoy the recess but to seek a new mandate which I believe my constituents have not changed in that respect.

I do hope that after the recess, when we reconvene on September 15, that each and every one of us will return from the recess with renewed vigor and optimistic enthusiasm that we can face the balance of our Convention to tackle our most important task, that is to come and work to come up with an acceptable Constitution for Micronesia. I know that many of us have been frustrated, but in this kind of work the process of consultation, negotiation and compromise is always protracted and long. I do not feel that it should be a source of our frustration, but I feel it should be a source of our enlightenment. To sit down and draft a Constitution is an easy task; the difficult task is to consult, negotiate, compromise and agree on fundamental issues. When that is resolved, we can all sit down and write a Constitution very easily.

Thank you, Mr. President. [Applause]

The Chair recognized Delegate Cruz.

Delegate Cruz: Thank you, Mr. President. I beg indulgence of the Delegates. I want this Convention to recognize a very special friend, a very capable gentleman. He is an attorney-at-law and a very effective District Attorney, Mr. Minor Pounds. [Applause]

ANNOUNCEMENTS

Delegate Tun: Mr. President, your Committee on General Provisions will work in Room 1 starting at 1:30 this afternoon.

Delegate Sawaichi: Mr. President, your Special Conference Committee will have a short meeting this afternoon at 1:30 in Room 3.

Delegate Tacheliol: Mr. President, I would like to request the members of the Subcommittee on Executive of your Governmental Structure Committee to have a very short meeting right after this session. Thank you.

Delegate Ismael: Thank you, Mr. President. I would like to take this opportunity to seriously congratulate the members of your Committee on Governmental Functions for the intensive thoughts and contributions they have given to this Committee. I hope that each and every one of you will have a good recess, work hard, meet with your constituents and come back when we reconvene. In the meantime, I would like to announce that your staff will be doing these enumerated

One, rewrite Committee Working Paper No. 1 into a Committee Report and Committee Proposal for introduction soon after the recess.

Two, list, summarize and compare to comprehensive proposal, all Delegate Proposals assigned to this Committee. Do draft Committee Reports for those covered by comprehensive proposal. In cases where the comprehensive proposal serves as an "adverse" report on a particular Delegate Proposal, prepare a draft letter to the particular Delegate explaining the Committee's decision and the reasons for it, and also work out a schedule for any such Delegates to appear before the Committee after the recess to discuss their proposal.

Three, research following areas and prepare draft Committee Proposals formulated on the basis of Committee discussion and decisions:

1. Jurisdiction of National Courts
2. Impeachment
3. Taxing power of Central Government
4. Constitutional amendment
5. Extraordinary emergency powers to be exercised during national emergencies.

Four, do written analaysis of:

1. Palau Constitution
2. Falcam Constitution.

Mr. President, I intend to remain behind in Saipan here until next Thursday in order to organize this work. Thank you very much.

Delegate Olter: Mr. President, I would like to inform the members of your Finance Committee that there will be a subcommittee working during the recess here on Saipan. The time of meeting will be announced in a memo to the members. Thank you.

Floor Leader Tmetuchl: Mr. President, if there is no further business and no more announcements, pursuant to Resolutions No. 9 and No. 11, I move that the Convention stand in recess until September 15 at 11:00 a.m.

Delegate Tacheliol seconded, and the motion carried. The Convention recessed at 1:05 p.m.

Respectfully submitted,

for Victorio Uherbelau
Convention Secretary

FORTY-THIRD DAY

Monday, September 15, 1975

The Micronesian Constitutional Convention was called to order at 8:50 p.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 36 Delegates present. Delegates Albert, Andrike, Borja, Cruz, Chief Ibedul Gibbons, Haruo, Kalles, Kijiner, Isaac Lanwi, Mary Lanwi, Ngiraked, Nifon, Nimwes, Olikong, Otter, Philippo, Salii, Sawaichi and Acting Chief Rektai Yermeteet were excused. Delegate Palacios was absent. A quorum was not present.

President Nakayama: Before I declare the Convention recessed until 11:00 a.m. tomorrow morning, I wonder if the chairpersons of each standing committee have any announcements to make?

The Chair recognized Delegate Ismael.

Delegate Ismael: Mr. President, Rule 33 of the Convention's Rules of Procedure requires that any committee reporting adversely on any Delegate Proposal must first notify the introducer of such a Delegate Proposal and give the Delegate an opportunity to appear before the committee to explain such Delegate Proposal to the committee. As such, Mr. President, the Committee on Governmental Functions has come up with a Committee Proposal and there are certain aspects of some of the 44 proposals referred to this Committee, so your Committee is now arranging for a schedule starting at two o'clock tomorrow afternoon for the next two weeks to meet with each of these Delegates to give them an opportunity to explain their proposals to us. I would like to ask, if it is possible, that this chamber be reserved for our Committee on Governmental Functions at two o'clock each afternoon from tomorrow for the next two weeks. Thank you.

Delegate Weital: I would like to request the members of the Special Conference Committee to meet tomorrow morning at ten o'clock in Room 3.

Delegate Cabrera: I realize that we do not have a quorum tonight but I would like, on behalf of my delegation and the people whom we represent, to welcome the Delegates present tonight back to Saipan to assume the responsible task bestowed upon us by our electorate. I wish also to take the opportunity to ask you to recognize the presence of a distinguished Saipan businessman, Jose C. Tenorio, who is present tonight. With him is the ex-Governor of Guam, Carlton Skinner. (Applause) Mr. Alfonso Rasa, whose name will soon be reviewed by the Special Credentials Committee, is present tonight. He will take, if decided by the Special Credentials Committee that he is to be seated, the place of Joaquin Pangelinan who has resigned his seat in this Convention. Thank you, Mr. President. (Applause)

Delegate Tacheliol: Although we do not have a quorum, I would like to take this opportunity to have those present tonight recognize the presence of one of our constituents. He is Acting District Director of Peace Corps. His name is Constantine Yinug. Would you please stand up for recognition? (Applause)

Delegate Tun: I would like to announce that your Committee on General Provisions will meet in Room 4 at two o'clock tomorrow afternoon. I would like to urge those members of the Committee who are here to inform those who are not present. Thank you.

(Delegate Ngiraked took his seat.)

The Convention President declared the Convention to be in recess until 11:00 a.m., September 16, 1975.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

FORTY-FOURTH DAY

Tuesday, September 16, 1975

The Micronesian Constitutional Convention was called to order at 11:10 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 44 Delegates present. Delegates Albert, Andrike, Borja, Cruz, Haruo, Kalles, Kijiner, Isaac Lanwi, Mary Lanwi, Nimwes, Olikong, Olter, Philippo and Salii were excused. Delegate Palacios was absent. A quorum was present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 43rd Day be adopted. Delegate Nakamura seconded, and the motion carried. The Journal of the 43rd Day was adopted by the Convention.

ACTION ON PROPOSED AMENDMENT TO RULES OF PROCEDURE

Proposed amendment to Rule 62a, regarding amendments to Committee Proposals.

Floor Leader Tman: Mr. President, since we just returned from the long recess and perhaps some of us have not had a chance to go over the proposed amendment to the Rules, I move that action on the proposed amendment to Rule 62a be deferred until Friday.

Delegate Sawaichi seconded, and the motion carried to defer action on the proposed amendment to Rule 62a until Friday, September 19, 1975.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 3, "A Proposal relating to the power of eminent domain."

Delegate Ismael: This extremely important subject matter was presented to this Convention in the form of four Delegate Proposals: Delegate Proposals No. 10, No. 52, No. 97 and No. 133, along with your Governmental Functions Committee's Proposal No. 3. Having just returned from the recess, there is a lot of feedback from our constituents relative to this extremely important subject. Your Committee has yet to meet to discuss the four Delegate Proposals that I have enumerated. For this reason, Mr. President, I would like to request that we defer action on Committee Proposal No. 3 until this Friday.

President Nakayama: Was that a motion?

Delegate Ismael: I so move, Mr. President.

Floor Leader Tman seconded, and the motion carried to defer action on Committee Proposal No. 3 until Friday, September 19, 1975.

SECOND READING CALENDAR — REFERRAL OF COMMITTEE PROPOSALS

Committee Proposal No. 6, entitled "A Proposal providing for a three-branch Central Government.", was referred to the Committee on Style and Arrangement.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 145, entitled "A Proposal relating to secession.", was introduced by Delegates Namwarki Max Triarte and Naniken Heinrich Stephen.

Delegate Proposal No. 146, entitled "A Proposal relating to child labor.", was introduced by Delegates Namwarki Max Triarte and Naniken Heinrich Stephen.

Delegate Proposal No. 147, entitled "A Proposal relating to the protection of labor unions.", was introduced by Delegates Namwarki Max Triarte and Naniken Heinrich Stephen.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 141, entitled "A Proposal relating to the disadvantaged.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 142, entitled "A Proposal relating to the taxation of government property.", was referred to the Committee on Finance and Taxation.

Delegate Proposal No. 143, entitled "A Proposal relating to prohibition of smoking in public places.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 144, entitled "A Proposal relating to effective date of the Constitution.", was referred to the Committee on General Provisions.

INTRODUCTION OF RESOLUTIONS

None

REFERRAL OF RESOLUTIONS

Resolution No. 23, entitled "Resolution expressing the earnest desire on behalf of non-smokers not to be subject to noxious quantities of smoke at the plenary sessions of the Micronesian Constitutional Convention.", was referred to the Committee on Civil Liberties.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Chief Bossy.

Delegate Chief Bossy: Mr. President, allow me to make a short statement.

President Nakayama: Please proceed.

Delegate Chief Bossy: Mr. President, fellow traditional leaders, and comrade Delegates:

We attempt once again today to continue our important task of drafting our own Constitution. We have had a 23-day recess in which we have consulted with our people pertaining to certain issues unresolved by this Convention during the 42 days of its meetings.

I am sure it is now clear to us what our people want with respect to those unresolved issues. We can now speak and argue confidently knowing we are voicing the wishes and concerns of those whom we represent at this Convention.

One issue, among many others, is eminent domain. I am happy to report to this Convention that the people of the Municipality of Moen--meaning the people of the islands of Wono, Fono and Pis--the most populated municipality in Truk

District—do not want to grant the power of eminent domain to the national government, nor to the district governments. It should be one of the prohibitions to the new government. Hence, such power should be reserved to the people.

I gathered that the people of the islands of Oman, Tonowas, the Upper Mortlocks, as well as the people from the Hall and Western Islands, share the same views I just reported out. I, too, share such views.

We realize that most, if not all, of the governments of the western nations possess such power. We also realize that their laws are based on quite different factors—factors which are ill-fitting to our Micronesian situation. We are, in many respects, very different from them. The people of the western societies are urban oriented and highly mobile. They have very weak social ties to any individual tract of land. The relations to land in Micronesia are just the reverse of these western societies. Our culture is deeply rooted in our land and often in specific parcels traced over long periods of unrecorded, yet remembered, history.

Most of the lands in Micronesia today are not owned by individuals, but are owned by groups of people. One tract of land may be owned by families, lineages, or by clans; consequently, their lives are dependent on that one parcel of land. The reason, of course, is very obvious. Land, the very source of our existence here in our micro islands, is extremely scarce and will continue to be even more scarce in the future due to the fact that our beautiful and beloved islands are gradually sinking—and by necessity our present land tenure system will continue to be the same—land ownership by very few individuals and mostly by families, lineages, and clans.

The power of eminent domain, like the power to tax, is a power to destroy. The people whom we have consulted during the recess do not think it fair nor just for our government to destroy a family, a lineage, a clan, or even an individual for the benefit of, say, 1,000 people or more.

I need not remind this Convention that the final product of our hard labor here, the draft Constitution, has to be ratified by the Micronesian people themselves. Let us not make it imperative for the people whose views I just expressed, and, mind you, they constitute a very large, substantial portion of the population of Truk—a number more than sufficient to cause the draft Constitution to be inapplicable in Truk—to have reservations when the time of ratification comes. It goes without saying that whatever we decide here, we have the prayers, hopes and support of the Trukese people, for they, like the Micronesians from the Yap Islands, will always remain Micronesians.

Thank you, Mr. President. (Applause)

The Chair recognized Delegate Carl Heine.

Delegate Carl Heine: I would like to make a few remarks, but before I do that I would like to introduce a visitor. It is my pleasure to introduce a prominent businessman from the Marshall Islands—a fellow traveler who has traveled throughout the Pacific Islands, and who is also a mayor of one of the smaller municipalities in the Marshalls. I am speaking, of course, of Mr. James Milne. (Applause)

Mr. President, if you will permit me, I would like to make a few remarks for the Journal.

President Nakayama: Please proceed.

Delegate Carl Heine: Today marks the beginning of perhaps the end of the 90 days in which we have been directed with the task of drafting a Constitution, but, Mr. President, that is not really what I want to talk about, although I do not say that it has no bearing on what is happening in a part of the Pacific today.

Today marks a significant phase in the history of the people of the Pacific Islands' quest for self-government and self-respect.

Today also marks the birth of a new nation. To the south of us, today the people of Papua New Guinea are celebrating their independence from Australia. It is a decisive phase in the long struggle of the people of that territory towards freedom and human dignity. Today the flag of Australia must come down and the new flag of the new nation of Papua New Guinea must rise. This signifies the end of almost 400 years of foreign domination and the yoke of colonialism has finally come to an end in that territory.

To us here in Micronesia this event should be very important as well. Of the original 11 trust territories placed under the United Nations Trusteeship system, all have ascended into self-government and independence except one--Micronesia.

What we are doing in this chamber today and for the past 40-some days is simply to attempt to achieve what is today happening in Papua New Guinea. We are taking the first step in the direction toward human freedom and self-respect. Whether we will arrive at our goal is another matter for all of us here to ponder.

Equally significant is the fact that with Papua New Guinea gaining independence today, Micronesia is left by itself as the only remaining colonial trust territory left in the Pacific, if not in the world. This also makes the administering authority the only western colonial power in the Pacific still doing business in this world and in this part of the Pacific.

I am equally thankful that the only opportunity made available to the people of Micronesia in their long and dominated history of colonialism has come from the United States--the very fact that we are sitting here speaks for itself--but, Mr. President, I must salute the people of Papua New Guinea on this occasion of their independence. I do not want to offer any opinion as to what lies ahead for us here in this Convention and to the future of Micronesia. I can only say that we have the opportunity for creative leadership if we can only accept the mandate of the people of Micronesia.

Thank you very much. (Applause)

The Chair recognized Delegate Cabrera.

Delegate Cabrera: Thank you, Mr. President. I believe that each and every one of us has been provided a copy of your communication to Mr. Alfonso Rasa and also a response from him. In light of that communication, I wish to move that Mr. Alfonso Rasa be seated as a Delegate here in this Convention.

Floor Leader Tman: I second the motion, but may I suggest that the motion be deferred until we come to Miscellaneous Communications.

Delegate Cabrera: I yield to the suggestion.

Floor Leader Tman: Mr. President, during the 23-day recess, one of the important facts that I found in my district was the fact that many of our constituents in Yap were not well apprised of the activities of this Convention.

Although much has been written in the newspapers about the activities of this Convention, it seems that all these articles have been written and oriented toward people from the outside of the Trust Territory rather than to the people from within. In this connection, Mr. President, I wish to note that right in this Convention hall there are people from the districts who are here to cover the activities of this Convention and to report to our respective constituencies.

For many of our people in the outer islands of our islands, the only link they have is through the broadcast network. In this connection, Mr. President and members of the Convention, I wish to request that this Convention recognize the presence of the following people who are here to cover the activities of this Convention and, if need be, they can also take interviews in the respective vernaculars so that they can report this activity to our people back home: Mr. Paulino Pablo from Ponape District, Mr. Peter Maipi from Truk District, Mr. Baurino Oingerang from Palau District, and Mr. John Tamingig from my home district (Yap District). (Applause)

With them, those who are coordinating these activities to cover the activities of the Convention, are Mr. Eskiel Lippwe, Assistant Broadcast Officer stationed at Headquarters, and also Mr. Elias Thomas--I am not sure whether he is here but let us recognize him in absentia--the Broadcast Officer. (Applause)

With that, Mr. President, I know that the activities of this Convention henceforth will be covered adequately for our people. Thank you very much.

MISCELLANEOUS COMMUNICATIONS

15. Letter requesting Alfonso Rasa to submit credentials as a Delegate-elect, and letter of acceptance.

The Chair recognized Delegate Cabrera.

Delegate Cabrera: I would like to ask the Convention to recognize the motion I made, Mr. President, and I hope that after action is taken on it the Chair will start the machinery in evaluating the credentials of Mr. Rasa. Thank you.

President Nakayama: Will you restate the motion?

Delegate Cabrera: The motion is to seat Mr. Alfonso Rasa as a Delegate from the Marianas, representing San Vicente, Tanapag, San Roque Village and the Northern Islands. Thank you.

President Nakayama: Could this be deferred until after the Credentials Committee has had a chance to receive and to review the credentials of the Delegate-elect?

Delegate Cabrera: Yes, thank you.

President Nakayama: In that case, I will now appoint a Credentials Committee to cope with the question. Delegate Soukichi Fritz as Chairman, Delegate Wilfred Kendall as a member, and Delegate Hilary Tucheliol as a member. I would urge that you come up as soon as possible with a report as to whether Delegate-elect Alfonso Rasa will be qualified to be seated.

ANNOUNCEMENTS

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: It is a pleasure to announce the presence of a prominent businessman and public leader from Palau. He is in the gallery. I would like the Convention to please recognize him. His name is T. O. Ngirutang. (Applause)

Delegate Cabrera: I am not too sure who exactly are the winners of the recently concluded election in Palau District, but those people that won the elections have the Marianas Delegation's congratulations.

Delegate Ngiraked: Thank you very much from the people of Palau.

Delegate Tun: First, I would like to remind the members of your Committee on General Provisions of the meeting at two o'clock today and, secondly, I would like to correct myself. Yesterday I made a mistake in announcing that the meeting would be held in Room No. 4. It is going to be held in the Committee's room, that is Room No. 1.

Delegate Wainit: I would like to announce that all members of your Public Finance Committee to please meet at nine o'clock tomorrow morning. The room will be announced or as soon as we have a room available we will grab it.

Delegate Heinrich Iriarte: Thank you, Mr. President. I would like to announce that the Committee on Governmental Structure will meet tomorrow morning at nine o'clock in Room No. 4.

Delegate Ismael: I would like to remind your Committee members that your Committee on Governmental Functions will meet at two o'clock in this chamber relative to Delegate Proposals No. 10, No. 52, No. 97 and No. 133. I would also like to urge the presence of Delegate Chief Bossy, Delegate Sony and Delegate Limes to appear before the Committee on this particular issue at two o'clock this afternoon in this chamber.

Delegate Fritz: Thank you, Mr. President. The Credentials Committee is scheduled to meet at two o'clock this afternoon, and I request that the members of this Committee be present at that time.

Floor Leader Tman: Before we close business for this morning, I have leave of my two chiefs and the chairman of my delegation to extend our congratulations, and we also wish other delegations to join us to give our sincere congratulations to the following people who have won the legislature election in their district: Delegate Johnson Toribiong, Delegate Tosiwo Nakamura, Palau Delegation Chairman John Ngiraked, and my old colleague, Delegate Jacob Sawaichi. (Applause)

President Nakayama: Congratulations.

Floor Leader Tman: If there is no further business, I move that the Convention recess until 11:00 a.m. tomorrow.

The Chair recognized Delegate Ngiraked.

Floor Leader Tman: I withdraw my motion.

Delegate Ngiraked: I am sorry for the interruption, but I think because of the expression of confidence and congratulations that has been expressed on the floor, we owe it to the Convention to return and we thank you very much. We are glad to be back. (Applause)

Also, the High Chief Ibedul and Reklai would like the Convention--all the Delegates and staff--to reserve the evening of Friday. Please make it open. We will announce what's coming to you later on in the week. (Laughter)

Floor Leader Tmun: If there is no further business--I hope not--I wish to restate my motion that the Convention recess until 11:00 a.m. tomorrow morning.

Delegate Ngiraked seconded, and the motion carried. The Convention recessed at 11:40 a.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

FORTY-FIFTH DAY

Wednesday, September 17, 1975

The Micronesian Constitutional Convention was called to order at 11:40 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 39 Delegates present. Delegates Albert, Andrike, Cruz, Haruo, John Heine, Namwarki Max Iriarte, Kalles, Kijiner, Isaac Lanwi, Mary Lanwi, Nimwes, Olikong, Olter, Philippo, Salii and Naniken Heinrich Stephen were excused. Delegate Palacios was absent. A quorum was present.

ADOPTION OF THE JOURNALS

Floor Leader Tman: I wish to apologize to the Convention that in my motion yesterday I made an error by omitting to include the Journal of the 42nd Day. Therefore, Mr. President, I move that the Journals of the 42nd and 44th Days be adopted.

Delegate Falanruw seconded, and the motion carried. The Journals of the 42nd and 44th Days were adopted by the Convention.

REPORTS OF SPECIAL COMMITTEES

Delegate Fritz moved for the acceptance of Special Committee Report No. 3 from the Credentials Committee regarding the seating of Delegate-elect Alfonso C. Rasa.

Floor Leader Tman seconded, and the motion carried to accept Special Committee Report No. 3.

Delegate Fritz moved that Alfonso C. Rasa be seated as a Delegate to the Micronesian Constitutional Convention.

Floor Leader Tman seconded, and the motion carried to seat Alfonso C. Rasa as a Delegate to the Micronesian Constitutional Convention.

President Nakayama: I would like to ask the Sergeant-at-Arms to provide a seat, and if Delegate Rasa is here to please step forward and take his seat. Congratulations. (Applause)

Will the Convention Secretary please re-call the roll? Let the Journal reflect that Delegate Rasa is present this morning.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 148, entitled "A Proposal relating to leases of land.", was introduced by Delegate Chief Belarmino Hathey.

Delegate Proposal No. 149, entitled "A Proposal relating to Reefs, Lagoons and Ocean Waters.", was introduced by Delegate Robert.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 145, entitled "A Proposal relating to secession.", was referred to the Committee on General Provisions.

Delegate Proposal No. 146, entitled "A Proposal relating to child labor.", was referred to the Committee on Governmental Structure.

Delegate Proposal No. 147, entitled "A Proposal relating to the protection of labor unions.", was referred to the Committee on Governmental Structure.

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Rasa.

Delegate Rasa: Thank you, Mr. President. I would like to extend my deep appreciation to each and every one of the members of this entity for accepting me to be seated. I look forward to giving, with my colleagues, my full cooperation to make this Convention a successful one. I thank you, Mr. President. (Applause)

ANNOUNCEMENTS

The Chair recognized Delegate Wainit.

Delegate Wainit: Mr. President, due to the absence of many of the members of your Committee on Public Finance this morning, I ask that all members make a point of being present at another meeting tomorrow at 9:30 a.m. in Room No. 3.

Delegate Heinrich Iriarte: Thank you, Mr. President. I would like to make the announcement that your Committee on Governmental Structure will have a meeting this afternoon at two o'clock in Room No. 4.

Delegate Tun: I wish to remind the members of your Committee on General Provisions who attended our meeting yesterday that we will have another meeting this afternoon at two o'clock in Room No. 1. The room is without tables, and if it could be arranged so that we could have some tables in the room this would be appreciated by the Committee. There are plenty of chairs but they are broken.

Delegate Cabrera: I just want the record to show that with the seating of Delegate Rasa the Convention now almost has a complete complement of the Marianas Delegation except for one seat which is not resolved at the present time. We are hoping that that will be resolved and, as a result, we will have an additional Delegate to this Convention. Thank you, Mr. President.

Delegate Ismael: I would like to remind the members of the Committee on Governmental Functions of our meeting this afternoon. I would also like to request that Delegate Luke Tman, Delegate Daro Weital and Delegate Kikuo Apis appear before this Committee at 2:30 p.m. this afternoon. Finally, I would like to request the Chairman of the Marshalls Delegation, if it is possible, to send the Marshalls Delegation to observe the proceedings of this Committee since both members of the Committee from the Marshalls are not here yet.

Delegate Carl Heine: Your Committee on Civil Liberties will have a very short meeting immediately after this morning's session in Room No. 3. I urge every member to be present in that meeting. Also, I would like to state for the record that I would like very much to have a member from the Marianas Delegation sit in that Committee. The Marianas has not been represented in our Committee meetings from the very beginning and I would very much appreciate it if a member from that delegation would be assigned to the Committee on Civil Liberties. Thank you, Mr. President.

Delegate Williander: Your Committee on Style and Arrangement will have a two-hour meeting starting at four o'clock today. Thank you very much.

President Nakayama: I would like to ask the members of the Administration Committee to have a short meeting right after the recess in Room No. 1 -- I am told that there are no tables, so we will change to Room No. 4, which is upstairs and since Delegate Chutomu Nimwes is not here it is all right. (Laughter)

Floor Leader Tmun: Members of my delegation join you, Mr. President, and other officers of the Convention in extending our hearty congratulations to Delegate Alfonso Rasa.

If there is no further business, I move that the Convention recess until 11:00 a.m. tomorrow morning.

Delegate Heldart seconded, and the motion carried. The Convention recessed at 11:55 a.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

FORTY-SIXTH DAY

Thursday, September 18, 1975

The Micronesian Constitutional Convention was called to order at 11:10 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Assistant Convention Secretary called the roll. There were 43 Delegates present. Delegates Albert, Andrike, Chief Bossy, Cruz, Haruo, John Heine, Namwarki Max Iriarte, Kallos, Kijiner, Mary Lanwi, Olter, Philippo and Salii were excused. Delegate Palacios was absent. A quorum was present.

ADOPTION OF THE JOURNAL

Floor Leader Tmun moved that the Journal of the 45th Day be adopted. Delegate Tun seconded, and the motion carried. The Journal of the 45th Day was adopted by the Convention.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 150, entitled "A Proposal relating to the inspection and search of the Chief Executive, the Deputy Chief Executive, and the members of the Council of Traditional Leaders.", was introduced by Delegate Isaac Lanwi.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 148, entitled "A Proposal relating to leases of land.", was referred to the Committee on Civil Liberties.

Delegate Proposal No. 149, entitled "A Proposal relating to Reefs, Lagoons and Ocean Waters.", was referred to the Committee on Civil Liberties and the Committee on General Provisions.

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

None

ANNOUNCEMENTS

The Chair recognized Delegate Tun.

Delegate Tun: Thank you, Mr. President. I would like to remind the members of your Committee on General Provisions that we will be meeting again today in Room No. 1 at 2:00 o'clock. The purpose of the meeting, for those members who did not attend the meeting yesterday, is to take final action on proposals relating to the amendment of the Constitution. Thank you.

Delegate Cabrera: Mr. President and members of this Convention, I would like to introduce a recent returnee from a law school in the United States. He has recently joined the Public Defender's Office in the Marianas District. Ladies and gentlemen, please welcome Ramon Villagomez. (Applause)

Delegate Ismael: I would like to invite members of your Committee on Governmental Functions to meet at two o'clock this afternoon. I would like to urge the following Delegates to appear to testify before this Committee: Delegate Chief Joseph, Delegate Mwety and Delegate Nimwes. Please appear before us this afternoon at 2:30 p.m. Members of your Committee are urged to meet at two o'clock sharp in this chamber. Also, I would like to announce that according to the majority of the members in this Committee, there will be a meeting at nine o'clock tomorrow morning.

Delegate Wainit: I would like to announce that your Committee on Public Finance finds it necessary to hold meetings every morning at 9:30 a.m. This will be Monday through Friday. If deemed necessary, meetings on Saturday and Sunday will be announced separately on the floor.

Delegate Williander: I wish to announce to the members of your Committee on Style and Arrangement that there will be a meeting today at four o'clock. The place will be announced as appropriate. The subject of the meeting is to consider Proposals No. 5 and No. 6. Thank you very much.

Delegate Sawaichi: Your Special Conference Committee will have a meeting tomorrow morning at 8:30 a.m. in Room No. 3. I request that all the members be present.

Delegate Nimwes: Mr. President, I am to be in two different committees at the same time at two o'clock. May I ask my Chairman of the Committee on General Provisions whether or not it is permissible that I appear before the other committee?

Delegate Tun: Something is very wrong with our schedule. Almost every day the Chairman of the Committee on Governmental Functions invites members of my committee to appear before his committee when my committee is having a meeting, but it is really up to Delegate Nimwes to decide where he should go. I expect everybody to attend the meeting since we are going to take final action on one of the most important proposals we have in our committee. Thank you.

Delegate Nimwes: Thank you, Mr. Chairman.

Floor Leader Tman: If there is no further business, I move that the Convention recess until 11:00 a.m. tomorrow morning.

Delegate Olikong seconded, and the motion carried. The Convention recessed at 11:20 a.m.

Respectfully submitted,

Victorio Uherbelau

Victorio Uherbelau
Convention Secretary

FORTY-SEVENTH DAY

Friday, September 19, 1975

The Micronesian Constitutional Convention was called to order at 11:10 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 44 Delegates present. Delegates Albert, Andrike, Borja, Cruz, Haruo, John Heine, Kalles, Kijiner, Mary Lanwi, Olter, Philippo and Salii were excused. Delegate Palacios was absent. A quorum was present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 46th Day be adopted. Delegate Toribiong seconded, and the motion carried. The Journal of the 46th Day was adopted by the Convention.

ACTION ON PROPOSED AMENDMENT TO RULES OF PROCEDURE

Rule 62a, regarding amendments to Committee Proposals.

Floor Leader Tman: I believe that this proposed amendment was distributed even before the recess. It has been postponed since then for several reasons, one of them being to give adequate notice to all the Delegates to be familiar with the proposed rule. I move that the addition of Rule 62a to the Rules of Procedure be adopted with the proviso that it take effect on September 22, that is Monday.

Delegated Ngiraked seconded the motion.

Delegate Wainit: May I ask the Convention Secretary to read the full text of the proposed amendment as many of us don't have a copy, as pointed out that it was distributed a long time ago.

The Chair requested that the Convention Secretary read the text of the proposed amendment, as follows:

> Rule 62a. Amendment to Committee Proposal. An amendment to a Committee Proposal, whether at Plenary Session or in Committee of the Whole, shall be presented in writing to the Secretary before the convening of the session at which the Committee Proposal will be considered. The Secretary shall duplicate the amendment for distribution to Delegates in advance of its being moved. Any amendment to the amendment may be made orally, but may be required to be reduced to writing and duplicated before being voted on.

There being no further discussion, the motion carried to adopt Rule 62a as an amendment to the Rules of Procedure.

COMMUNICATIONS FROM T.T. GOVERNMENT

No. 1 - Letter from the Department of Public Affairs regarding Micronesian Constitutional Convention radio coverage.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 3, "A Proposal relating to the power of eminent domain."

The Chair recognized Delegate Ismael.

Delegate Ismael: Thank you, Mr. President. Committee Proposal No. 3 deals with eminent domain power. I move that Committee Proposal No. 3 be adopted.

Delegate Falanruw seconded the motion.

Floor Leader Tman: I would recommend that we follow our Rules of Procedure by resolving into the Committee of the Whole to take up Committee Proposal No. 3. If my good friend, Delegate Ismael, will withdraw his motion, I will make an appropriate motion.

Delegate Ismael: I withdraw my motion.

Delegate Apis: I understand that before we went on recess the Minority Report was supposed to be considered the amendment. My understanding is that it should be taken up first before the Majority Report.

Floor Leader Tman: If we resolve into the Committee of the Whole, I will be more than glad to explain the actual status of Committee Proposal No. 3. Since my good friend, Delegate Ismael, has withdrawn his motion, I now move that the Convention resolve into the Committee of the Whole to consider Committee Proposal No. 3.

Delegate Falanruw seconded, and the motion carried to resolve into the Committee of the Whole.

The President requested that Floor Leader Tman preside over the Committee of the Whole.

The Convention resolved itself into the Committee of the Whole at 11:20 a.m.

The Convention reconvened in Plenary Session at 12:20 p.m.

President Nakayama: We will now receive the report of the Committee of the Whole relating to eminent domain, that is Committee Proposal No. 3.

Floor Leader Tman: I regret to report that the Committee of the Whole was again unable to reach a consensus with respect to the adoption of Committee Proposal No. 3. The Committee of the Whole considered the minority proposal, which was treated as an amendment to the majority proposal, with an additional amendment. Both amendments, however, were not accepted by the Committee of the Whole. The Committee of the Whole requests the Plenary Session that consideration of Committee Proposal No. 3 be further deferred until tomorrow in order to allow enough time for the Delegates to review a proposed amendment being offered by the Chairman of the Committee on Governmental Functions after having consulted with other Convention Delegates. The Committee of the Whole, however, did not receive any copies of the proposed amendment but, hopefully, the Chairman will distribute the proposed amendment either today or some time tomorrow. With that, Mr. President, I move for the acceptance of the oral report.

Delegate Tun seconded, and the motion carried to accept the oral report of the Committee of the Whole.

Floor Leader Tman: As recommended by your Committee of the Whole, I move that Committee Proposal No. 3 be deferred and be placed on the Second Reading Calendar for tomorrow.

Delegate Olikong seconded, and the motion carried to defer action on Committee Proposal No. 3 until September 20, 1975.

INTRODUCTION OF DELEGATE PROPOSALS

None

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 150, entitled "A Proposal relating to the inspection and search of the Chief Executive, the Deputy Chief Executive, and the members of the Council of Traditional Leaders.", was referred to the Committee on Governmental Functions.

INTRODUCTION OF RESOLUTIONS

Resolution No. 24, entitled "Resolution relating to further recesses of the Convention.", was introduced by Delegate Luke Tman.

REFERRAL OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

None

MISCELLANEOUS COMMUNICATIONS

16. Letter from Fred M. Zeder, Director, Territorial Affairs, United States Department of the Interior, expressing interest and support in the Micronesian Constitutional Convention.

ANNOUNCEMENTS

The Chair recognized Delegate Ismael.

Delegate Ismael: In order for perhaps most of the Committee Chairmen to schedule tomorrow's meetings, we would like to know what tomorrow's schedule will be relative to the Plenary Session so we can schedule accordingly.

Floor Leader Tman: The decision, of course, will have to be decided by the Convention; however, I was going to risk a motion to recess until two o'clock tomorrow afternoon.

Delegate Ismael: I would like to request that members of your Committee on Governmental Functions meet in this chamber at ten o'clock tomorrow morning for a meeting. I would also like to ask that all those Delegates who are invited to appear before the Committee to please appear before the Committee to justify your individual Proposals to the Committee.

Delegate Wainit: It is not clear whether we are going to have a Plenary Session or not. We want to have that clear before we make an announcement.

Delegate Ngiraked: I move that we hold the Plenary Session at 2:00 p.m. tomorrow.

Delegate Toribiong seconded, and the motion carried to hold the Plenary Session at 2:00 p.m. on September 20, 1975.

Delegate Wainit: Your Committee on Public Finance will have a meeting tomorrow at 9:30 a.m.

Delegate Tun: Thank you, Mr. President. From now until Monday, September 29, your Committee on General Provisions will hold meetings every day at two o'clock in Room No. 1, if we get tables in that room. So that I don't have to announce every day that we will meet, because we will be meeting every day except Sunday, when necessary, the Chairman of the Committee will announce that we will meet on Sunday. Today the subject of discussion of the Committee is citizenship, naturalization and immigration.

Delegate Carl Heine: Your Committee on Civil Liberties will have a meeting this afternoon at two o'clock in Room No. 3. I urge every member to be present at that time. Thank you, Mr. President.

Delegate Williander: Your Committee on Style and Arrangement will meet today at four o'clock in Room No. 3. It will be chaired by Delegate Isaac Lanwi from the Marshalls.

Delegate Ngiraked: I request that all the Palauan Delegates and staff meet at the thatch hut outside the Convention right after the Plenary Session.

Floor Leader Tman: If there is no further business or announcements, I move that the Convention recess until 2:00 p.m. tomorrow.

Delegate Falanruw seconded, and the motion carried. The Convention recessed at 12:30 p.m.

Respectfully submitted,

Victorio Uherbelau

Victorio Uherbelau
Convention Secretary

FORTY-EIGHTH DAY

Saturday, September 20, 1975

The Micronesian Constitutional Convention was called to order at 2:20 p.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 40 Delegates present. Delegates Albert, Andrike, Borja, Cruz, Haruo, John Heine, Kalles, Kijiner, Mary Lanwi, Manglona, Mateak, Ngiraked, Olter, Philippo, Sawaichi and Termeteet were excused. Delegate Palacios was absent. A quorum was present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 47th Day be adopted. Delegate Tacheliol seconded, and the motion carried. The Journal of the 47th Day was adopted by the Convention.

Floor Leader Tman: With a special request from my good colleague, one of the Delegates, I move that item number 13 of the Order of Business, Introduction of Resolutions, be made special business after item number 9, preceding item number 10.

Delegate Tun seconded and the motion carried.

INTRODUCTION OF RESOLUTIONS

Resolution No. 25, entitled "Resolution relating to Eminent Domain Power in the Marshall Islands.", was introduced by Delegate Isaac Lanwi.

Delegate Lanwi: Mr. President, now there is a Resolution being introduced and it is being distributed to each member Delegate. It will take just a short moment for them to read it before proceeding on to item number 10 of the Order of Business.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 3, "A Proposal relating to the power of eminent domain."

Delegate Ismael: Mr. President, before I make a motion relative to Committee Proposal No. 3, I would like to take this opportunity, if I may, to offer a few remarks.

Mr. President, fellow Delegates:

Since the first week of this Convention, we all have been faced with the complicated issue of eminent domain. Different viewpoints have been expressed and countless man-hours have been spent by your Committee on Governmental Functions in formulating a position on this all-important and necessary power of any government.

I say this because eminent domain---the power of a government to take private property for public use---is considered by your Committee to be essential. If our new government of Micronesia is to be a responsible government, a government able to carry out its duties and obligations, then this power must be granted to it. Accordingly, your Committee has concluded that the new government of Micronesia must be given this power in its Constitution so this power can be exercised if and whenever necessary in the best interests of our people.

The very purpose of any government is to serve the needs and interests of the community at large. If this means acquiring land for a school or hospital from a reluctant landowner, then the overall betterment and interests of the community as a whole should be considered over the interests of a private landowner.

Unfortunately, the manner in which this power has been used, and abused, during long decades of foreign rule has created a fear of this power among our people. This, I admit, is understandable. But what must also be understood here today is that we are not creating another colonial government. We are creating a wholly Micronesian government, a government which, for the first time in history, will be responsible only to the people of Micronesia. For this reason alone, fears of future abuse of this important power should be minimized and set aside since it is very unlikely that a democratically chosen Micronesian government would abuse this power anytime in the future.

Another reason why eminent domain is necessary is because the negotiations of our future political status could require acquisition of land for defense and foreign affairs purposes. Therefore our government must have the ability to live up to such an agreement. Without this power, private landowners will be able to set unfair prices on their land, and take large sums of tax money from the government for pieces of land that may be badly needed for a school or road.

Your Committee believes, Mr. President, that because of the importance of land to all of us, eminent domain power should be exercised only with the expressed approval of the respective district involved. In making this decision, we have taken into consideration some very important points:

1. The district government will approve the exercise of eminent domain by the central government only when it sees the merits of the project. If the district government does not agree, then it should be able to prevent the project by various means, one of which would be to block the exercise of this power.

2. Since land is a basic and fundamental ingredient of survival in Micronesia, to take a family's land can destroy that family. Your Committee, therefore, recognizes that the district governments themselves can best be the judge of what harm, if any, would result if land need be taken by the national government.

During hearings to consider various Delegate Proposals relating to eminent domain, several ideas were suggested:

1. That we leave it to the districts, and to district Constitutions, to decide if a lower level of government, such as the municipalities, should have this important power;

2. That in calculating the value of land, customary and religious significances be considered. For example, land where relatives are buried should be given higher value than where no such places exist, and land where some other customary importance exists should be considered to have higher value;

3. If possible, land taken by eminent domain should be compensated in the form of a land-exchange of comparable productive value, marketably and agriculturally; and

4. At the option of the landowner, cash compensation could either be in the form of a lump sum payment or an annual payment to the family calculated to be equal to the annual productive value of the land.

Each of these issues were treated as serious concern to your Committee. Consequently they were adopted as an amendment to Committee Proposal No. 3. However, it was later resolved that these proposed amendments should be left to each District discretion for inclusion into their own district constitutions as they so determine.

Mr. President, for this reason your Committee on Governmental Functions is introducing the original Committee Proposal No. 3 this afternoon. I now move that we resolve into the Committee of the Whole in order to consider Committee Proposal No. 3.

Floor Leader Tman seconded, and the motion carried to resolve into the Committee of the Whole.

The President requested Vice President Larry Cabrera to preside over the Committee of the Whole.

The Convention resolved itself into the Committee of the Whole at 2:37 p.m.

The Convention reconvened in Plenary Session at 4:10 p.m.

President Nakayama: We will now receive the oral report from the Committee of the Whole relative to Committee Proposal No. 3 on eminent domain.

Delegate Cabrera: Mr. President, your Committee of the Whole, to which Committee Proposal No. 3 was referred for action, begs leave to report that during the discussions there were two amendments offered amending the Committee Proposal, but that a third amendment offered by Floor Leader Tman was adopted and made a part of Committee Proposal No. 3, with a report that the Committee of the Whole requests action by the Plenary Session.

Floor Leader Tman: I move for the acceptance of the oral report presented by Chairman Cabrera.

Delegate Tun seconded and the motion carried. The oral report of the Committee of the Whole was accepted by the Convention.

Floor Leader Tman: Mr. President, as recommended by your Committee of the Whole, I move that Committee Proposal No. 3, as amended by the Committee of the Whole, be adopted and referred to the Committee on Style and Arrangement.

Delegate Tun seconded and the motion carried to adopt Committee Proposal No. 3, as amended, and refer it to the Committee on Style and Arrangement.

INTRODUCTION OF DELEGATE PROPOSALS

None

ACTION ON RESOLUTIONS

Resolution No. 24, entitled "Resolution relating to further recesses of the Convention."

Floor Leader Tman: Mr. President, Resolution No. 24 was introduced yesterday and not referred to committee, therefore the Plenary Session is at liberty to discuss it. I move for the adoption of Resolution No. 24.

Delegate Cabrera seconded and the motion carried to adopt Resolution No. 24.

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Isaac Lanwi: Mr. President, may I take this opportunity to ask the Convention to recognize the presence of Robert Beckmann, former Peace Corps attorney with the Congress of Micronesia. (Applause)

Also for recognition is Dr. Minoru F. Ueki, former member of the House of Representatives, Congress of Micronesia, and now District Director of Health Services in Palau. (Applause)

Delegate Yoma: I would like this Convention to recognize the presence of Reverend Williams, resident missionary for the Saipan Community Church. (Applause)

Delegate Salii: I have been asked by our High Chief Ibedul to remind all Delegates and interested persons of the party being hosted by members of the Palau Delegation and the local Palauan community. It's at 6:00 p.m. tonight.

Delegate Olikong: I wish to add a bit more information to an earlier announcement. Bob Beckmann also worked as legal counsel in Palau during his time in Micronesia. (Applause)

Delegate Ismael: Relative to the introduction of Dr. Ueki, he is also President of the Micronesian Medical Association and we are very happy to have him with us in this Convention. (Applause)

ANNOUNCEMENTS

None

Floor Leader Tman: By virtue of Resolution No. 24's adoption, tomorrow, Sunday, is a recess day not counted against the 90-day session. I, therefore, move that we recess until 11:00 a.m. on Monday, September 22.

Delegate Olikong seconded and the motion carried. The Convention recessed at 4:17 p.m.

Respectfully submitted,

Victorio Uherbelau
Victorio Uherbelau
Convention Secretary

FORTY-NINTH DAY

Monday, September 22, 1975

The Micronesian Constitutional Convention was called to order at 11:10 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 44 Delegates present. Delegates Albert, Andrike, Borja, Cruz, John Heine, Kalles, Kijiner, Mary Lanwi, Olter, Philippo, Stephen and Tman were excused. Delegate Palacios was absent. A quorum was present.

Acting Floor Leader Tun moved that the Journal of the 48th Day be adopted. Delegate Nakamura seconded the motion.

The Chair recognized Delegate Falcam.

Delegate Falcam: I don't know how many of the Delegates are in the same situation I am, but I don't have a copy of the Journal.

President Nakayama: May I declare a short recess, subject to the call of the Chair, so that you can have the Journal before we adopt it.

Delegate Cabrera: Before we break for a short recess, Mr. President, I want to take the opportunity to invite all of the Delegates and staff, on behalf of the Saipan Women's Association, to a refreshment right outside the Convention Hall. It is by no means as lavish as the party we had Saturday night but, just the same, I think we will have returned with a full stomach and be able to function more effectively. Thank you. (Applause)

The President declared a short recess, subject to the call of the Chair, at 11:15 a.m.

RECESS

The Convention reconvened at 11:30 a.m.

There being no further discussion, the Journal of the 48th Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

The Chair recognized Acting Floor Leader Tun.

Acting Floor Leader Tun: In addition to Standing Committee Report No. 9, which has been distributed, copies of the report of the Joint Committee on Law of the Sea have also been distributed for the information of the Delegates before we take final action on Committee Proposal No. 7. I now move for the acceptance of Committee Report No. 9.

Delegate Ngiraked seconded, and the motion carried. Committee Report No. 9, regarding Committee Proposal No. 7, was accepted by the Convention.

Acting Floor Leader Tun: I move for the acceptance of Standing Committee Report No. 10, relating to Committee Proposal No. 8.

Delegate Wainit seconded, and the motion carried. Committee Report No. 10, regarding Committee Proposal No. 8, was accepted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 7, "A Proposal relating to the territory of the state of Micronesia."

Acting Floor Leader Tun moved that Committee Proposal No. 7 be passed on First Reading. Delegate Weital seconded the motion.

The Chair recognized Delegate Haruo.

Delegate Haruo: Before we adopt the proposal, I have some points of information to raise. I have some questions on line 7 to line 9, page two, with regard to "Boundaries of states may be changed by law with the consent of the state legislature concerned and with the consent of the inhabitants of the affected areas." I would like to be enlightened as to whether the thinking behind this is to acquire the consent of both the state legislature and the inhabitants of such an area in the event of acquiring additional land or boundaries for the territory.

Acting Floor Leader Tun: The Delegate's answer to the question is correct. The boundaries of states may be changed with the consent of the state legislature concerned and also with the consent of the inhabitants of the area affected. In other words, an area cannot be placed in a district without the consent of its inhabitants. Also, that cannot be done if the district legislature affected does not consent to change the boundaries to include the area in the district concerned.

Delegate Haruo: For all practical purposes, the legislators are selected by the people in a particular area. I would assume that the legislature would be in a position to speak or to consent for any transaction affecting such an area. I am wondering if the legislature itself could consent alone, aside from the inhabitants themselves, because I think the legislature itself could speak for the inhabitants in that area.

Delegate Nimwes: Although that is very true, this phrase is an assurance to the inhabitants that they should be consulted by the legislature.

Delegate Haruo: It does not say that the legislature will consult with the inhabitants. It says that you have to acquire the consent of both the legislature and the inhabitants. Presumably the legislature could speak for the inhabitants in a particular area. I cannot comprehend having the consensus of two parties.

President Nakayama: Perhaps we can reserve the debating on the subject to the Plenary Session and the Committee of the Whole to save time. At this time we are merely acting on the First Reading of the subject matter, and I wonder if we shouldn't proceed to adopting it.

There being no further discussion, the motion carried to pass on First Reading Committee Proposal No. 7.

Committee Proposal No. 8, "A Proposal relating to amending the Constitution."

Acting Floor Leader Tun moved that Committee Proposal No. 8 be passed on First Reading. Delegate Weital seconded. The motion carried to pass on First Reading Committee Proposal No. 8.

SECOND READING CALENDAR — REFERRAL OF COMMITTEE PROPOSALS

Committee Proposal No. 3, Committee of the Whole Draft No. 1 (CWD 1), entitled "A Proposal relating to the power of eminent domain.", was referred to the Committee on Style and Arrangement.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 151, entitled "A Proposal relating to local government.", was introduced by Delegate Ismael.

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Rasa.

Delegate Rasa: Thank you, Mr. President.

Mr. President and fellow Delegates: This morning I want to offer my sincere congratulations to this Convention for reaching a consensus Saturday on one of the most complex issues facing this Convention: control of our land, or eminent domain, and who will control this important power.

For centuries our people in Yap, Truk, Ponape, Palau, the Marshalls and the Marianas have all been victimized by governments that have again and again taken our precious land for their own selfish reasons. Even as a United Nations Trust Territory, in actual practice we cannot say we "own" our territory; we can only say we were forced to "trust" the foreign administrator who still today controls the majority of the total land area in Micronesia.

But under our new government, our Micronesian government, the effect of the proposal we approved Saturday will be for each of us--each district legislature to control our own district's lands.

None of us will ever interfere with another district's lands. But, Mr. President, I am deeply saddened by the thought that if the United States Senate approves the Marianas Commonwealth Agreement, the Marianas Legislature will never enjoy the privilege and God-given right of controlling its own land. Because if the Commonwealth is approved, eminent domain--the supreme power to take private land for public use, including military use--will not rest in the hands of the Marianas District Legislature, as we have proposed here in this Convention. That power, under the Marianas Commonwealth, will rest solely in the hands of the United States Government, in Washington D.C., not in the hands of the new Marianas Commonwealth Government.

As for myself, I do not believe for one moment that the Marianas people I represent here today want to give this crucial power to the same government that has abused us so much in the past. That same government, after 30 years, still holds 90 percent of our land in the Marianas District. I want the record to show that the Congress of Micronesia made a wise decision by rejecting America's offer of commonwealth five years ago for all the districts. As it stands today, only one district, the Marianas, will not have this important power over their land. If the people of the Marianas can be happy without controlling their land, then so be it. As for myself, I can never endorse any status agreement that will not give our people this basic and fundamental right.

Thank you, Mr. President. (Applause)

Delegate Chief Joseph: Mr. President, I have a very short statement to make.

President Nakayama: Please proceed.

Delegate Chief Joseph: Mr. President, I may be too presumptuous for I am not the Chairman of our Delegation, but I would like at this time to have this opportunity, on behalf of the Truk Delegation and the people of Truk, to sincerely express our warmest appreciation to the very distinguished paramount chiefs of Palau, Ibedul and Reklai, members of the Palau Delegation to this Convention, and lastly, but not the least, to the people of Palau here in Saipan, for the very, very wonderful feast given last Saturday night in honor of all the Delegates and staff of this Convention. It was indeed an unusually delicious and very abundant meal. I find it somewhat difficult to think of other better words to describe the good feeling I have regarding the excellent reception. It was not the good food alone that made me feel good. It is also the feeling of unity that makes my heart big and happy.

Saturday night I accepted wholeheartedly the invitation to the feast. Because I am one of the firm believers in Micronesian unity, Mr. President, today I will respond to the request, if it is not a plea, of the paramount chiefs of Palau to "let Union Abide". Let me assure the chiefs and the people of Palau that Truk is, from the beginning, for the unity of Micronesia and will always remain united forever and ever. Yes, Mr. President and fellow Delegates, Truk is situated in the heart of Micronesia and can never be removed from it. On behalf of the traditional chiefs of Truk, I am now joining hands with the paramount chiefs of Palau to extend this same plea to the other districts' traditional chiefs to "let Union Abide".

I sometimes think of Micronesia as a paddling canoe trying to secure anchorage at both ends in order to not let it drift away. Instantly I call this canoe a real "Mili Tobi". I said that I am feeling good now. The "Tobi" end of the canoe is securely anchored. I am very happy, and I will be much happier to see the other end of the canoe, I call it "Mili", also securely anchored. With this one end of the Micronesian canoe now securely anchored, I am ready now to start working for the betterment of Micronesia.

Again, Mr. President and fellow Delegates, my very special "Kinisou Chapur" to the Ibedul and Reklai and to the people of Palau here in Saipan for the excellent feast.

I thank you, Mr. President. (Applause)

Delegate Isaac Lanwi: I have been asked, and am still asked, to say some words of gratitude for the festivities Saturday night, and as of this moment I want to represent the President of the Convention and the Chairman of the Delegation from the Marshalls as they have been asking me since that evening to express their gratitude. Now I am going to restate it again. I thank the many members of the Palauan community here and the members of the Delegation, but I am going to repeat it, thank you very much. It is needless for me to say this because, as the invitation read "Let Union Abide", this is not new because I, myself, have been united with Palau. There are several "Lanwi's" in Palau today. The word "Mili Tobi" was started in 1968 when I accompanied another Palauan gentleman to the United Nations. Since that time my heart has been in Palau all the time. I don't have to repeat it, but everybody knows that I am in Palau today---"Komesulang". (Applause)

ANNOUNCEMENTS

The Chair recognized Delegate Toribiong.

Delegate Toribiong: Thank you, Mr. President. Before I make my announcement, let me have this opportunity to introduce to this Convention two very prominent gentlemen from Palau who are with us in the gallery. May this Convention recognize the presence of Mr. Raymond Ulochong, the Acting Director of the Department of Public Affairs, and Mr. Daiziro Nakamura, the Chief of Civic Affairs. May I ask them to stand up, please? (Applause)

I wish to announce to the members of the Subcommittee on Legislative Functions of your Committee on Governmental Functions to meet with me and the staff attorney tonight at eight o'clock at the Ponape conference room in Hamilton's Hotel. I request all the members to please attend this very important meeting.

Delegate Cabrera: I now would like to ask the Convention to recognize the presence of the ladies who were responsible for the warm cookies and refreshment we just had. Mr. President and members of this Convention, please recognize Mrs. Agnes McPhetres, who is the President, Miss Bernie Reyes, Miss Catalina Seman, and Miss Josephine Sablan. (Applause)

President Nakayama: Thank you very much.

Delegate Ngiraked: On behalf of the Palau Delegation and the people of Palau, I wish to extend our gratitude to the beautiful ladies of Saipan for hosting a refreshment for the Convention. It is not the amount or the type of hospitality that we are concerned with, it is the feeling of involvement and participation, and the people of Saipan have already done a good job in hosting the whole Convention to the very beautiful island of Saipan. Thank you. (Applause)

Delegate Falanruw: Thank you, Mr. President. I also would like to announce to the members of the Subcommittee on Executive and Judiciary of your Committee on Governmental Functions to make sure they attend our meeting tonight at 8:00 p.m. here in this chamber. The subject of the meeting is to discuss, and hopefully come to a consensus, emergency power. Please be present.

Delegate Falcam: Thank you, Mr. President. This may be more in the form of a thank you note. We would not be true to ourselves if we, the Ponape Delegation, did not express our grateful appreciation for the reception given by the Palau Delegation, the Palauan community, and the people of Palau, Saturday night here in the Convention site. We thoroughly enjoyed the delicious spread of food, the most entertaining dances, and the good fellowship of that memorable evening. On behalf of the Ponape Delegation, we would like to extend our appreciation to all of them. Thank you, Mr. President. (Applause)

Delegate Carl Heine: Your Committee on Civil Liberties will have a meeting this afternoon at two o'clock in Room No. 3. May I request that every member be present. Thank you.

Delegate Ismael: I would like to remind the members of your Committee on Governmental Functions of our meeting at two o'clock this afternoon, and I would like to urge that those three Delegates whom we are requesting their presence to testify on their proposals, kindly make arrangements to be with us this afternoon. Lastly, I would like to urge that all members of this same committee be in the chamber at 9:30 a.m. tomorrow morning to review what recommendation will be coming out of the two subcommittees' meetings tonight. Thank you very much.

Delegate Williander: I realize that it is always hard in the morning to get up early from the bed; members of your Committee on Style and Arrangement found it hard to come to the eight o'clock meeting. Therefore, I now call again a meeting at four o'clock today. Thank you very much, Mr. President.

Delegate Yoma: This is a little bit of division of labor, as the Chairman of the Ponape Delegation has asked me to represent the Ponape Delegation to extend our appreciation to the ladies from the Marianas District. Thank you. (Applause)

President Nakayama: I would like to represent those Delegations that have not expressed their gratitude to the ladies who served us a refreshment and cookies this morning. I would like to say thank you very much--"Kinisou Chapur"--and don't forget to host another one toward the end of the Convention. (Laughter). The cookies and refreshment were so delicious and every one of us would like to have them again. Thank you very much. (Applause)

If there is no further business and if there are no objections from the

floor, the Chair wishes to declare this Convention recessed until 11:00 a.m. tomorrow morning.

The Convention recessed at 12:00 noon.

Respectfully submitted,

Victorio Uberbelau
Convention Secretary

FIFTIETH DAY

Tuesday, September 23, 1975

The Micronesian Constitutional Convention was called to order at 11:05 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 42 Delegates present. Delegates Andrike, Borja, Cruz, Gibbons, John Heine, Kendall, Kijiner, Mary Lanwi, Mangiona, Olikong, Olter, Philippo, Salii and Yoma were excused. Delegate Palacios was absent. A quorum was present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 49th Day be adopted. Delegate Falanruw seconded, and the motion carried. The Journal of the 49th Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Carl Heine.

Delegate Carl Heine: Mr. President, I move for the acceptance of Committee Report No. 11, relating to Committee Proposal No. 9 entitled "Providing for freedom of religion."

Floor Leader Tman seconded, and the motion carried to accept Committee Report No. 11.

Delegate Williander: Mr. President, I move for the acceptance of Committee Report No. 12.

Floor Leader Tman seconded, and the motion carried to accept Committee Report No. 12.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 9, "A Proposal providing for freedom of religion."

Delegate Carl Heine: I move for the adoption on First Reading of Committee Proposal No. 9.

Delegate Falanruw seconded and the motion carried. Committee Proposal No. 9 was adopted on First Reading.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 7, "A Proposal relating to the territory of the state of Micronesia."

Committee Proposal No. 8, "A Proposal relating to amending the Constitution."

Floor Leader Tman: Mr. President, in order for the Convention to consider Committee Proposal No. 7 and Committee Proposal No. 8 more thoroughly, I move that the Convention resolve into the Committee of the Whole.

Delegate Cabrera seconded and the motion carried to resolve into the Committee of the Whole.

The President requested Floor Leader Tman to preside over the Committee of the Whole.

The Convention resolved itself into the Committee of the Whole at 11:13 a.m.

The Convention reconvened in Plenary Session at 12:37 p.m.

President Nakayama requested Floor Leader Tman to present the oral report of the Committee of the Whole.

Floor Leader Tman: Your Committee of the Whole met to consider Committee Proposal No. 7 and Committee Proposal No. 8 and begs leave to report as follows: Your Committee was unable to reach a consensus and, therefore, has yet to recommend adoption of these two proposals. With respect to Committee Proposal No. 7, in view of some questions raised, your Committee recommends that consideration of this Proposal be deferred until Friday, September 26. With regard to Committee Proposal No. 8, similarly, your Committee of the Whole recommends that action be deferred until Thursday, September 25, in order to allow time for other members and other Delegates to further consider the question of procedure for amending the future Constitution of Micronesia. That is the summary of proceedings for your Committee of the Whole. I now move for acceptance of the oral report.

Delegate Toribiong seconded, and the motion carried to accept the oral report of the Committee of the Whole.

Floor Leader Tman: Mr. President, as recommended by your Committee of the Whole, I move that action on Committee Proposal No. 7 be deferred until Friday, September 26.

Delegate Toribiong seconded, and the motion carried. Action on Committee Proposal No. 7 was deferred until Friday, September 26.

Floor Leader Tman: Pursuant to the recommendation of your Committee of the Whole, I move that action on Committee Proposal No. 8 be deferred until Thursday, September 25.

Delegate Toribiong seconded, and the motion carried to defer action on Committee Proposal No. 8 until Thursday, September 25.

SECOND READING CALENDAR - FINAL ACTION

Committee Proposal No. 6(SD1), "A Proposal providing for a three-branch national government."

Delegate Williander: Mr. President, I move for the passage of Committee Proposal No. 6, Style and Arrangements Committee Draft No. 1, on the Second Reading Calendar.

Floor Leader Tman seconded.

Pursuant to the request of Floor Leader Tman, the President asked the Convention Secretary to read the entire text of Committee Proposal No. 6, (SD1).

Delegate Williander: Mr. President, I wish to take a few minutes to explain a few changes which were recommended for adoption on this Proposal. First, on line 2, the Committee on Style and Arrangement recommended that the word "central" be replaced by the word "national." It is the understanding of the Committee that the words "central" and "national" give the same intent, however, one might construe "central" as incorporating geographical area and dominance; while "national" would give the meaning of political identity and sovereignty. Secondly, Mr. President, in line 1 we would like to leave the words "article" and "section." It is the recommendation of your Style and Arrangement Committee that we would be adopting those words "article" and "section" in the final draft of our Constitution. The last one, Mr. President, is the word "Micronesia" appearing in line 3. For purposes of identification before the final adoption of the draft, we would like to leave the word "Micronesia" in all the Proposals until the Convention comes up with a recommendation as to the name of the new government.

President Nakayama: Passage of this Proposal for Second Reading will require that 32 Delegates vote affirmatively. That is a three-fourths vote of the Delegates present. Forty-two Delegates are present today and three-fourths of 42 is 32. Voting is by roll call.

Following roll call vote, the Convention Secretary reported that all 42 Delegates present had voted affirmatively for the passage of Committee Proposal No. 6, Style and Arrangment Draft 1, on Second Reading. Fifteen Delegates were excused and one Delegate was absent.

The President declared that Committee Proposal No. 6, Style and Arrangement Draft No. 1, had passed Second Reading.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 6 (SD1), having passed Second Reading, was re-referred to the Committee on Style and Arrangement.)

INTRODUCTION OF DELEGATE PROPOSALS

None

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 151, entitled "A Proposal relating to local government.", was referred to the Committee on Governmental Functions.

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Tun: Under Unfinished Business, and on behalf of the two traditional chiefs from Yap and the rest of the Delegates from my district and the staff of my Delegation, I would like to express gratitude and appreciation to the Palau Delegation and the local Palauan community for hosting a feast last Saturday for the Convention. I say this under Unfinished Business in our Order of Business because I realize I should have expressed the appreciation of my Delegation yesterday, which was the first day of our Plenary Session following the feast, however, because everybody was expressing appreciation yesterday I decided to wait until today. Time has passed but our appreciation to the Palauans and their Delegates has remained and will continue to remain as intensified as on the occasion of the feast. Once again I thank the Palauan Delegation and the Palauan community. Thank you, Mr. President. (Applause)

Delegate Max Iriarte: I would like to request that you assign or request explanation from one of the Delegates from the Marshalls regarding Resolution No. 20 inviting the Iroij and what has transpired since then.

President Nakayama: The request is directed to the Marshallese Delegation for one of them to explain what has become of Resolution No. 20 extending an invitation to the chiefs. Would one of the members of the Marshallese Delegation wish to respond to this? Delegate Carl Heine?

Delegate Carl Heine: Thank you, Mr. President. I don't think it is appropriate for this Delegation to make any comment,one way or other,with respect to that particular invitation. The invitation went out from this Convention; not from the Delegation of the Marshalls. We have simply relayed the name of several chiefs who have expressed their desire to attend the Convention. The matter, as far as I am concerned, is in the hands of the Convention and the Administration Committee. This Delegation has no authority to seat any chief from the Marshalls in this Convention. It is up to the Convention. So, Mr. President, that is the answer I can give.

Delegate Max Iriarte: In addition, Mr. President, I also sent a request to the High Commissioner, as a Delegate, requesting the publication or an official report concerning the result of the referendum held on July 8 and, to date, there has not been any communication regarding it. I believe there was sent a

opy to you as the director of this Convention. This request was made, erhaps, for the benefit of this Convention but to date I have not received nything and I would like to request that you further look into it.

elegate Carl Heine: I would like to introduce a visitor. I need not to say uch except that in the course of the past 20-something years under which icronesia has been under the United States' care, many times there have been problems ccur to people throughout Micronesia from east to west. I am talking about mergency cases where people have to be evacuated and brought to the attention f medical officers, whether on Guam or Kwajelein or Honolulu, as well as hroughout the military bases. We have been fortunate in getting the kind of ervices that these people have been willing to provide to the people of icronesia during all of these years. Therefore, Mr. President, I would like his Convention to recognize the presence of Lt. Cmdr. Jim Bateman who is he Navy Liaison Officer from the office of Rear Admiral Kent J. Carroll to the ffice of the High Commissioner. I think we owe these people some appreciation nd thanks. (Applause)

ANNOUNCEMENTS

elegate Carl Heine: Your Committee on Civil Liberties will meet today at wo o'clock in Room 3.

elegate Tun: The Committee on General Provisions, according to the schedule, ill meet today at the usual time in the usual place. The purpose of this eeting is to take final action on the Proposal dealing with supremacy of the icronesian Constitution and Micronesian sovereignty. My second announcement s to extend to the following persons an invitation to attend the meeting of he Committee tomorrow at two o'clock in Room 1. If there are not tables in oom 1 we will meet in Room 3. Tomorrow's meeting will be to consider the roposal that will be taken up on Thursday and the persons invited are Leo alcam, Larry Cabrera and Johnson Toribiong.

elegate Ismael: Your Committee on Governmental Functions will meet today t three o'clock. We would like to invite the following to appear: Delegate imwes and Delegate Apis. We would also like to invite Delegate Isaac Lanwi o attend the meeting at eight o'clock tonight. Lastly, the full Committee ill have a morning meeting in this Chamber at 9:30 a.m. tomorrow. The eeting tonight will be held at 8:00 p.m. at the Ponape Delegation Office at amilton's.

elegate Heinrich Iriarte: Mr. President, your Committee on Governmental tructure will meet tomorrow at nine o'clock in the morning in Room 4. We request that all members attend.

elegate Fritz: The Judiciary Subcommittee of Structure will meet at three o'clock today in Room 4.

elegate Wainit: The Committee on Finance and Taxation will follow their schedule and meet Monday through Friday at 9:30 in the morning.

elegate Wiliander: Your Committee on Style will meet today at four o'clock in Room 4.

elegate Tacheliol: In view of the meeting announcement of the Committee on Governmental Structure at nine o'clock tomorrow, it will conflict with your subcommittee. I, therefore, would like to announce to our members that I will announce the time of our next meeting after the session. Secondly, Mr. President, I would like to make a minor observation. Several times we have been asked to leave our folders in the Chambers so papers will be filed in the folders. And several times I have found papers missing and I cannot find them. I would like to request that whoever does the filing place them in the correct files.

loor Leader Tman: Mr. President, if there is no further business and no further announcements, I move that the Convention recess until eleven o'clock tomorrow morning.

Delegate Falanruw seconded, and the motion carried. The Convention recessed at 1:05 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

FIFTY-FIRST DAY

Wednesday, September 24, 1975

The Micronesian Constitutional Convention was called to order at 11:15 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 45 Delegates present. Delegates Andrike, Borja, Cruz, Kalles, Kendall, Kijiner, Mary Lanwi, Ngiraked, Otter, Philippo and Salii were excused. Delegate Palacios was absent. A quorum was present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 50th Day be adopted. Delegate Falanruw seconded, and the motion carried. The Journal of the 50th Day was adopted by the Convention.

DISTRIBUTION OF PROPOSED AMENDMENT TO RULES OF PROCEDURE

Pursuant to Rule No. 70, a proposed amendment to the Rules of Procedure was distributed, as follows:

"Rule 33 is hereby rescinded."

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Williander.

Delegate Williander: I move for the acceptance of Committee Report No. 13, relating to Committee Proposal No. 5 (SD1), entitled "A Proposal relating to the Preamble to the Constitution of Micronesia.", from the Committee on Style and Arrangement.

Floor Leader Tman seconded, and the motion carried to accept Committee Report No. 13 (SD1).

Delegate Tun: I move for the acceptance of Committee Report No. 14, relating to Committee Proposal No. 10, entitled "A Proposal relating to Citizenship, Naturalization and Immigration.", from the Committee on General Provisions.

Floor Leader Tman seconded, and the motion carried to accept Committee Report No. 14.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 10, "A Proposal relating to Citizenship, Naturalization and Immigration."

Delegate Tun: I move for the passage on First Reading of Committee Proposal No. 10.

Floor Leader Tman seconded, and the motion carried. Committee Proposal No. 10 was passed on First Reading.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 9, "A Proposal providing for freedom of religion."

The Chair recognized Delegate Carl Heine.

Delegate Carl Heine: Mr. President, point of privilege. I would like to address myself this morning to a subject that is in the area of Civil Liberties with which I have been involved for the past several weeks in this Convention. The Micronesian people have enjoyed religious freedom for a number of years, and sometime during this Convention it will be our obligation to provide for some measure of freedom in the Constitution. The term "religion" refers to one's view of his relation to a Supreme Being. Necessarily, religion includes application that stems from one's relation to his Maker. Because of that we believe that this particular freedom, in comparison to the other rights, is an absolute freedom. We want to make sure that the mind and soul of the people in Micronesia must not be subject to some form of control by anyone. It means that neither a district nor the central government or the national government can set up a church, or pass laws which would aid a religion or religions, or prefer one religion over another, force or influence a person to go to a church against his will, or force him to profess a belief or disbelief in any religion. It means that no person can constitutionally be punished for entertaining or professing a religious belief or disbelief for church attendance or non-attendance. In short, Mr. President, the government must be neutral as among competing religious sects, but it also must be neutral as to an individual's beliefs and disbeliefs. Mr. President, unlike other functions of the government which could be divided up and shared, I submit that religious freedom must not be divided up because it is a matter of conscience and goes wherever there are human beings. It knows no geographical boundary. Its only boundary is in the realm of the spiritual world and in the conscience of every man. The founding fathers of a great democratic republic fought bloody wars and suffered torture and death for the right to worship God according to the varied dictates of conscience.

In Micronesia today I see an emerging society of young people--a society which has a great urge, for freedom or some measure of freedom, that is gradually increasing in Micronesia, not decreasing. I think we have an obligation to the future citizens of this society we are trying to structure here in order that they will have some measure to exercise their freedom to worship. Our wish, or if it is the wish on anyone's part, to control any religious minority group, or any other beliefs in Micronesia, I am afraid will backfire on many of us, because we must remember that when we try to control other people we also allow ourselves and the very same groups we are trying to protect to be subject to such control.

Mr. President, religious freedom is like self-determination. We in Micronesia have been very vocal in exercising our political rights. The concept of self-determination stands today as a major value in the world community. It is enshrined in the charter of the United Nations and rooted in the most elementary notions of government by consent of the government. Under its banners, scores of people throughout the world have achieved independence. Religious freedom must be safeguarded. I do not have to recall history in this Convention, Mr. President, but it is necessary that I must say that Protestantism, as we understand it in the eastern part of Micronesia, came as a result of Boston missionaries who came to Micronesia many years ago. Those missionaries were the descendants of the missionaries of people who escaped England many years ago to escape religious persecution in that country. This is one of the reasons that, of all the constitutions in the world, the United States Constitution provides some measure of separation of church and state, because it was the people who came from England with the same idea of escaping religious persecution who founded the early 13 colonies in the United States.

Mr. President, this is all I want to say. I hope this Convention will afford the same opportunity to all the religions and all the people's religious sects throughout Micronesia. Thank you very much.

mr

Floor Leader Tmau: I move that the Convention resolve into the Committee of the Whole to consider Committee Proposal No. 9.

Delegate Tun seconded, and the motion carried to resolve into the Committee of the Whole.

The President requested Delegate Leo Falcam to preside over the Committee of the Whole.

The Convention resolved itself into the Committee of the Whole at 11:30 a.m.

The Convention reconvened in Plenary Session at 12:31 p.m.

The President declared a short recess, subject to the call of the Chair, at 12:32 p.m.

RECESS

The Convention reconvened at 12:40 p.m.

President Nakayama requested that Delegate Falcam present the oral report of the Committee of the Whole.

Delegate Falcam: Your Committee of the Whole completed deliberation of Committee Proposal No. 9 which originated in the Committee on Civil Liberties regarding freedom of religion. The Committee of the Whole begs leave to report that after a lengthy discussion, during which viewpoints were presented, there was a motion put before the Committee of the Whole to defer action on this particular proposal until next week Wednesday. A vote of 12 to 27 was taken in favor of not postponing consideration until next week. Your Committee of the Whole then proceeded to adopt Committee Proposal No. 9, thus the oral report will indicate that your Committee of the Whole adopted Committee Proposal No. 9. Therefore, I move that the oral report be accepted.

Floor Leader Tmau seconded, and the motion carried. The oral report of the Committee of the Whole on Committee Proposal No. 9 was accepted by the Convention.

Floor Leader Tmau: Pursuant to the recommendation by the Committee of the Whole, I move that Committee Proposal No. 9 now be referred to your Committee on Style and Arrangement.

Delegate Toribiong seconded, and the motion carried to refer Committee Proposal No. 9 to the Committee on Style and Arrangement.

SECOND READING CALENDAR - FINAL ACTION

Committee Proposal No. 5 (SD1), "A Proposal relating to the Preamble to the Constitution of Micronesia."

Delegate Williander: I move for the passage of Committee Proposal No. 5 (SD1) on Second and Final Reading.

Delegate Falanruw seconded the motion.

Delegate Williander: If there is no objection from the floor, I wish to request that the Convention Secretary read the whole text of Committee Proposal No. 5, as amended by your Committee on Style and Arrangement.

There being no objection from the floor, the President requested the Convention Secretary to read the text of Committee Proposal No. 5 (SD1) in its entirety, as follows:

Committee Proposal No. 5 (SD1)

"A Proposal relating to the Preamble to the Constitution of Micronesia.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

PREAMBLE

WE, THE PEOPLE OF MICRONESIA, exercising our inherent sovereignty, do hereby establish this Constitution of Micronesia.

With this Constitution, we affirm our common wish to live together in peace and harmony, to preserve the heritage of the past, and to protect the promise of the future.

To make one nation of many islands, we respect the diversity of our cultures. Our differences enrich us. The seas bring us together, they do not separate us. Our islands sustain us, our island nation enlarges us and makes us stronger.

Our ancestors, who made their homes on these islands, displaced no people. We, who remain, wish no other home than this. Having known war, we hope for peace. Having been divided, we wish unity. Having been ruled, we seek freedom.

Micronesia began in the days when men explored seas in rafts and canoes. The Micronesian nation is born in an age when men voyage among stars; our world itself is an island. We extend to all nations what we seek from each: peace, friendship, cooperation, and love in our common humanity. With this Constitution we, who have been the wards of other nations, become the proud guardian of our own islands, now and forever."

The Chair recognized Delegate Mwety.

Delegate Mwety: Mr. President, I have a request. I am somewhat concerned that I do not have sufficient time to study proposals as they are returned to the Convention from the Style and Arrangement Committee. Other Delegates may not have this problem, but as a Delegate who needs the services of an interpreter, I do not find sufficient time to study such proposals for final action as they are distributed shortly before each day's Plenary Session. I would like to urge that a day be allowed for study of a proposal which is returned to the Convention by the Style and Arrangement Committee before final action is taken. Thank you, Mr. President.

President Nakayama: Thank you very much.

Delegate Toribiong: Mr. President, I have an observation to make. That's on line 11. I believe there is a typographical error before the word "people" on line 12. It should read: "...displaced no other people." This, I believe, was purely a typographical error because the Committee Report does not suggest that the word "other" was deleted. Thank you.

President Nakayama: We will have the Convention Secretary make the necessary technical correction.

Delegate Sony: Thank you, Mr. President. I just want to raise a point of information. I know that it has been pointed out several times that a preamble is not legally binding, but my main concern, as I understand it, is that a preamble is an introductory statement prefacing a constitution or a statute, setting forth the circumstances or reasons for adopting or passing a constitution. I have been making an analysis or comparison between our

preamble and other preambles, and I see a lot of similarities between our preamble and the other documents; however, I fail to see, and perhaps this is because I am not well apprised as to the other Delegate Proposals, mention of common defense. Perhaps it is taken care of but worded in a different way. Do I correctly understand this that we, the framers of this Constitution, because we wish or we hope for peace and friendship, will not allow in the Constitution itself the responsibility for our own common defense, not necessarily the national defense but private or individual defense? Could I be enlightened on that question, Mr. President? The reason why I raised the question is in case of ambiguities. I am sure the Court will refer to the preamble to ascertain the intentions of the framers.

Delegate Toribiong: I wish to respond to that inquiry. The second paragraph reads in part: "...we affirm our common wish to live together in peace and harmony,". That should imply domestic tranquility and peace with other nations. The same thing is restated in the last paragraph, the second to the last sentence, which says: "We extend to all nations what we seek from each:" and it mentions "peace". In the last sentence, I think it is pretty clear. It says: "With this Constitution we, who have been the wards of other nations, become the proud guardian..." I think "guardian" means to guard our islands from invasion, as well as to protect the inhabitants from any problems that might arise either internally or externally.

Delegate Carl Heine: Point of information, Mr. President. The action of this Convention at this point with respect to proposals coming out of the Style and Arrangement Committee, is it substantive or a procedural matter?

Floor Leader Tmau: I didn't hear the question.

President Nakayama: The question was whether action on this particular measure is on the procedure or substance.

Floor Leader Tmau: I would assume, Mr. President, that it was purely procedural--technical in nature.

Delegate Isaac Ianwi: This is just to clarify the thinking of some of the Delegates of the word "defense". I believe that it has been already explained by Delegate Toribiong, but then this is the Second Reading of the same proposal and it is the procedure. During the First-Second Reading, there was some amendment made and it was referred to the Style Committee who worked on it, passed it and brought it back to the Convention. I think this time it is just the custom of the Convention to let it pass because it has been passed on First-Second Reading. Now it is the Second-Final Reading. Thank you, Mr. President.

Delegate Ismael: First of all, I would like to congratulate the Delegation from Palau for originally coming up with this beautifully worded preamble; secondly, I would like to commend the Style and Arrangement Committee. I would like to adopt and urge that the Delegates adopt this preamble on account of two factors: first, the beautiful way it is written and, second, on page 1, line 13, it reads as follows: "Having been divided, we wish unity." If this Convention adopts this preamble it will be tantamount to meaning that we are going to be a united Micronesia. Thank you, Mr. President.

Delegate Tun: I move for the previous question.

Delegate Nimwes seconded, and the motion carried to vote on the previous question.

President Nakayama: Voting on the measure requires a minimum of 34 affirmative votes, that's three-fourths of 45 Delegates, and it shall be done by roll call. We shall now vote.

Following roll call vote, the Convention Secretary reported that there were 44 affirmative votes and one abstention. Eleven Delegates were excused and one Delegate was absent.

The President declared that Committee Proposal No. 5, Style and Arrangement Draft No. 1, had passed Second Reading.

Delegate Willander: I move that Committee Proposal No. 5 (SD1) be re-referred to your Committee on Style and Arrangement.

Floor Leader Tman seconded, and the motion carried to re-refer Committee Proposal No. 5 (SD1) to the Committee on Style and Arrangement.

SECOND READING CALENDAR — REFERRAL OF COMMITTEE PROPOSALS

Committee Proposal No. 6 (SD1), entitled "A Proposal providing for a three-branch national government.", was re-referred to the Committee on Style and Arrangement.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 152, entitled "A Proposal relating to the creation of the office of the Public Consul.", was introduced by Delegates Namwarki Max Iriarte, Naniken Heinrich Stephen, and William Eperiam.

Delegate Proposal No. 153, entitled "A Proposal relating to the levels of government in Micronesia and sovereign immunity.", was introduced by Delegates Namwarki Max Iriarte, Naniken Heinrich Stephen, and William Eperiam.

INTRODUCTION OF RESOLUTIONS

Resolution No. 26, entitled "Resolution declaring a vacancy for the seat previously held by Dr. Francisco T. Palacios.", was introduced by Delegate Limes.

The Chair recognized Delegate Limes.

Delegate Limes: Mr. President, I don't know whether I am out of order, but since Resolution No. 26 has been passed to the Delegates, I would like to make a few comments before I make any commitment. This Resolution has no bearing whatsoever to demoralize or create any prejudice or ill feeling between the person concerned and the people he was supposed to represent. Therefore, Mr. President and fellow Delegates, I would like to go on the record that this Resolution should be considered on the basis that the ethnic group on the island of Saipan has not been represented, and I think the gentleman, whom the ethnic group has appointed, has a reason but because of exhausting communications and other means of requesting that he take his seat, he has not complied. Therefore, Mr. President and fellow Delegates, by no means is this thing to create any ill feelings, as I have stated before. May I take this privilege to move for the adoption of Resolution No. 26.

Delegate Ismael seconded the motion.

Floor Leader Tman: With the indulgence of the Delegates, I move for a very short recess.

Delegate Nimwes seconded and the motion carried. The Convention recessed, subject to the call of the Chair, at 1:06 p.m.

RECESS

The Convention reconvened at 1:15 p.m.

President Nakayama: Before the Convention is the motion to adopt Resolution No. 26.

The Chair recognized Delegate Limes.

Delegate Limes: Mr. President and fellow Delegates, due to unforeseen circumstances, I would like to refer the Resolution for tomorrow's calendar because I just received notice that Dr. Palacios will be present tomorrow and he will probably present his view in regard to why he has not attended this Convention. Thank you.

President Nakayama: Would that have the effect of withdrawing your motion?

Delegate Limes: Yes, I withdraw my motion.

Delegate Falcam: Today is the 51st day for this Convention. While I appreciate the withdrawal of the motion for the adoption of the Resolution, I think this Convention is charged with a very essential task. Answers from a Delegate not participating should have been forthcoming 25 days ago. I hope that this Convention will be able to make a decision on this matter tomorrow, if not earlier. Thank you very much, Mr. President.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Rasa.

Delegate Rasa: Thank you, Mr. President. I would like to submit this document to be inserted in the Journal for record purposes.

President Nakayama: Is there a motion?

Delegate Falcam: Point of privilege, Mr. President. I request for a brief recess to attend to an emergency situation here. (Delegate Apis required immediate medical attention.)

The President declared the Convention in recess, subject to the call of the Chair, at 1:17 p.m.

RECESS

The Convention reconvened at 1:25 p.m.

The Chair recognized Delegate Rasa.

Delegate Rasa: I would like to move that the mentioned document be inserted in the Journal.

Delegate Limes seconded, and the motion carried to insert in the Journal the following document:

Telegram to Hon. Gary Hart, U.S. Senate, Washington, D.C.:

"AS ELECTED DELEGATES TO THE MICRONESIAN CONSTITUTIONAL CONVENTION FROM THE MARIANAS ISLANDS DISTRICT, WE UNEQUIVOCALLY OPPOSE ANY ACTIONS BY THE UNITED STATES SENATE THAT COULD RESULT IN THE SEPARATION OF OUR ISLANDS FROM THE REST OF MICRONESIA X WE BELIEVE THE SENATE, IN LIEU OF THE UNITED NATIONS TRUSTEESHIP AGREEMENT, HAS AN OBLIGATION TO THE VAST MAJORITY OF MICRONESIANS WHO SUPPORT UNITY FOR ALL SIX DISTRICTS OF THE TRUST TERRITORY OF THE PACIFIC ISLANDS X WE HASTEN TO REMIND THE SENATE THAT THE PEOPLE OF MICRONESIA, THROUGH OUR NATIONAL LEGISLATURE, HAVE NOT YET SPOKEN REGARDING OUR FUTURE POLITICAL STATUS X WE RECOGNIZE THE CONGRESS OF MICRONESIA AS THE SOLE NEGOTIATOR FOR ALL SIX DISTRICTS, MARIANAS INCLUDED, AND STRONGLY BELIEVE INTENTIONS TO SEPARATE ANY DISTRICT FROM THE MICRONESIAN MAJORITY IS LEGALLY AND MORALLY WRONG X ALFONSO RASA AND LUIS LIMES SEND X"

President Nakayama: I would like at this time to take the opportunity to invite Rev. Williams to come forth and present to the Convention some gifts that he has brought with him from the Community Church of Saipan. (Rev. Williams stepped to the podium.) If you would like to make a statement, you may do so.

Reverend Williams: Mr. President and honorable Delegates. I first would like to say that we did not know that you would be discussing religious liberty when we asked for the opportunity to come today. I have a letter that I would like to read from the Community Church.

> "You have been given the tremendous responsibility of writing a Constitution for a new nation. We commend you for seeking God's guidance. The Saipan Community Church requests the privilege of presenting these personalized bibles to each of you as a token of our appreciation for what you are doing. May God's holy word inspire you in this holy task of writing a Constitution for God's people. May his holy spirit give you wisdom and ability beyond that of mortal man. We, your brothers and sisters in Christ, desire to express our confidence in you and give you fresh assurance of our prayers."

At this time, I would like to present your bible, Mr. President, and thank you. (Applause)

President Nakayama: Thank you. Please express our appreciation to the Saipan Community Church.

ANNOUNCEMENTS

The Chair recognized Delegate Tun.

Delegate Tun: I would like to announce that the meeting of your Committee on General Provisions will not be held today at the usual time but rather an hour later, that's at three o'clock, at the usual place. The purpose of the meeting this afternoon is three-fold. First, to continue and hopefully complete discussion on Committee Proposal No. 8 relating to amending the Constitution, which is scheduled to be reconsidered by the Convention tomorrow. To this discussion I wish to again invite the following Delegates: Leo Falcam, Larry Cabrera and Johnson Toribiong. If these Delegates could participate in and contribute to the discussion the Committee would appreciate it very much. Second, to continue the discussion on the subject of supremacy of the Constitution and Micronesian sovereignty. Third, to begin, if possible, as scheduled by the Committee, the consideration of the secession, withdrawal and admission of new states. Thank you very much.

Delegate Cabrera: First, I would want my good friend Delegate Tun to know that I will be there at the meeting this afternoon. Second, I want to take the opportunity to ask the Convention to recognize the presence of a friend of Micronesia who is revisiting Micronesia for pleasure. She is Miss Diane Wildman, who has returned to the United States and is now a producer of NBC news. Thank you. (Applause)

Delegate Yoma: This afternoon I would like to introduce to this Convention a very prominent citizen of the sovereign municipality of Sokehs, which I represent in this Convention. He is Mr. Judah C. Johnny. (Applause)

Delegate Ismael: I would like to ask the members of your Committee on Governmental Functions to meet not at two o'clock, as we normally schedule our meetings, but at 3:30 p.m. this afternoon. I would like to invite Delegate Chief Bossy. If he cannot make it we would be happy to have his interpreter appear before us to testify to the Committee on Delegate Proposal No. 80. We also invite Delegate Wainit relative to Delegate Proposals No. 98, No. 99 and No. 130. Members of the Committee are reminded

that there will be a meeting tonight again at 8:00 p.m. at the Ponape Delegation conference room and we are inviting Delegate Chutomu Nimwes to appear before this Committee relative to Delegate Proposals No. 42 and No. 43. Finally, Mr. President, I would like for this Convention to recognize the presence of Mr. Conrad M. Douma, who is with the Faith Book Store in Guam. (Applause)

Delegate Cabrera: I just want to announce that the bible which is being distributed now is accepted by both the Catholic and Baptist-Protestant Mission here in Micronesia. Thank you.

Delegate Heidart: I want to announce that the Subcommittee on Legislative will meet in Room No. 4 at 3:30 p.m. this afternoon instead of meeting at two o'clock. I request the presence of Delegate Namwarki Max Iriarte in our meeting. Thank you.

Delegate Heinrich Iriarte: Thank you, Mr. President. I would like to announce that your Committee on Governmental Structure will have a meeting tomorrow at 9:00 a.m. in Room No. 4. (Applause -- Delegate Iriarte, instead of his interpreter, made the announcement)

Delegate Nimwes: I think Delegate Iriarte doesn't need an interpreter. (Laughter)

Delegate Yoma: Thank you, Mr. President. I believe that the process of introducing visitors in this gallery this afternoon will not be complete without this Convention recognizing Mrs. Williams--Reverend Williams' wife. (Applause)

Delegate Falcam: Thank you, Mr. President. I merely would like to welcome Delegate John Heine back to the Convention. (Applause)

President Nakayama: Yes, we are very happy to see John Heine back at the Convention after spending a few days in the hospital. We thank you for making the effort to sit with us during this long session today.

Delegate John Heine: Thank you, Mr. President and fellow Delegate Leo Falcam. I am not completely out of the hospital yet. I have orders from the hospital to check in at four o'clock and remain there until ten o'clock this coming Saturday.

Floor Leader Twan: Mr. President, I would like to make a special request to you and the Convention that, before you put the motion to recess until tomorrow, we rise for a moment of prayer and wish a speedy recovery for our good friend Delegate Apis.

I move that the Convention now recess until 11:00 a.m. tomorrow morning.

Delegate Olikong seconded, and the motion carried.

President Nakayama: Please rise for a moment of silent prayer.

The Convention recessed at 1:35 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

FIFTY-SECOND DAY

Thursday, September 25, 1975

The Micronesian Constitutional Convention was called to order at 11:20 a.m.

The Honorable Yosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 45 Delegates present. Delegates Andrike, Apis, Borja, Chief Bossy, Cruz, Haruo, Kendall, Kijiner, Mary Lanwi, Olikong, Olter and Philippo were excused. A quorum was present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 51st Day be adopted. Delegate Nakamura seconded, and the motion carried. The Journal of the 51st Day was adopted by the Convention.

ACTION ON PROPOSED AMENDMENT TO RULES OF PROCEDURE

The Chair recognized Floor Leader Tman.

Floor Leader Tman: I wish to risk a motion regarding the proposed amendment to Rule 33, which was introduced and distributed yesterday and has met the requirement of notice. I move that the proposed amendment to rescind Rule 33 be adopted.

Delegate Tun seconded, and the motion carried to rescind Rule 33 of the Rules of Procedure.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Williander.

Delegate Williander: I move for the acceptance of Committee Report No. 15.

Delegate Tun seconded the motion.

Delegate Fritz: Mr. President, I wish to make a point here that yesterday I talked to the Chairman that I concurred with the style only on this report but it failed to show that in this report. I want you to know that I concur to the style only but not to the contents of the proposal.

President Nakayama: Thank you.

There being no further discussion, the motion carried to accept Committee Report No. 15, relating to Committee Proposal No. 3 (CWD1), (SD1), from the Committee on Style and Arrangement.

SECOND READING OF COMMITTEE PROPOSALS

The Chair recognized Delegate Tun.

Delegate Tun: Thank you, Mr. President. Before we go into the Committee of the Whole to resume our deliberations from last Tuesday on Committee Proposal No. 8 relative to amending the Constitution, I would like to say a few words of explanation for the benefit of the Delegates, for the record, and for the reference of anyone who may in the future find it difficult to interpret the intent of the subject proposal. My explanation, I am confident, will serve to eliminate the possibility of misinterpreting the

mathematics used in the proposal. From the last discussion, which was held on the Committee Proposal dealing with amending the Constitution, it was apparent that there are some problems in understanding the mathematics involved. However, there is really no ambiguity involved in these mathematics. For purposes of clarification, I would like to give an example of how to compute three-fourths of the states.

If there are six states in Micronesia, three-fourths of six is four and a half. A state either approves or disapproves the amendment. We cannot partition a state. Therefore it is necessary to round off four and a half to a whole number. If we were to round downward to four we would not have the required three-fourths approval. This is clear since four out of six is only two-thirds. Two-thirds is less than three-fourths. If a majority affirmative vote on a proposed amendment is received from only four of the six states, the amendment would not pass since it received the approval of less than three-fourths of the states. However, if we round upwards to five we would have the required approval. Five out of six is five-sixths, which is greater than three-fourths. Therefore, an affirmative majority vote from five of six states would constitute approval.

This procedure of rounding upwards applies no matter how many states there should be in Micronesia. This is because any time you round off downwards you come up with a whole number which is less than the required number of three-fourths of the states.

In our Committee Proposal we require a majority of the votes cast on that issue in three-fourths of the states for the approval of an amendment. This means that if we have six states, it would take 50 percent of the votes cast in two states disapproving to defeat an amendment. In hearings before our Committee, the feeling was expressed that it should be easier to defeat an amendment. For this reason, I am prepared to submit before this Convention an amendment for your consideration which would require the approval of three-fourths of the votes cast on that question in each of three-fourths of the states to pass an amendment. Under this amended proposal the disapproval of only 26 percent of the votes cast in two of the six states would be enough to defeat a proposed constitutional amendment. It will be much more difficult to amend the Constitution if this proposed amendment is adopted by the Convention.

Additionally, I am proposing the addition of the words "each of" immediately before the words three-fourths on line seven of page one of the Committee Proposal. The addition of these words makes it clear that you cannot total the votes from three-fourths of the states in order to see if you have received the majority required for approval. Thank you, Mr. President.

Floor Leader Tman: I move that the Convention resolve into the Committee of the Whole to consider Committee Proposal No. 8 and Committee Proposal No. 10.

Delegate Tacheliol seconded, and the motion carried to resolve into the Committee of the Whole.

The President requested that Floor Leader Tman preside over the Committee of the Whole.

The Convention resolved itself into the Committee of the Whole at 11:30 a.m.

The Convention reconvened in Plenary Session at 12:50 p.m.

The President requested that the Floor Leader present the oral report of the Committee of the Whole.

Floor Leader Tmau: I request the indulgence of the Convention to make the following report from the Committee of the Whole. Your Committee of the Whole considered Committee Proposal No. 8, relating to amending the Constitution, and begs leave to report as follows: Committee Proposal No. 8 was amended by the Committee of the Whole and adopted by the Committee of the Whole, and recommends referral of the proposal to the Committee on Style and Arrangement. With respect to Committee Proposal No. 10, relating to citizenship, naturalization and immigration, after a lengthy debate, your Committee of the Whole decided and therefore recommends to the Plenary Session that the proposal be recommitted to the Committee on General Provisions for further consideration by the Committee and report back to the Plenary. That's the summary of the proceeding of the Committee of the Whole.

Mr. President, I now move for the acceptance of the oral report of the Committee of the Whole.

Delegate Cabrera seconded, and the motion carried. The oral report of the Committee of the Whole on Committee Proposal No. 8 and Committee Proposal No. 10 was accepted by the Convention.

Floor Leader Tmau: I move that Committee Proposal No. 8, as amended by the Committee of the Whole, be referred to the Committee on Style and Arrangement.

Delegate Tun seconded, and the motion carried to refer Committee Proposal No. 8, as amended, to the Committee on Style and Arrangement.

Floor Leader Tmau: Pursuant to the recommendation of the Committee of the Whole, I move that Committee Proposal No. 10 be recommitted to the Committee on General Provisions.

Delegate Nimwes seconded, and the motion carried to recommit Committee Proposal No. 10 to the Committee on General Provisions.

SECOND READING CALENDAR - FINAL ACTION

Committee Proposal No. 3 (CWD1), (SD1), "Eminent Domain."

Delegate Willander: I move for the passage of Committee Proposal No. 3 (CWD1), (SD1) on Second and Final Reading.

Delegate Falanruw seconded the motion.

Floor Leader Tmau: I request that the Convention Secretary read Committee Proposal No. 3 (CWD1), (SD1).

Upon direction from the President, the Convention Secretary read the text of Committee Proposal No. 3 (CWD1), (SD1), as follows:

> "Eminent Domain. The exercise of the power of eminent domain is reserved to each of the district governments. Upon request by the national government, a district legislature may, by law, grant to the national government the right to exercise the power of eminent domain within its district."

Delegate Fritz: I wish to make a short remark on the subject matter.

President Nakayama: Please proceed.

Delegate Fritz: Mr. President, fellow Delegates:

Today, possibly for the last time, this Convention will face the issue of eminent domain. Before we refer this measure to the Style Committee, before we incorporate district-level eminent domain into our Constitution, I

want the record to reflect my feelings, and my people's feelings, on this important matter.

Mr. President, as you know, I represent more than two thousand residents of Dublon Island in Truk District. Many of my people lost their land to the Japanese. Their land was taken without compensation, without their consent. During the war their land was damaged. Dublon legal claims have still not been settled. Therefore, we, the people of Dublon, have good reason to oppose the exercise of eminent domain at any level of government.

I realize that the Convention has already expressed itself on this issue. A majority of Delegates have voted to give eminent domain power to the district legislatures. Perhaps it is too late to change the mind of the Convention on this matter, but I want you all to know that during the past recess, my constituents were strongly opposed to any kind of eminent domain power in the future Micronesian government.

Mr. President, yesterday this Convention approved a preamble. The preamble proudly declares that in coming to these islands, Micronesians displaced no other people. I hope that the future will not see Micronesians using this very power of eminent domain to displace one another.

Population is increasing throughout Micronesia. Land is scarce and becoming scarcer. On Dublon, people are aware of this. They oppose threatening what little land there is with the power of eminent domain, and I agree with them. I hope that this eminent domain power does not damage the future of our Constitution. I also hope that this eminent domain power does not endanger the future of Micronesia.

Thank you, Mr. President.

Floor Leader Tmun: The concern expressed by Delegate Fritz is very well taken. The effect of Committee Proposal No. 3, as amended, is really reserving the power of eminent domain for the people. While the proposal addresses itself to district government, it merely reserves that power of eminent domain to the government and that government, if we are to follow the democratic procedure, is to be made by the people who elect their own representatives. If a district does not wish to enact any legislation to provide the procedure for eminent domain proceedings, it has the option to do so. Thank you.

Delegate Mwety: Point of information, Mr. President. I would like to be enlightened on the meaning of the second paragraph, from line 3 to line 6, of Committee Proposal No. 3. If a district legislature makes an outright grant to the national government of the right to exercise the power of eminent domain within its district, can a subsequent legislature revoke such a grant?

Floor Leader Tmun: Point of privilege, Mr. President. May I request the interpreter for Delegate Mwety to restate the question? I did not quite grasp the meaning of his question.

President Nakayama: Would the interpreter restate the statement for clarification?

Interpreter (Delegate Mwety): If a district legislature, within the meaning of the second paragraph of that proposal, makes an outright grant to the national government of the right to exercise the power of eminent domain within its district, can a subsequent legislature revoke such a grant?

Floor Leader Tmun: Indeed, it can.

President Nakayama: The answer is yes.

Floor Leader Tman: I move for the previous question.

President Nakayama: Is there a second to close debate?

Delegate Falanruw seconded, and the motion carried to close debate.

President Nakayama: We will now proceed to vote on the proposal. The minimum required affirmative vote will be 34--that is three-fourths of 45. We will now proceed to vote by roll call.

Following roll call vote, the Convention Secretary reported that there were 32 affirmative votes, 11 no votes, and two abstentions. Twelve Delegates were excused. The required number of votes to pass was 34; therefore, the motion was defeated.

President Nakayama: May I pose a question, whether the abstentions affect the computation of the minimum requirement for passage, or would you deduct the two abstentions from the number of Delegates present and voting?

Floor Leader Tman: The abstentions are counted in the required three-fourths majority but they are not counted either for or against the motion. Therefore, Committee Proposal No. 3, as amended, is defeated.

President Nakayama: Committee Proposal No. 3 (CWD 1)(SD 1) has been defeated.

SECOND READING CALENDAR -- REFERRAL OF COMMITTEE PROPOSALS

Committee Proposal No. 9, entitled "A Proposal providing for freedom of religion.", was referred to the Committee on Style and Arrangement.

Committee Proposal No. 5 (SD1), entitled "A Proposal relating to the Preamble to the Constitution of Micronesia.", was re-referred to the Committee on Style and Arrangement.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 154, entitled "A Proposal relating to ownership of rights in islands, atolls, islets.", was introduced by Delegates Naniken Heinrich Stephen, Namwarki Max Iriarte, and William Eperiam.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 152, entitled "A Proposal relating to the creation of the office of the Public Consul.", was referred to the Committee on Governmental Functions and the Committee on Governmental Structure.

Delegate Proposal No. 153, entitled "A Proposal relating to the levels of government in Micronesia and sovereign immunity.", was referred to the Committee on Governmental Functions.

INTRODUCTION OF RESOLUTIONS

None

ACTION ON RESOLUTIONS

Resolution No. 26, "Resolution declaring a vacancy for the seat previously held by Dr. Francisco T. Palacios."

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Thank you, Mr. President. It is an unpleasant duty for the Floor Leader to move for the adoption of Resolution No. 26.

Delegate Nimwes seconded the motion.

The Chair recognized Delegate Nimwes.

Delegate Nimwes: I move for the previous question.

Delegate Falcam seconded, and the motion carried to close debate.

The President put to the vote the adoption of Resolution No. 26.

The Chair recognized Delegate Palacios.

Delegate Palacios: Point of privilege, Mr. President.

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Can we dispose of the Resolution? What is the result of the vote?

President Nakayama: The result of the vote is that the Resolution has been adopted.

Dr. Palacios: Point of privilege, Mr. President.

The Chair recognized Floor Leader Tman.

Floor Leader Tman: By virtue of the adoption of Resolution No. 26, the seat held previously by Dr. Francisco Tman Palacios has been declared vacant by the Convention. If the Chair wishes to exercise his privilege, he may invite Dr. Palacios to say a few words.

President Nakayama: The Chair will invite Dr. Palacios to say a few words if he does have anything to say.

Dr. Palacios: Thank you, Mr. President.

Mr. President, fellow traditional leaders and Delegates:

I appear here today for the first time, and the last. I have a number of things to say to you this afternoon but the most important is that I come here today in a spirit of friendship. Many of you who sit in this room are no strangers to me. We have worked together for years. We have shared the practice of medicine, the experience of politics, we have visited each other--and made each other welcome--throughout Micronesia. I welcome you to Saipan and wish you well.

Not long ago this Convention passed Resolution No. 20, renewing an invitation to the traditional leaders of the Marianas and the Marshalls District. As a rightful traditional leader of the Marianas, I received this invitation. Also, during past weeks I have had personal invitations from many Delegates. I appreciate their concern. I have decided, for reasons I will soon explain, that I cannot join you here. But please do not misunderstand my absence. I respect you all. I understand your reasons for being here, and I ask you to understand my reasons for being absent.

All of us who have lived in the United States Trust Territory of the Pacific Islands have always realized that it was an artificial construction. There was a time when it seemed that we could take this artificial unity and make it a reality. There was a time when it seemed that not only would Micronesia remain united, it would also become independent. I do not regret having been a part of this effort. I will always remember my travels throughout Micronesia in the early days of the Future Political Status Commission. I will also remember other missions which brought me to the

hill people of New Guinea, to the Maoris of New Zealand, to Fiji and Samoa. Everywhere I have visited I have been made welcome. Traveling among these islands I have felt a sense of brotherhood which I have never felt in my encounters with other people.

Still, we must face reality. Whatever hopes we may have had for a united or independent Micronesia, you must realize that a united and independent Micronesia must be constructed on a solid foundation. Mr. President, the other districts of Micronesia may yet find such a foundation, or they may fail. The question is still open. But, in the Marianas, the question has been answered. In an open, peaceful election, the people of the Marianas overwhelmingly endorsed the proposed Commonwealth Covenant with the United States. Mr. President, I respect this decision and I ask this Convention to respect it.

Some people have asked me to participate in this Convention, at least until we know for sure that the United States Senate has approved the Covenant. Again, I appreciate the invitation, but the argument misses the point. Whatever happens to the Covenant, the principle of the Marianas separation from the rest of Micronesia has been established. The Commonwealth Covenant is one specific political arrangement. Underlying it is the much broader notion that the Marianas District shall no longer be a part of the Trust Territory of the Pacific Islands. Mr. President, let me be blunt: win, lose, or draw on the Covenant, there is no way that the Marianas will ever be reunited with the other districts of the Trust Territory.

Mr. President, traditional leaders and colleagues, when the people of the Marianas voted in favor of the Covenant for the Commonwealth and separated the Marianas from the other districts by popular mandate, the force of law was nullified in the Marianas from the enabling law of the Convention. Therefore, according to the theory of government by consent, my seat in this Convention no longer exists, nor do any of the other Marianas seats.

To resign from this Convention would be an admission that my seat exists. For this Convention to declare that there is a vacancy would be to ignore and defy the mandate of the people of the Marianas. Therefore, I hope to introduce a Resolution to that effect, that by popular mandate of the people of the Marianas, all of the Delegate seats from the Marianas in this Convention have been dissolved.

Mr. President, do not think that my friendship for any of you has diminished. The years before us may be confusing and chaotic. There will be conventions, covenants and constitutions; there will be all sorts of politics and negotiations. But through all of this, let us be friends. If unity cannot abide, let us make certain that friendship endures. Thank you for your attention. God bless and farewell. (Applause)

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Weital.

Delegate Weital: Point of privilege. I wish to thank Rev. Williams for giving me a bible with my name on it. At the same time, until 1:20 p.m. this afternoon, Dr. Palacios was a member of this Convention. I hope he has a copy of this bible. It is a token of friendship from Rev. Williams. I appreciate this present. Thank you very much.

Delegate Cabrera: There were a number of people here who came specifically to hear the remarks that were just made by Dr. Palacios and also to hear and know of the action of the Convention on Resolution No. 26. They have stepped out because I think they were hungry, but maybe they will be coming back. These people were: Mrs. Joaquina Rabauliman, Sophia Towai, Margaret Olopai, Joseph Ogumoro, Maria Rasiang and Gus Tagabuil. It is most

unfortunate that they are not here, but I was informed that they were here specifically to hear the remarks of Dr. Palacios and also to hear the action that the Convention was to have taken on Resolution No. 26. I want to say, Mr. President, in addition to that, that I was surprised with the context of the speech that Dr. Palacios has given. I have some comments on it. Although I know that there will not be eloquence, nonetheless, there will be comments specifically addressed on the issue that had been mentioned in Dr. Palacios' speech. In time, Mr. President, I will make that statement. Thank you.

Delegate Willander: I wish to request the Convention Secretary to have today's Journal reflect that my good colleague, Delegate Soukichi Fritz, does not concur with Committee Report No. 15.

Delegate Falcam: Thank you very much, Mr. President. I have in my hands the Summary Minutes of the Committee of the Whole on the discussion regarding Committee Proposal No. 9. I assume that more of the discussion will be forthcoming for the record of the Convention as I believe the summary record here is a real summary and did not include many other statements that were expressed at the time.

ANNOUNCEMENTS

The Chair recognized Delegate Tun.

Delegate Tun: Today, in addition to deliberating on the subject of secession, withdrawal and admission of states, your Committee on General Provisions will also discuss Committee Proposal No. 7, relating to jurisdiction, which was deferred from Tuesday until tomorrow. I would like to invite Larry Cabrera and Leo Falcam to the discussion of the proposal, and this is because they offered some very good suggestions relating to that proposal on the floor last Tueday. The meeting will be held in Room No. 1 at 3:15 p.m.

Delegate Heinrich Iriarte: Your Committee on Governmental Structure will meet tonight at 7:00 p.m. in the Ponape Delegation office. I urge all the members of the Committee to be present.

Delegate Ismael: I would like to remind the members of your Committee on Governmental Functions that we will meet in this chamber at 3:30 p.m. this afternoon. I would like to invite the following people to appear before this Committee: Delegate Carl Heine and his lawyer relative to Committee Proposal No. 9; Delegate Chief Bossy, Delegate Mwety, Delegate Fritz and Delegate Nakayama relative to Delegate Proposal No. 80; Delegate Tacheliol relative to Delegate Proposal No. 116; and Delegate Chief Joseph relative to Delegate Proposal No. 131. Our last meeting to review proposals with Delegates will be tomorrow and we would like to meet with Delegate Ngiraked and any Palauan Delegate relative to Delegate Proposal No. 100 tomorrow afternoon,and tomorrow night with Delegate Falcam to review the Falcam proposal. Thank you very much, Mr. President.

Floor Leader Tmau: Thank you, Mr. President. Before we recess, I would like to say that contrary to the sentiment expressed by our guest to this Convention today, the effect and force of Public Law 5-60, as amended by Public Law 5-62, is in full effect.

Also, I wish that all Committee Chairmen invite the experts to testify on proposals before them rather than inviting Delegates to testify on their own proposals. Naturally, the feeling and the comments will be in favor of their own proposals. I think what we need to get is expert information to make decisions in this Convention.

One other point, Mr. President. During the past week we have been

experiencing our Plenary Sessions running into lunch hours. Therefore, Mr. President, I venture a motion that the Convention now recess until 10:00 a.m. tomorrow morning.

Delegate Falcam seconded, and the motion carried to recess until 10:00 a.m. September 26, 1975.

The Convention recessed at 1:27 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

FIFTY-THIRD DAY

Friday, September 26, 1975

The Micronesian Constitutional Convention was called to order at 10:07 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 45 Delegates present. Delegates Andrike, Apis, Borja, Cruz, Haruo, Kendall, Kijiner, Mary Lanwi, Olter, Philippo and Yoma were excused. A quorum was present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 52nd Day be adopted. Delegates Nimwes seconded, and the motion carried. The Journal of the 52nd Day was adopted by the Convention.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 7, CWD1, entitled "A Proposal relating to the territory of the state of Micronesia."

Floor Leader Tman: Mr. President, I move that the Convention resolve into the Committee of the Whole in order to consider Committee Proposal No. 7, CWD1.

Delegate Tun seconded, and the motion carried. The President requested that Floor Leader Tman preside over the Committee of the Whole.

The Convention resolved into the Committee of the Whole at 10:12 a.m.

The Convention reconvened in Plenary Session at 11:06 a.m.

The President asked for the oral report of the Committee of the Whole.

Floor Leader Tman: Mr. President, your Committee of the Whole deliberated on Committee Proposal No. 7, CWD1, and begs leave to report as follows: The Committee amended Committee Proposal No. 7, CWD1, in a series of amendments proposed by the Chairman of the General Provisions Committee. These amendments affected the first section on National Territory and the next section regarding State Boundaries. Your Committee of the Whole adopted these amendments and, therefore, Committee Proposal No. 7, CWD1, should now be Committee Proposal No. 7, CWD2. Your Committee recommends the adoption of Committee Proposal No. 7, CWD2, and also recommends that it be referred to the Style Committee. Mr. President, I move for the acceptance of the oral report of your Committee of the Whole.

Delegate Falanruw seconded, and the motion carried to accept the oral report of the Committee of the Whole.

Floor Leader Tman: Mr. President, in accordance with the recommendation of your Committee of the Whole, I move that Committee Proposal No. 7, CWD2, be referred to the Committee on Style and Arrangement.

Delegate Cabrera seconded, and the motion carried to refer Committee Proposal No. 7, CWD2, to the Committee on Style and Arrangement.

Floor Leader Tman: Mr. President, in accordance with Rule 55 and at the request of the prevailing side who voted for Committee Proposal No. 3, CWD1, SD1, I move to reconsider this Proposal.

Delegate Olikong seconded, and the motion carried to reconsider Committee Proposal No. 3, CWDI, SDI.

Floor Leader Tman moved that Committee Proposal No. 3, CWDI, SDI, pass on Second Reading. Delegate Suwaichi seconded the motion.

At the request of the President, the Convention Secretary read the text of Committee Proposal No. 3, CWDI, SDI, as follows:

EMINENT DOMAIN

ARTICLE _____

Section _____. Eminent Domain. The exercise of the power of eminent domain is reserved to each of the district governments. Upon request by the national government, a district legislature may, by law, grant to the national government the right to exercise the power of eminent domain within its district.

Floor Leader Tman: Mr. President, I have a proposed amendment to offer and in order for copies to be distributed to the Delegates, I move for a short recess.

Delegate Tacheliol seconded, and the motion carried to recess, subject to the call of the Chair, at 11:10 a.m.

RECESS

The Convention was called to order at 11:36 a.m.

Floor Leader Tman: Mr. President, the amendment that I offered was merely to help and benefit the other Delegates. If there is no objection, I move to suspend Rule 62a.

Delegate Tun seconded the motion.

Delegate Falcam: Could the Convention Secretary read Rule 62a so that we know what we are suspending? Right now some of us do not have our Rules of Procedure, and I can't remember exactly what that rule says.

Floor Leader Tman: Rule 62a deals with written amendments. The reason I requested for the suspension of that rule is that I wish to offer an oral amendment.

There being no further discussion, the motion carried to suspend Rule 62a.

Floor Leader Tman: Thank you, Mr. President. I wish to offer the following oral amendment to Committee Proposal No. 3, CWDI, SDI: I move that, beginning on line 3, the following sentence be deleted: "Upon request by the national government, a district legislature may, by law, grant to the national government the right to exercise the power of eminent domain within its district."

Delegate Tun seconded the motion.

Delegate John Heine: Point of information. I would like to know which proposal we killed yesterday. I thought that pertained to eminent domain as well. Wasn't that Proposal No. 3?

President Nakayama: That is correct, and that proposal has been reconsidered and is before the Convention for action. An amendment to strike out a certain portion of that proposal is now before us for discussion.

Floor Leader Tman: Mr. President, in response to Delegate Heine's question, it is true that Committee Proposal No. 3, CWDI, SDI, was defeated yesterday. Earlier today, under No. 10 of the Order of Business, there was a motion to

reconsider this Proposal, which motion passed. Subsequently, there was a motion to adopt on Second Reading the same Proposal. Now, the immediate motion on the floor is the amendment to delete the last sentence in that Proposal.

Delegate Ismael: Are we dealing with the amendment offered just before the recess or Committee Proposal No. 3, CWDI, SDI?

Floor Leader Tman: We are dealing with Committee Proposal No. 3, CWDI, SDI. There is no motion to adopt the amendment that was distributed before the recess.

The motion carried to adopt the amendment to Committee Proposal No. 3, CWDI, SDI, by deleting the second sentence beginning on line 3.

Delegate Ngiraked: I think the intention of the mover of the motion to reconsider and the mover of the amendment is quite clear. Therefore, Mr. President, I move to further amend the Proposal by substituting an amendment which has been presented to the Secretary. The entire Proposal will be amended so that it will read: "The National Government shall take no private land for public use, the power to do so being reserved to the districts." I move for this amendment.

Delegate Sawaichi seconded the motion.

Floor Leader Tman: Mr. President, in order to allow consideration and discussion of the proposed amendment made by Delegate Ngiraked, I move to suspend Rule 62a.

Delegate Ngiraked seconded, and the motion carried to suspend Rule 62a.

Delegate Ismael moved for a short recess in order to consider the amendment. Delegate Sawaichi seconded, but the motion was defeated.

At the request of Delegate Toribiong, the President asked the Convention Secretary to read the text of the proposed amendment, who complied with the request.

By voice vote, the motion was defeated to amend Committee Proposal No. 3, CWDI, SDI, CDI.

Floor Leader Tman: Just for clarification, we now have before us Committee Proposal No. 3, CWDI, SDI, CDI.

Delegate Isaac Lanwi: I still stand in my position as a Delegate for my people. I am here to delegate what they say and what they wish. According to my people in the Marshall Islands, the power of eminent domain is wrong. We own the islands, the lagoons and the reefs. Now, what is the big idea of giving the power to the government to come and tell us what to do with our land. This means bloodshed to the Marshallese people. We shed our blood to get our lands. If the government is going to do this, I assure you that blood will be shed if the power of eminent domain is used in the lands of the Marshall Islands. I say, "go ahead and have eminent domain power in your districts, but please forgive us for not agreeing with you."

Floor Leader Tman: Mr. President, there is a danger if our Micronesian Constitution is totally silent on the question of eminent domain. Eminent domain is an inherent and necessary power of government. If our Constitution is silent on that issue, that means the national, district and municipal governments can all exercise the power of eminent domain. The effect of this Proposal is that the power of eminent domain is to be reserved to the districts—not that the district governments will take private land without negotiation. This is only a power reserved to the district governments so that in the event negotiation cannot be reached but the land necessary for public purposes, that power can be exercised by the government.

Delegate Ismael: Mr. President, I think this Convention should know that it cannot handle the matter of eminent domain with silence. Those Delegates who are for some form of eminent domain and those Delegates who are against any form of eminent domain should know this. If the Convention says nothing at all about eminent domain, future courts may decide as they please. They may interpret our silence as meaning all levels of government should have eminent domain. We must reach a decision on this matter and the Constitution must reflect the decision. If we want any level of government to have eminent domain power, the Constitution should say so. If we want no level of government to have eminent domain, the Constitution also must say this. We cannot simply defeat proposals we disapprove of. We have to agree on an eminent domain measure and we have to pass it.

Mr. President, this Convention has heard many opinions on eminent domain. We have been confronted with many proposals on eminent domain. As things now stand, after the defeat of yesterday's measure, the Micronesian Constitutional Convention is now silent on eminent domain. The whole matter is left up to the future legislatures and courts to decide. I do not believe that this is the intent of any Delegate sitting in this room. We can permit eminent domain, or we can deny it, but whatever we decide, the Convention should have something to say about eminent domain. There is no escaping the fact that we are going to have to come up with a statement on eminent domain and we are going to have to put that statement in our Constitution. Thank you, Mr. President.

Delegate Wiliander: I have been a supporter of eminent domain up until yesterday. Comments and debate on eminent domain made yesterday are still fresh on my mind, and, I believe, also in the minds of my fellow Delegates. I wish to make a personal conclusion and it is my personal observation that the Delegates are not ready to take a step, whether yes or no, on this basic issue. If the Delegates are not ready, the people are not ready. Therefore, Mr. President and fellow Delegates, I now reverse my position. I will vote against inclusion of eminent domain in the Constitution.

Delegate Ngiraked: For two days we have tried to deliberate on the concept of eminent domain. Whether we like it or not, it is a necessary, inherent power of our government. I would like to pose a question to those who have opposed the proposal. How would they like to treat it in our Constitution? This is to provide some guidance for the committee members who are charged with the responsibility to do their work in regard to this question and for the individual Delegates. How would they like to treat it in our Constitution?

Delegate Sony: I know that the question we are facing now, at this particular moment, is whether to have or not to have the power of eminent domain exercised. If we decide now to have that power exercised, as proposed by the amendment, that power will be reserved to the district. To me, we are discriminating against the other two levels of government--the municipal and national governments. As pointed out, we should not remain silent on the question of the power of eminent domain, but to specify that the power should rest with the district government. To me, we are discriminating against the other two.

Delegate John Heine: Yesterday I voted against eminent domain power for the reason that eminent domain is not a foreign concept to our people of the Marshalls. Eminent domain power rests in the hands of our traditional leaders, and even the present T.T. Code recognizes this. The merit of it has been tested over and over in court cases and our position has always been prevailing. We cannot see a need for eminent domain power to be included in the Constitution since we have been practicing it for many hundreds of years. If we should include it in our Constitution, the interpretation of my people, those I represent, will then mean district legislature or foreign power. I do not see why we should handle that on behalf of the people of the Marshalls.

Delegate Ngiraked: Mr. President, it is going to be a necessary part of our Constitution to say something about no private property or land being taken without due process, and we are here to provide the procedure by which the property would be taken by some process of law.

President Nakayama: We will now vote on the motion to pass Committee Proposal No. 3 (CWD 1)(SD 1)(CD 1). It will take 34 affirmative votes to pass this measure, or three-fourths of the 45 members present today. We will vote by roll call.

Following roll call vote, the Convention Secretary reported that there were 32 affirmative votes, 11 no votes, and two abstentions. The required number of votes to pass was 34; therefore, the motion was defeated.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 155, entitled "A Proposal relating to District Constitutions and provisions for traditional leaders therein.", was introduced by Delegates Heinrich Stephen and Strik Yoma.

Delegate Proposal No. 156, entitled "A Proposal relating to immigration and deportation.", was introduced by Delegate Soiter Mwety.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 154, entitled "A Proposal relating to ownership of rights in islands, atolls, islets.", was referred to the Committee on Civil Liberties and the Committee on General Provisions.

INTRODUCTION OF RESOLUTIONS

Resolution No. 27, entitled "A Resolution relating to public education on the Micronesian Constitution.", was introduced by Delegate Soiter Mwety.

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Cabrera: Mr. President, yesterday, following a statement made by Dr. Francisco Palacios, former Delegate from the Marianas, I indicated that I would make a statement addressing the issues raised by the statement of Dr. Palacios. This morning, Mr. President, with your permission, I would like to officially make that statement.

Mr. President, fellow Delegates:

Let me tell you that I regret that the issue of Marianas participation has arisen to trouble this Convention, and to interrupt our important work. Perhaps it was inevitable that such an issue should arise. Still, I regret it. From the first day of this Convention, our Delegation has done everything possible to promote the success of this Convention.

Yesterday, you heard a former Marianas Delegate, Doctor Francisco Palacios, welcome you to Saipan. His welcome comes so late as to be an insult. For more than fifty days you have been here. For more than fifty days, Dr. Palacios has been absent. For more than fifty days the Carolinian minority on Saipan was deprived of representation that they were entitled to in this Convention. With welcomes like this, who needs insults?

Dr. Palacios is a talented doctor, an experienced politician, a respected local leader. He is not now a member of this Convention. I hope that steps will soon be taken to provide the Carolinian people of Saipan with a leader more closely in touch with their interests and wishes. In the meantime, Mr. President, let me respond to some of the issues raised by former Delegate Palacios. Although I do not agree with many of his conclusions, I think some of the issues he raised are worth discussing.

Dr. Palacios says that no matter what happens to the proposed Commonwealth Covenant, the people of the Marianas will never again be united with the other districts of the Trust Territory.

Dr. Palacios overlooks the fact that right now, the Marianas District is still part of the Trust Territory. Because the United States failed in its promise to promptly separate the Marianas from the other districts by Secretarial Order, Dr. Palacios is still very much a Trust Territory citizen, so is everybody he represents and so am I. I think Dr. Palacios overlooked current reality. He also made a prediction that has no basis in fact. He said that the Marianas would never rejoin the other districts. Apart from the fact that the Marianas has never left the other districts, how can anyone foresee the future? If the Covenant is rejected, the whole issue of Marianas future will be reopened. Does Dr. Palacios mean to suggest that the people of the Marianas will accept any offer, any offer at all, that the United States makes?

Mr. President, I supported the Commonwealth Covenant. I urged people to vote yes. I appeared on television, I spoke on radio. I addressed public meetings. I hope the Covenant is approved. But I think that until the whole matter is settled, my people—and Dr. Palacios' people—have a right to be represented here, and I have an obligation to perform the job I was elected to perform.

If, by any chance, this Constitution were ever to be applied to my people, I would like them to know that they were represented here, that their interests were protected...that their leaders were not so busy pursuing one goal that they ignored every other possibility.

Mr. President, I know that the presence of this Delegation creates problems for the other districts. As this Convention reaches its conclusion, you will be faced with close votes on crucial matters. Yesterday's vote on eminent domain was only a taste of things to come. If we of the Marianas Delegation vote yes or vote no, it affects the outcome. Even if we abstain, it affects the outcome, since we are counted as part of the group three-quarters of whose votes are required for final passage.

Therefore, let me say this: If at any point, other Delegates feel that our yes vote, our no vote, or our abstention is inappropriate, please indicate this and we will consider excluding ourselves from these proceedings, at your request.

Meanwhile, let me assure you that we will remain here, trying to protect the interests of our people, and of all the people of Micronesia. If you think this is inappropriate, tell us. Otherwise, we shall continue to work with you—not for political reasons, not for personal reasons or financial reasons—but because, we are still part of Micronesia.

Thank you. (Applause)

ANNOUNCEMENTS

Delegate Tun: Your Committee on General Provisions will meet at two o'clock today. The purpose and place of the meeting is known to the members of the Committee and I urge all of them to attend the meeting.

Delegate Ismael: Your Committee on Governmental Functions will meet at 2:30 p.m. this afternoon. I urge all the members to be at this meeting. I would like to invite John Ngiraked and any other member of the Palauan Delegation to appear before this Committee so that we can deal with Delegate Proposal No. 100.

Delegate Heinrich Iriarte: Your Committee on Governmental Structure will meet tonight at 7:00 p.m. at the Ponape District Delegation Office.

Delegate Tacheliol: The Subcommittee on Executive of your Committee on Governmental Structure will meet at two o'clock this afternoon in Room 4.

Delegate Williander: Your Committee on Style and Arrangement will meet at four o'clock today in Room 4 upstairs if it is not in use.

Delegate Card Heine: Delegate Proposal No. 154 has been referred to your Committee on Civil Liberties. This particular proposal is with respect to ownership of rights in islands, atolls, and islets. Your Committee on Civil Liberties would like to hold a public hearing on this particular issue this afternoon at three o'clock and would like to invite anyone in this Convention who wishes to be heard on this issue.

Delegate Wainit: Your Committee on Public Finance will have another meeting tomorrow morning at 9:30 a.m.

Delegate Ngiraked: Mr. President, I urge all the committees and all the Delegates to take more intensive study and consideration on Delegate Proposal No. 100, otherwise known as the Palauan position. I would like to impress on all the committees, subcommittees and Delegates that every time they pick up a subject for consideration and for inclusion in our future Constitution that the corresponding provision in the Palauan position also be considered so there is provided in this Convention some comparative analysis. Thank you very much.

President Nakayama: I would like to request members of the Administration Committee to meet briefly in Room No. 1 immediately after the recess.

Floor Leader Tmetuchl: If there is no further business, I move that the Convention recess until 10:30 a.m. tomorrow.

Delegate Nimwes seconded and the motion carried to recess until 10:30 a.m. September 27, 1975.

The Convention recessed at 12:47 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

FIFTY-FOURTH DAY

Saturday, September 27, 1975

The Micronesian Constitutional Convention was called to order at 11:25 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Assistant Convention Secretary called the roll. There were 39 Delegates present. Delegates Albert, Andrike, Apis, Borja, Cruz, Gibbons, Haruo, Kalles, Kendall, Kijiner, Isaac Lanwi, Mary Lanwi, Nimwes, Olter, Philippo, Rasa and Yoma were excused. A quorum was present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 53rd Day be adopted. Delegate Olikong seconded, and the motion carried. The Journal of the 53rd Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Tun.

Delegate Tun: I move for the acceptance of Committee Report No. 16, relating to Committee Proposal No. 11, entitled "A Proposal relating to supremacy of the Constitution and the sovereignty of the Micronesian people and State.", from the Committee on General Provisions.

Delegate Olikong seconded the motion.

Delegate Cabrera: With the indulgence of the Chairman and members of the Committee, I would like to request that certain statements in the report be omitted. Mr. President, I refer to the third paragraph on page one, beginning with: "Another example will be the Constitution of the Northern Mariana Islands." I think it is so understood that the Constitution that we will have adopted here will be the supreme law of Micronesia. I do not see the reasons for citing the Marianas situation as an example. I think we can cite other examples, if necessary---those of other countries and what have you. Again, I would like to beg the indulgence of the Committee on General Provisions to consider my request. Thank you.

Delegate Ngiraked: The request by Delegate Cabrera merits some consideration. If it is bothering the Marianas Delegation, I move for a short recess so that this matter could be taken up by the Marianas Delegation with the Chairman of the Committee concerned.

Delegate Tacheliol seconded, and the motion carried. The Convention recessed, subject to the call of the Chair, at 11:30 a.m.

RECESS

The Convention reconvened at 11:40 a.m.

The Chair recognized Delegate Cabrera.

Delegate Cabrera: Consistent with what I said before we recessed, I would like to make a motion on the floor to omit from the Committee's report the entire portion on the first page, paragraph three, beginning with the word "Another" all the way down to "laws." Mr. President, I do want to share the concern I have with my fellow colleagues in that we are all aware that whatever constitution that the Marianas will have come up with will be subservient

to the United States Constitution, the Covenant or any other treaties that the United States may enter into with other foreign countries. I think this is pretty much understood and there is no need for publicizing that that is the situation if the Marianas becomes a Commonwealth of the United States. Thank you.

Delegate Ngiraked seconded the motion.

Delegate Tun: The second example cited in the last paragraph on the first page of the report was added by the Committee merely for illustrative purposes. Therefore, Mr. President, the Committee finds no reason to object to the proposed deletion. Thank you.

Delegate Falcam: Mr. President, I am a little amazed that after we have talked about the Northern Marianas the whole week a small thing like this has created a little problem. I don't see anything wrong with this. It is a vivid example that clarifies a point. I can appreciate the concern of the Delegate from the Marianas, but after we have exhausted so many hours talking about the Covenant and what have you, something like this came up. I don't see anything wrong with it. Thank you.

There being no further discussion, the motion carried to delete from Committee Report No. 16 that portion beginning with the word "Another" and ending through "laws." on page one, paragraph three.

By voice vote, the motion carried to accept Committee Report No. 16, as amended.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 11, "A Proposal relating to supremacy of the Constitution and the sovereignty of the Micronesian people and State."

Delegate Tun: I move for the passage on First Reading of Committee Proposal No. 11.

Delegate Nakamura seconded, and the motion carried. Committee Proposal No. 11 was passed on First Reading.

SECOND READING CALENDAR -- REFERRAL OF COMMITTEE PROPOSALS

Committee Proposal No. 7 (CWD1, CWD2), entitled "A Proposal relating to the territory of the state of Micronesia.", was referred to the Committee on Style and Arrangement.

INTRODUCTION OF DELEGATE PROPOSALS

None

Delegate Naniken Stephen: Point of privilege, Mr. President.

President Nakayama: Please proceed.

Delegate Naniken Stephen: I would like to request that the Convention Secretary read the entire text of Miscellaneous Communication No. 18.

The President requested the Secretary to read the text of Miscellaneous Communication No. 18, as follows:

"September 26, 1975

The Honorable Tosiwo Nakayama, President
Micronesian Constitutional Convention

Dear Mr. President:

Attached to this letter I am submitting to the Convention a proposal giving Micronesian traditional leaders a functional and active role at the District level.

Since I submitted Delegate Proposal No. 135, relating to the role of traditional leaders in the Legislative Branch of the Central Government of Micronesia, I have returned to my District and talked with my constituents. Based upon those talks and based upon further consideration of the role which traditional leaders should play in the new government, I have come to the conclusion that Micronesia's traditional leaders should assume an important and functional role at the District level rather than at the National level. I feel that the chiefs should have an active role in the government of each District having traditional leaders, with their specific roles determined according to the needs and traditions of each District. I come to this conclusion for several reasons, including:

(1) There are few if any nationwide traditions and customs, thus a council of traditional leaders at the National level would have very little meaning or relevance. Each District's customs are, by and large, uniquely its own, and generally are not applicable to other Districts or the Nation as a whole.

(2) A council of chiefs at the National level would be very expensive for the new nation. I do not feel that the cost of such a council would be justified.

(3) I feel that the traditional leaders would be of more value to their people and be better able to use their unique training and positions at the District level, where their ideas, knowledge of customs and traditions, and leadership abilities are relevant.

Mr. President, I respectfully request that this letter be included in the Convention's Miscellaneous Communications and that it be read to the Convention by the Clerk at the appropriate time. I would further ask you to forward a copy of this letter expressing my views to the chairman of the committee or committees which will consider my proposal.

Thank you for your consideration.

Respectfully submitted,

/s/ Heinrich Stephen

Nanniken Heinrich Stephen"

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 155, entitled "A Proposal relating to District Constitutions and provisions for traditional leaders therein.", was referred to the Committee on Governmental Structure and the Committee on Governmental Functions.

Delegate Proposal No. 156, entitled "A Proposal relating to immigration and deportation.", was referred to the Committee on General Provisions.

INTRODUCTION OF RESOLUTIONS

Resolution No. 28, entitled "Resolution inviting Iroij Litokwa Tomeing and Iroij Jeltan Lanki of the Marshall Islands to attend the Convention.", was introduced by Delegate Luke M. Tman.

Resolution No. 29, entitled "Resolution relating to the name of the new government of Micronesia.", was introduced by Delegate Hans Williander.

REFERRAL OF RESOLUTIONS

Resolution No. 27, entitled "Resolution relating to public education on the Micronesian Constitution.", was referred to the Committee on General Provisions.

MISCELLANEOUS AND UNFINISHED BUSINESS

None

MISCELLANEOUS COMMUNICATIONS

17. Letter from Mack Williams, transmitting four resolutions adopted by the Conference of Micronesian Protestant Church Leaders, held in Ponape from September 8 through September 13, 1975.

Resolution No. 1: Expressing support and endorsement of Unity in Micronesia.

Resolution No. 2: Commending and supporting the Committee on the Law of the Sea, Congress of Micronesia, and encouraging creation and implementation of educational programs on marine resources in Micronesia.

Resolution No. 3: Expressing Conference views relating to the General Referendum on political status options held on July 8, 1975, and the role of the Education for Self-Government as it relates thereto.

Resolution No. 4: Expressing sincere gratitude to the hosting Protestant Churches of Ponape, the Congress of Micronesia, the Ponape District Legislature and other governmental agencies for making the Conference of the Micronesian Protestant Church Leaders a very pleasant and successful one.

18. Letter from Nanniken Heinrich Stephen regarding Delegate Proposal No. 155, giving Micronesian traditional leaders a functional and active role at the district level.

ANNOUNCEMENTS

The Chair recognized Delegate Tun.

Delegate Tun: I have several announcements to make. Your Committee on General Provisions will meet today at two o'clock. Your Committee will then start discussing Proposal No. 10 relating to citizenship, naturalization and immigration. Your Committee will start deliberating today during its meeting on Delegate Proposal No. 144 relating to the effective date of the Constitution. Your Committee has but only a very vague idea as to why the citizenship proposal was recommitted to the Committee; therefore, Mr. President, contrary to the suggestion offered by the Floor Leader that Committee Chairmen should

work with experts rather than Delegates, I wish to invite the following Delegates to help your Committee. These Delegates are: Strik Yoma, John Ngiraked, Tatasy Wainit, Johnson Toribiong and Hirosi Ismael. We will appreciate their attendance and participation in the meeting. Yesterday, Mr. President, because of a lack of a quorum toward the end of the meeting, your Committee was not able to reach a final decision relative to secession, withdrawal of existing states and admission of new states. Accordingly, your Committee has rescheduled discussion on this subject for Monday, September 29. To that discussion, again contrary to the suggestion of the Floor Leader, I wish to invite the Chairmen of all District Delegations. This is because of the decision that the Delegation Chairmen will help make our policy decisions with no person, as expert and as qualified as they may be, other than ourselves. I respectfully request that Delegation Chairmen consult with their respective Delegations before our discussion with them on Monday on the subject of withdrawal of existing states and admission of new states. The time for that meeting will be announced during our Plenary Session on Monday. Thank you, Mr. President.

Delegate Wainit: Thank you, Mr. President. I would like to remind all members of your Committee on Public Finance that we will have another meeting Monday morning at 9:30 a.m., and it is urged that all members of that Committee make a point to be present since we are planning to submit the first report from our Committee. It could require signatures and concurrence or agreement of members.

Delegate Toribiong: This is an announcement to all the members of your Subcommittee on Legislative Functions of your Governmental Functions Committee that we are having a meeting at nine o'clock Monday morning in this chamber to conclude our discussion on the subject of finance and taxation. I urge all the members to please attend this very important meeting. Thank you.

Delegate Cabrera: Thank you, Mr. President. Present in the gallery this morning is the teacher and a representation of her class on government. I would like to ask you, Mr. President and members of this Convention, to recognize the presence of Miss Florence Mendiola, Titus Olopai, Merced Sablan, Joaquin Ogumoro, Maria Kaipat, Isidro Ogarte and Augusto Mers. Please stand up for recognition. (Applause)

Delegate Heinrich Iriarte: Thank you very much, Mr. President. Your Committee on Governmental Structure will not meet today.

Delegate Tacheliol: I would like to announce that your Subcommittee on Executive of your Committee on Governmental Structure will not meet today but will meet at nine o'clock Monday morning at the Library.

Delegate Falanruw: Thank you, Mr. President. I was informed a while ago by the Chairman of your Committee on Governmental Functions to announce to the members of that Committee that there will not be a meeting today. The next meeting will be announced on Monday.

Delegate Eperiam: First, I must apologize because I did not hear you when you opened the floor for Miscellaneous Communications because I have some concern about Miscellaneous Communication No. 17, as presented by Mack Williams. While in Ponape I visited the Conference a couple of times and I saw some Catholic Church leaders properly seated in delegate seats. I even heard and saw one of them saying a prayer asking God to help every member present at the Conference. Yet, in the report here it says "Micronesian Protestant Church Leaders." What about the Catholic Church leaders who were there? Were they members or not?

President Nakayama: They were observers. (Laughter) The Conference was just that, as stated by the Communication.

Delegate Weital: This is just to clarify that Delegate William Eperiam is a Catholic. (Laughter)

Floor Leader Tmetuchl: I move that the Convention recess until 11:00 a.m., Monday morning.

Delegate Ngiraked seconded, and the motion carried to recess until 11:00 a.m., Monday, September 29, 1975.

The Convention recessed at 12:00 noon.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

FIFTY-FIFTH DAY

Monday, September 29, 1975

The Micronesian Constitutional Convention was called to order at 11:15 a.m.

The Honorable Lorenzo LG. Cabrera, Vice President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 43 Delegates present. Delegates Andrike, Apis, Gibbons, Harue, Kendall, Kijiner, Isaac Lanwi, Mary Lanwi, Mafnuk, Olter, Rasa, Stephen and Yoma were excused. A quorum was present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 54th Day be adopted, Delegate Nimwes seconded, and the motion carried. The Journal of the 54th Day was adopted by the Convention.

REPORTS OF SPECIAL COMMITTEES

Delegate Sawaichi: Mr. President, I move that Special Committee Report No. 4 from the Special Conference Committee regarding Resolution No. 1 be accepted.

Floor Leader Tman seconded, and the motion carried to accept Special Committee Report No. 4.

REPORTS OF STANDING COMMITTEES

None

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 11, "A Proposal relating to supremacy of the Constitution and the sovereignty of the Micronesian people and State."

Floor Leader Tman: In order to allow the Delegates to consider thoroughly Committee Proposal No. 11, I move that the Convention resolve into the Committee of the Whole.

Delegate Tun seconded, and the motion carried to resolve into the Committee of the Whole.

The President requested Delegate Leo Falcam to preside over the Committee of the Whole.

The Convention resolved itself into the Committee of the Whole at 11:20 a.m.

The Convention reconvened in Plenary Session at 11:25 a.m.

The President requested that Delegate Falcam present the oral report of the Committee of the Whole.

Delegate Falcam: Mr. President, your Committee of the Whole unanimously adopted Committee Proposal No. 11 relating to the supremacy of the Constitution and the sovereignty of the Micronesian people and State. Your Committee of the Whole is pleased to report that this proposal has been adopted and so recommends that the Plenary Session take favorable action accordingly. Thank you, Mr. President.

Floor Leader Tmun: I move for the acceptance of the oral report of the Committee of the Whole.

Delegate Nimwes seconded, and the motion carried. The oral report of the Committee of the Whole on Committee Proposal No. 11 was accepted by the Convention.

Floor Leader Tmun: Pursuant to the Rules of Procedure, I move that Committee Proposal No. 11 be referred to the Committee on Style and Arrangement.

Delegate Nimwes seconded the motion.

Delegate Ngiraked: In the Committee of the Whole we have recommended this action. I do not know whether to vote in favor or against the proposal for this reason. How can you commit the Convention on this action before we write the Constitution? We have to know what is inside the Constitution and the components of the Constitution before we make this serious decision. If I vote in favor of this to refer it to the Committee on Style and Arrangement, I urge that Committee to hold it until the very last business of the Convention because we cannot make this decision without knowing what is in the Constitution. Thank you.

There being no further discussion, the motion carried to refer Committee Proposal No. 11 to the Committee on Style and Arrangement.

INTRODUCTION OF DELEGATE PROPOSALS

None

INTRODUCTION OF RESOLUTIONS

None

ACTION ON RESOLUTIONS

Delegate Sawaichi: I move for the adoption of Resolution No. 1.

Floor Leader Tmun seconded the motion.

The President requested the Convention Secretary to read the title of Resolution No. 1, as follows:

> "Resolution declaring a consensus of the Constitutional Convention that a federation of autonomous states be established as the sovereign government of Micronesia."

Floor Leader Tmun: Mr. President, in order to allow some Delegates to refresh their memory as to the content of Resolution No. 1, I move that the Convention take a short recess.

Delegate Nakamura seconded the motion, and the President declared a short recess, subject to the call of the Chair, at 11:30 a.m.

RECESS

The Convention reconvened at 11:45 a.m.

President Cabrera: I think everybody has had ample time to reacquaint themselves with Resolution No. 1.

Floor Leader Tmun: I offered an amendment on July 22 to Resolution No. 1. I move for its adoption, and may I ask the Convention Secretary to read the amendment.

Delegate Tun seconded the motion.

The President requested the Convention Secretary to read the proposed amendment to Resolution No. 1, as follows:

> Amendment No. 1: On page 1, line 19, delete the word "process" and insert in lieu thereof the following: "process and have the right to rejoin by observing the same process".
>
> Beginning at line 17, the clause would then read:
>
> "WHEREAS, in recognition of their autonomy, the several districts should reserve the right to withdraw from the federation by constitutional process and have the right to rejoin by observing the same process; NOW, THEREFORE,"

There being no further discussion, the motion carried to adopt Amendment No. 1, as offered by Delegate Luke Tman, to Resolution No. 1.

The Chair recognized Delegate Sony.

Delegate Sony: I would like to raise a point of information with regard to paragraph three of Special Committee Report No. 4. I would like to ask the members of the Special Conference Committee whether they considered Resolution No. 6.

President Cabrera: Delegate Sawaichi, do you have an answer to the question?

Delegate Sawaichi: Mr. President, I believe that Resolution No. 6 was assigned to another committee, and we didn't have a chance to consider it.

Delegate Sony: If the Special Conference Committee did not deliberate on Resolution No. 6, is it right for that Committee to state that the consensus of this Convention is reflected in this Resolution, No. 1. In line with what Delegate Ngiraked has pointed out, I think it is not timely to adopt this Resolution now because the Convention is not yet certain as to what it wants with regard to district and national governments. Thank you, Mr. President.

Delegate Nimwes: Although I was not here during Delegate Sony's remarks, I came in just to hear part of his remarks. I think it is appropriate that we defer action on this Resolution. I endorse the statement made by Iskia Sony.

Delegate Weital: Thank you, Mr. President. This is just to clarify the action of the Special Conference Committee. This Committee took action on Resolution No. 1 but not on Resolution No. 6, as pointed out by the Chairman. We were given this Resolution by the Convention to consider but not Resolution No. 6. I should like to indicate that this is the reason why the Committee did not come out with anything on Resolution No. 6. This is just to clarify it here.

Delegate Falcam: Could the Special Conference Committee clarify in my own mind whether or not this Resolution carries the force of law or does it bind the Convention, if adopted now, to the provisions within this Resolution--whether it has the effect of law or does it bind the Convention into doing what it expresses? I would like to be clarified on that before I cast my vote.

President Cabrera: Would you comment on that, Delegate Sawaichi?

Delegate Sawaichi: I do not believe that this Resolution will have the effect of law. This Resolution is just to give guidance to the Committees as well as to the Convention when it comes to the division of responsibilities between states and the national government.

Floor Leader Tman: In order to avoid extensive debate, I move that Resolution No. 1, as amended by the Convention, be deferred until September 31.

Delegate Nimwes seconded the motion.

President Cabrera: Is the motion for deferral to September 31 or September 30?

Floor Leader Tman: Mr. President, it was for the 31st.

President Cabrera: I am sorry to inform the Delegate that there is no 31st of September.

Delegate Nimwes: I withdraw my second to the motion.

Floor Leader Tman: Mr. President, I apologize. I move that the Resolution, therefore, be deferred until October 15.

Delegate Nimwes seconded the motion.

President Cabrera: Is that a Sunday?

Floor Leader Tman: No, it is not.

There being no further discussion, the motion carried to defer action on Resolution No. 1, as amended, until October 15, 1975.

The President requested that the Convention Secretary read the title of Resolution No. 28, as follows:

> "Resolution inviting Iroij LiTokwa Tomeing and Iroij Jeltan Lanki of the Marshall Islands to attend the Convention."

Floor Leader Tman: On behalf of many Delegates and the officers of the Convention, I move for the adoption of Resolution No. 28.

Delegate Nimwes seconded the motion.

Delegate Nimwes: I think in the earlier part of this Convention there was a Resolution inviting the traditional leaders from the Marshalls, and this is to accept these two chiefs to sit at this Convention. Therefore, Mr. President, I see no need for any argument or debate over this particular Resolution.

Delegate Ngiraked: Will the Convention Secretary read the resolving clauses of the Resolution?

The President requested that the Convention Secretary read the resolving clauses of Resolution No. 28, as follows:

> "WHEREAS, by Resolution No. 20 the Delegates to this Convention expressed their desire to have the participation of the traditional leaders of the Marshall Islands and the Mariana Islands so that the views of the traditional leaders of all of the districts of Micronesia could be expressed and considered at the Convention; and
>
> "WHEREAS, two traditional leaders of the Marshall Islands, Iroij LiTokwa Tomeing and Iroij Jeltan Lanki, have responded to this resolution by expressing their willingness to come to Saipan and give of

their counsel in aid of the drafting of the Micronesian Constitution; now, therefore,

"BE IT RESOLVED, that Iroij LiTokwa Tomeing and Iroij Jeltan Iauki of the Marshall Islands be invited to come to Saipan and take part in the Convention as participant-observers, so that the Delegates to the Convention can have the benefit of the views of these traditional leaders of the Marshall Islands as the Delegates determine the contents and the phrasing of the Constitution designed for all of Micronesia."

Delegate Toribiong: I have a question as to the meaning of the word "participant-observers". Does that mean that they will be Delegates in the full sense of the word?

Floor Leader Tmau: The term "participant-observers" was used because we did not have enough time to research the question of their voting right pursuant to Public Law 5-60, as amended.

Delegate Toribiong: I would like to raise a question concerning the legality of inviting somebody who is not a Delegate to this Convention because the law provides that these people should be elected by their own group. I am concerned about that element. Are we venturing into something that is none of our concern?

Delegate Faleam: My friend, Delegate Toribiong, has just expressed what I wanted to say. I want the record to indicate that I am for the Marshalls' traditional leaders to participate fully in this Convention, but I am not going to vote yes unless I am satisfied that this action is legal in accordance with the Congress of Micronesia law that provides specifically that traditional leaders will be represented in this Convention.

Floor Leader Tmau: There is no illegality of inviting these two traditional leaders from the Marshalls. The only legal question we have is whether they become full-fledged Delegates by having the right to vote.

There being no further discussion, the motion carried to adopt Resolution No. 28.

REFERRAL OF RESOLUTIONS

Resolution No. 29, entitled "Resolution relating to the name of the new government of Micronesia.", was referred to the Committee on General Provisions.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Chief Bossy.

Delegate Chief Bossy: Allow me to make very brief remarks.

President Cabrera: Please proceed.

Delegate Chief Bossy: Mr. President, comrade traditional leaders, fellow Delegates:

Mr. President, let me begin my brief statement with an apology--an apology because what I will be saying very shortly has no relation with the business of this Convention.

Three nights ago, a very special person in Palau, who is also highly regarded by the people of Truk, passed away. As a relative and as the Chief of Wono, and on behalf of this Truk Delegation and the people of

Truk, to his Highness Ibedul and those Palauans concerned, our deepest sympathy is with you for we understand your loss and share your sorrow.

It is never pleasant to talk about unhappy events. To the deceased person and her survivors, please accept my apology for not being there, but I am torn between two unhappy events for only two nights ago I received word that my own brother just passed away, too.

I end my statement with a sincere hope that time will bring new and happier tomorrows to lessen the sadness of today, for you, Ibedul, and your people, as well as for me and my people.

Thank you, Mr. President.

Delegate Ngiraked: On behalf of the Palau Delegation, the people of Palau, and particularly the Honorable High Chief Ibedul and his family, I wish to thank the Chief of Truk for the very appropriate statement that he has made this morning. It is incumbent upon the Delegation of Palau that we will see to it that those beautiful remarks will be passed on to the High Chief in Palau. I think those statements amply describe and explain the absence of the High Chief Ibedul in this Convention today. Thank you.

Delegate Falcam: Thank you, Mr. President. On behalf of the Ponape Delegation, I would like to represent them in sharing the views expressed by Delegate Chief Bossy. Thank you.

President Cahcera: I also wish to take the opportunity to express the same on behalf of the Marianas Delegation.

ANNOUNCEMENTS

The Chair recognized Delegate Heinrich Iriarte.

Delegate Heinrich Iriarte: Thank you, Mr. President. Your Committee on Governmental Structure will meet at two o'clock this afternoon in Room No. 4.

Delegate Ismael: Thank you, Mr. President. Your Subcommittee on Legislative Functions is ready to report to the full committee at two o'clock this afternoon. I urge all members of the Committee on Governmental Functions to meet here in this chamber at two o'clock.

Delegate Tun: Thank you, Mr. President. Your Committee on General Provisions will meet this afternoon starting at two o'clock to deliberate on the following: Proposal No. 10, relating to citizenship, naturalization and immigration; the subject of secession, withdrawal and admission of new states; and the effective date of the Constitution. To the discussion relating to citizenship, I wish to invite the following persons: Delegate Yoma, Delegate Wainit, Delegate Ismael and Delegate Ngiraked. To the discussion on secession, withdrawal and admission of new states, I wish to invite all District Chairmen. Mr. President, your Committee has been having a quorum problem during the last several days. Because of this problem, no final decisions could be reached on some of the proposals pending in the Committee. Therefore, I would like to beg the members to all attend the meeting this afternoon. Thank you.

Delegate Williander: First, on behalf of the Committee on Style and Arrangement, I wish to inform the Committee on General Provisions, to which Resolution No. 29 has been assigned, that such Resolution is introduced on behalf of the Committee on Style and Arrangement. So, if that Committee on General Provisions wishes to invite the members of the Committee on Style and Arrangement, I would appreciate that. Second, Mr. President, I wish to announce that the Committee on Style and Arrangement will meet at four o'clock today in Room No. 4 upstairs.

Delegate Sony: I just want to request this Convention to recognize one of my constituents who is now a resident of Palau, working at Van Camp. His name is Marion Henry from the island of Oneop in the Mortlocks. I ask that Mr. Henry stand up for recognition. (Applause)

Floor Leader Tman: If there is no further business or announcements, I move that the Convention recess until 11:00 a.m. tomorrow morning.

Delegate Tun seconded, and the motion carried to recess until 11:00 a.m., Tuesday, September 30, 1975.

The Convention recessed at 12:10 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

FIFTY-SIXTH DAY

Tuesday, September 30, 1975

The Micronesian Constitutional Convention was called to order at 11:20 a.m.

The Honorable Leo Falcam, Vice President, presided.

A moment of silent prayer was observed.

The Assistant Convention Secretary called the roll. There were 41 Delegates present. Delegates Andrike, Apis, Borja, Bossy, Gibbon, Haruo, Kendall, Kijiner, Mary Lanwi, Nakamura, Otter, Philippo, Rasa, Stephen and Yoma were excused. A quorum was present.

The Chair recognized Delegate Cabrera.

Delegate Cabrera: Thank you, Mr. President. With your permission, Mr. President, I would like to ask to interrupt the Order of the Day to introduce a very important visitor who may be leaving early this afternoon.

President Falcam: Please proceed.

Delegate Cabrera: Mr. President, members of this Convention, I would like to introduce to you a person who is visiting the Trust Territory and this particular person took part in the 1970 Constitutional Convention of the State of Illinois, and he is visiting Micronesia as a public member of the Foreign Service Inspection. The person, Mr. President, is Mr. Ted Borek. Mr. Borek, please stand up. [Applause]

President Falcam: The Convention is pleased to welcome the gentleman at the Convention today. Thank you very much. Delegate Heine.

Delegate Carl Heine: A point of privilege, Mr. President. Mr. President and fellow Delegates, by virtue of the courtesy and permission of this Convention, I am happy to report that the two traditional leaders for whom we approved their coming to Saipan arrived yesterday evening. Mr. President, I ask the Convention to recognize the presence of Iroij Litokwa Tomeing and Iroij Jeltan Lanki, who are sitting here this morning. [Applause]

President Falcam: On behalf of the Convention, the Chair would like to welcome the two representatives of the Iroij of the Marshalls to the Convention.

Iroij Tomeing: Mr. President, point of privilege.

President Falcam: Please state your point of privilege.

Iroij Tomeing: Mr. President, I would like, on behalf of myself and Mr. Jeltan Lanki, to thank you and this body for having extended to us this rare privilege to come to Saipan and participate in this historic occasion. We are sorry that many of our people have been denied representation in this Convention, and although this Convention is more than halfway through, my colleague and I will attempt to participate as much as we can. Again, we would like to thank you for this privilege to be here with you all. Thank you very much. [Applause]

President Falcam: The Chair would like to thank you for your kind remarks.

Floor Leader Tman: Thank you, Mr. President. May I request the Convention Secretary to call the two traditional leaders from the Marshalls who are present this morning?

The Chair so directed the Convention Secretary and the Secretary complied.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 55th Day be adopted. Delegate Tmetuchl seconded, and the motion carried. The Journal of the 55th Day was adopted by the Convention.

The Chair recognized Delegate Isaac Lanwi.

Delegate Isaac Lanwi: Mr. President, point of information. It has been my argument all week last week about the days in September. On page 247, "In order to avoid extensive debate, I move that Resolution No. 1, as amended by the Convention, be deferred until September 31." Since when are there 31 days in September, because in my district, I went there last week and we have been arguing about the calendars being marked 31 on the month of September, so may I ask what year is September 31st? The calendar says so.

Floor Leader Tman: Thank you very much, Mr. President. If my good colleague from the Marshalls read further, he will see, Mr. President, I apologized. The Delegate from Yap made a mistake in the date. Although the Journal was adopted and is not subject to debate, if he was here yesterday, he would have known the consequences of my error.

President Falcam: Does that satisfy you, Delegate Lanwi? It was an error and it was duly corrected yesterday.

Delegate Isaac Lanwi: Not only this, but all the calendars on the walls, if you noticed that Mr. President, and even in the Marshalls District.

President Falcam: Yes, thank you. Your point is noted.

REPORTS OF SPECIAL COMMITTEES

None

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Wainit.

Delegate Wainit: Mr. President, before I make a motion for acceptance of Committee Report No. 17, I would like to bring to the attention of the Convention one typographical error. On page 3, last line, last paragraph on that page, the word should read "again" and the word following should read "said", not "gainsaid". With that correction, Mr. President, I move for acceptance of Committee Report No. 17.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 17 was accepted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 12, "A Proposal providing for a Public Auditor."

Delegate Wainit moved for adoption of Committee Proposal No. 12 on First Reading. Delegate Tun seconded, and the motion carried. Committee Proposal No. 12 was adopted on First Reading by the Convention.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 10, "A Proposal relating to Citizenship, Naturalization and Immigration."

Floor Leader Tman: Mr. President, in order to allow more time to consider Committee Proposal No. 10, I move that the Convention resolve into the Committee of the Whole.

Delegate Tun seconded, and the motion carried.

The Chair requested Floor Leader Tman to preside over the Committee of the Whole.

The Convention resolved itself into the Committee of the Whole at 11:33 a.m.

The Convention reconvened in Plenary Session at 12:13 a.m.

The President requested that Floor Leader Tman present the oral report of the Committee of the Whole.

Floor Leader Tman: Thank you, Mr. President. Mr. President, your Committee of the Whole which deliberated on Committee Proposal No. 10, is pleased to report as follows: Your Committee considered a series of amendments to Committee proposal No. 10, as recommended and offered by the Chairman of the Committee on General Provisions, after due consideration with other Delegates. These amendments were adopted, so the Proposal now should be entitled Committee Proposal No. 10, Committee of the Whole Draft 1. Your Committee adopted the amendments and also adopted the Proposal, as amended, and recommends that it now be referred to the Committee on Style and Arrangement for further technical study on phraseology. Mr. President, I move for acceptance of the oral report.

Delegate Falanruw seconded, and the motion carried. The oral report of the Committee of the Whole was accepted by the Convention.

Floor Leader Tman moved that Committee Proposal No. 10, CWD1, be referred to the Committee on Style and Arrangement. Delegate Olikong seconded.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President, in the Committee of the Whole I tried to bring up a concern on Subsection 4, having to do with children found in Micronesia of unknown parentage. I tried to convince the Committee to delete the provision from the proposed Article of the Constitution to no avail. Mr. President, I see a problem in this provision. Suppose, Mr. President, that we found a shipload of children adrift within the waters, the territorial limits of Micronesia. Are we, by virtue of their being found in our territory, to confer on them citizenship as a matter of law? And, suppose they would have no intention and suppose the parents are still in the process of trying to locate their lost children; would that not create a problem, Mr. President, if they found after a few days their children in Micronesia which have already become citizens of Micronesia? I do not see, Mr. President, what practical problem we are trying to solve here, and I still need some time to talk to the Chairman of the Committee concerned, and, therefore, I move, Mr. President and fellow Delegates, for a short recess.

Delegate Olikong seconded, and the motion carried.

The Convention recessed, subject to the call of the Chair, at 12:18 a.m.

RECESS

The Convention reconvened at 12:27 a.m.

President Falcam: The question before the Convention is a motion to refer Committee Proposal No. 10, CWD1, to the Committee on Style and Arrangement.

Floor Leader Tman: Mr. President, in order to ascertain the consensus of the Convention, I respectfully withdraw my motion to refer the Committee Proposal to the Committee on Style and Arrangement. That motion, Mr. President, having now been withdrawn by the mover, I now move to amend Committee Proposal No. 10, as amended by the Committee of the Whole, to delete Subsection 4, under

Citizenship and Nationality, on page 1, lines 14 and 15, in its entirety.

Delegate Ngiraked seconded.

The Chair recognized Delegate Toribiong.

Delegate Toribiong: Mr. President, I take it then that Subsections 5 and 6 will be renumbered 4 and 5.

Floor Leader Tman: Thank you very much. Mr. President, I omitted that and it should be included in my motion that Subsections 5 and 6 should be renumbered accordingly.

President Falcam: I shall state the motion again. The motion is to delete Subsection 4 in its entirety from Committee Proposal No. 10, as amended.

Delegate Nimwes: Mr. President, did you also include the renumbering of the subsections?

President Falcam: And the remaining sections shall be renumbered accordingly.

The motion carried. Committee Proposal No. 10, CWD1, was amended.

Floor Leader Tman moved that Committee Proposal No. 10, CWD1, CD1, be referred to the Committee on Style and Arrangement. Delegate Olikong seconded.

The motion carried, and Committee Proposal No. 10, CWD1, CD1, was referred to the Committee on Style and Arrangement.

Committee Proposal No. 10, CWD1, CD1.

A Proposal relating to Citizenship, Naturalization and Immigration.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION_____. Citizenship and Nationality.

1. Any person who is a citizen of the Trust Territory of the Pacific Islands on the day prior to this Constitution becoming effective shall be a citizen and national of the state of Micronesia.

2. Any person born of parents one or both of whom are citizens of Micronesia shall be a citizen and national of Micronesia at birth.

3. Any citizen of Micronesia who is recognized as a citizen of another state, shall, within three years of becoming 18 years of age, or within three years of the effective date of this Constitution, whichever is later, register his intent to retain his Micronesian citizenship and renounce his citizenship of any other state; OTHERWISE, he shall be a Micronesian national.

4. Any citizen of the Trust Territory of the Pacific Islands, who becomes a national of the United States of America under the terms of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, may become a citizen of Micronesia by applying to a Micronesian court of competent jurisdiction within six months after the date he becomes a United States national.

5. Upon ratification of this Constitution, this article shall be construed to apply both retroactively and prospectively.

SECTION _____. Naturalization. Micronesian nationals, persons adopted when under the age of eight years by a Micronesian citizen, spouses of Micronesian citizens, and other classes of persons as may be determined by law, are eligible for naturalization as Micronesian citizens, subject to additional requirements and procedures which shall be established by law.

SECTION _____. Immigration. Eligibility requirements and procedures for the admission of immigrants shall be established by law.

SECOND READING CALENDAR -- REFERRAL OF COMMITTEE PROPOSALS

Committee Proposal No. 11, entitled "A Proposal relating to supremacy of the Constitution and the sovereignty of the Micronesian people and State.", was referred to the Committee on Style and Arrangement.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Mwoty introduced Delegate Proposal No. 157, entitled "A Proposal relating to taxes on land."

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Luktun.

Delegate Luktun: Mr. President, a point of privilege.

President Falcam: State your point of privilege.

Delegate Luktun: Thank you, Mr. President. Mr. President, on behalf of my colleague, Chief Mathey, and members of my delegation, I extend our warm welcome to the two traditional leaders of the Marshalls, namely Iroij Tomeing and Iroij Lanki. We welcome you to this Convention. We have been looking forward with anticipation to your active participation in this Convention. My colleague, Chief Mathey, and I look forward to receiving the benefit of your views in our proceedings to frame an acceptable and enduring Constitution for all of Micronesia. Thank you, Mr. President.

President Falcam: Thank you, Delegate Luktun.

ANNOUNCEMENTS

Delegate Wainit: Thank you, Mr. President. I have been asked by the Chairman of the Functions Committee to announce that there will be a joint meeting of the Public Finance Committee and the Functions Committee this afternoon at 2:30 in this chamber. All members are urged to be present. The purpose of this important meeting is to discuss, assess, and possibly come up with better language on differences and similarities in proposals considered by these two committees, especially in the area of taxation and borrowing power. Thank you.

Delegate Tun: Thank you, Mr. President. Your Committee on General Provisions will continue its deliberations today starting at 2:30 on the subject of withdrawal of existing states and the admission of new states. The Committee has had the benefit of hearing the views of some delegations. Your Committee realizes that the District Delegation Chairmen are very busy at this time; however, the Committee would appreciate the views of the rest of the District Delegations which may be communicated to the Committee through members serving on the Committee from their various districts. Thank you.

Delegate Heinrich Iriarte: Thank you very much, Mr. President. Your Committee on Governmental Structure will meet at 2:30 this afternoon in Room No. 4.

Floor Leader Tmun: Mr. President, if there are no further announcements and no further business, I move the Convention recess until 11:00 a.m. tomorrow.

Delegate Olikong seconded, and the motion carried. The Convention recessed at 12:40 p.m.

Respectfully submitted,

Alberio R. Takesy
Assistant Convention Secretary

FIFTY-SEVENTH DAY

Wednesday, October 1, 1975

The Micronesian Constitutional Convention was called to order at 11:15 a.m.

The Honorable Carl Heine, Vice President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 43 Delegates present. Delegates Andriko, Apis, Borja, Bossy, Gibbons, Haruo, Kendall, Kijiner, Mary Lanwi, Nakayama, Olter, Rasa and Stephen were excused. A quorum was present. Troij Tomeing and Troij Lanki were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tmau moved that the Journal of the 56th Day be adopted. Delegate Nakamura seconded, and the motion carried. The Journal of the 56th Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Williander.

Delegate Williander: I move for the acceptance of Committee Report No. 18, relating to Committee Proposal No. 7, entitled "A Proposal relating to the territory of the state of Micronesia.", from the Committee on Style and Arrangement.

Delegate Ngiraked seconded, and the motion carried. Committee Report No. 18 was accepted by the Convention.

Delegate Williander: I move for the acceptance of Committee Report No. 19, relating to Committee Proposal No. 8, entitled "A Proposal relating to amending the Constitution.", from the Committee on Style and Arrangement.

Floor Leader Tmau seconded, and the motion carried. Committee Report No. 19 was accepted by the Convention.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President, I wish to make a motion regarding a proposal before this Convention, but before I make that motion I wish to make a short statement.

Mr. President, my dear fellow Delegates, ladies and gentlemen:

It is on behalf of the Palau Delegation that I wish to direct the attention of this historic Constitutional Convention to the status of Delegate Proposal No. 100, otherwise known as the Palau Delegation Proposal or Palau Proposed Draft Constitution. As you may vividly recall, the Palau Delegation at the outset of this Convention took pains to express in the form of a petition to this Convention seven minimum requirements which must be incorporated in the Constitution of Micronesia if Palau were to join the political union of Micronesia. It was then requested by the Palau Delegation that if it is the desire of this Convention to include Palau in the future political union of Micronesia, then this Constitutional Convention must somehow draft these seven minimum requirements into the future Constitution.

But because of the apparent cold response of the Delegates and staff of this Convention to these seven minimum requirements, the Palau Delegation undertook, on its own, to draft a proposed Constitution incorporating

these minimum requirements which was introduced to you during the early part of this Convention. Despite the wishes of the Palau Delegation that the Palau Proposed Draft Constitution be considered as one complete document, as it was intended to be, it was, to our dismay, butchered into pieces and assigned to the various standing committees of this Convention, where its ultimate fate was a dishonorable burial under piles of committee reports and proposals.

Mr. President, I do not know whether such action on Delegation Proposal No. 100 was triggered by design or simple unthoughtfulness, but it is clear to us that it would have been a clever way to do away with the seven minimum requirements embodied in Delegate Proposal No. 100. But, Mr. President, whether such action was triggered by design or unthoughtfulness, I wish at this time to make it perfectly clear to this Convention that the minimum requirements put forth by the Palau Delegation were not arbitrarily conceived; they are deeply rooted in the minds of the people of Palau, and that in the least, they should not be made a casualty of technical rules of procedure of this Convention.

Mr. President, as we approach the last 30 days of this Convention, it becomes incumbent upon the Palau Delegation to exhume all the parts of the Palau Proposed Draft Constitution from their various committee burial grounds, reassemble them into one document, and resubmit it to this Convention for serious and good faith consideration. I submit, Mr. President, that other parts of Delegate Proposal No. 100 may be improved and comprised, but let me repeat myself that the seven minimum requirements remain as they have been--a 50-50 compromise.

My fellow Delegates, let us not by delicate logic convince ourselves that we can force political unity for Micronesia by clever political maneuvers. Political unity of Micronesia can be achieved only on the basis of mutual needs and desires--where the benefits of unity are greater than its cost. And unless we open our eyes to the glittering virtues as well as the possible unpleasant political realities of Micronesian unity, our ultimate dream may soon vanish like a puff of smoke. It is for this reason, Mr. President, that I request that Delegate Proposal No. 100 be adopted by this Convention on its First Reading today.

To that end, Mr. President, let me first move to suspend Rule No. 36 relating to recalling measures from the standing committees.

Delegate Olikong seconded the motion.

Delegate Weital: Point of privilege, Mr. President.

President Carl Heine: Delegate Weital, please state your point of privilege.

Delegate Weital: I am not opposing the Chairman of the Delegation from Palau District. I merely wish to ask the question regarding this move. I understand that this gentleman wishes the Convention to adopt on First Reading Delegate Proposal No. 100. The question is, how would the Convention treat the proposals that we have adopted so far? I fail to see how we can work the two together in that the motion is to adopt Proposal No. 100. May I be enlightened on this please?

Floor Leader Tman: The motion before the Convention now is the motion to suspend Rule No. 36, which is not debatable. Shall we dispose of that motion?

Upon voice vote, the motion carried to suspend Rule No. 36.

The Chair recognized Delegate Ngiraked.

Delegate Falcam: Point of privilege, Mr. President.

President Carl Heine: After Delegate Ngiraked, Delegate Falcam may have the floor.

Delegate Ngiraked: He may have a point to make and I yield the floor to him.

The Chair recognized Delegate Falcam.

Delegate Falcam: Thank you, Mr. President. With all due respect to my friend, the Delegate from Palau, I was wondering whether the fellow Delegate from Palau was speaking in order or whether he was speaking on a point of privilege? As I see our Order of the Day, there is no provision for that move, except that I am not sure whether our Rules permit a motion to suspend the Rules in that fashion after that statement without obtaining a point of privilege from the Chair. I wish to be enlightened on this, Mr. President.

President Carl Heine: Mr. Floor Leader, would you respond to that?

Floor Leader Tman: I believe that Delegate Ngiraked obtained the point of privilege to make his remarks; therefore, the proceeding is still in order. A point of privilege is an unquestionable privilege. Therefore, we may proceed according to our Order of the Day.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Thank you very much, Mr. President. I am going to make that motion I was talking about, but before I make the motion I wish to remind this Convention that the Delegate Proposal has never received, in my opinion and in our opinion, a proper treatment as a document. To pass it on First Reading is simply to place it before the Convention for further consideration and treatment. We are not adopting a constitution. Therefore, Mr. President, I move that Delegate Proposal No. 100 pass First Reading.

Delegate Olikong seconded the motion.

Delegate Nimwes: Point of information, Mr. President.

President Carl Heine: State your point of information, Delegate Nimwes.

Delegate Nimwes: Was there any motion regarding withdrawal of such a proposal out of the committees?

President Carl Heine: Mr. Floor Leader, do you wish to respond to that?

Floor Leader Tman: There was no such motion, but Rule 36 was suspended which now, for this particular purpose, does not require a resolution to be adopted by the Convention to bring out a proposal from a committee with or without a recommendation.

Delegate Ismael: Mr. President, I would like to suggest to my fellow Delegate, John Ngiraked, that he move for the adoption of the oral report before we debate.

Delegate Nimwes: I move for a short recess.

Floor Leader Tman seconded, and the motion carried. The Convention recessed, subject to the call of the Chair, at 11:35 a.m.

RECESS

The Convention reconvened at 11:55 a.m.

Delegate Nimwes: Point of privilege, Mr. President.

President Carl Heine: State your point of privilege, Delegate Nimwes.

Delegate Nimwes: I am afraid that if we are not complying with our Rules of Procedure that the proceedings of this Convention will be somewhat ridiculed. I am not satisfied with the ruling given to me regarding the particular motion entertained by this Convention.

Delegate Weital: Point of privilege, Mr. President.

President Carl Heine: Delegate Weital, state your point of privilege.

Delegate Weital: Will you please explain to me or to this Convention Rule No. 36 before I can vote, because I really do not understand at this time what's going on. If this Rule can be clarified to me, perhaps I can make up my mind.

President Carl Heine: Delegate Tmun?

Floor Leader Tmun: Thank you, Mr. President. Rule No. 36 reads as follows:

> "A majority of the Delegates may by resolution require a committee to report any Delegate Proposal out with or without a written report. When so required, the Delegate Proposal shall be numbered and treated as a Committee Proposal."

In a sense, Mr. President, the motion now before the Convention is Delegate Proposal No. 100.

President Carl Heine: Thank you, Mr. Floor Leader. The motion before the Convention right now is to adopt on First Reading Delegate Proposal No. 100.

The Chair recognized Delegate Sony.

Delegate Sony: Mr. President, it is my understanding that the Convention can act only on those things that are before it. There is no motion to withdraw Delegate Proposal No. 100; therefore, this Convention has no power to act on anything that is not before it.

President Carl Heine: Delegate Tmun?

Floor Leader Tmun: I stand to be corrected. Rule No. 36, which requires a resolution by the majority of this Convention, has been suspended for the particular purpose of considering Delegate Proposal No. 100.

President Carl Heine: Is there any further discussion?

The Chair recognized Delegate Salii.

Delegate Salii: Mr. President, no one in our Delegation intends to bypass the Rules of this Convention. The reason we take this route is because we have been unable to get serious attention focused on this particular proposal. We are willing to wait for all the uncertainties regarding the Rules of Procedure to be clarified, but eventually we will come to the meat of the matter, and I suggest that the sooner we face the issue the better--for all of us and you.

The Chair recognized Delegate Nimwes.

Delegate Nimwes: I move that we recess until tomorrow at ten o'clock.

Delegate Sawaichi seconded the motion.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President, this may be a little out of order, but let me remind the Delegates here that rules of procedure are intended to expedite things. When it is in the interest of expediting things in this Convention, I think we should dispense with a little formality. Our purpose here is to try to do a job. Mr. President, before we vote to recess, I request the Delegates to take some thought back home until tomorrow. This is a very serious matter to the Delegation of Palau. We do not wish to create hostility in the Convention. We just wished to get some response from our fellow Delegates after they had taken a recess, one reason for which, as requested by the people of Palau of the Delegation of Palau, was to take Delegate Proposal No. 100 home and to come back with some kind of response from home so that we get some direction in our deliberations here. Thank you very much.

There being no further discussion, the motion carried to recess until 10:00 a.m., October 2, 1975.

The Convention recessed at 12:00 noon.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

FIFTY-EIGHTH DAY

Thursday, October 2, 1975

The Micronesian Constitutional Convention was called to order at 10:15 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 45 Delegates present. Delegates Andrike, Apis, Borja, Bossy, Gibbons, Haruo, Kendall, Kijiner, Mary Lanwi, Olter and Stephen were excused. A quorum was present. Iroij Tomeing and Iroij Lanki were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 57th Day be adopted. Delegate Tun seconded, and the motion carried. The Journal of the 57th Day was adopted by the Convention.

Delegate Ngiraked: Mr. President, let me beg the indulgence of the Delegates to ask that we pick up the business where we left off yesterday under item number nine, on the discussion and a motion to adopt Delegate Proposal No. 100. The proceeding yesterday, Mr. President, did not go beyond item number 9, "First Reading of Committee Proposals," and I request that we pick up where we left off by discussion on a motion which is pending before the Convention. I so move.

Delegate Salii seconded the motion, and the motion carried to resume the Order of Business at item number nine, at which point the Convention had recessed on Wednesday, October 1, and to resume with the motion relating to placing Delegate Proposal No. 100 on the calendar for First Reading.

At the request of Delegate Ngiraked, President Nakayama asked the Secretary to read the motion that was before the floor regarding Delegate Proposal No. 100.

Convention Secretary: The motion, Mr. President, was for passage on First Reading of Delegate Proposal No. 100.

Delegate Ngiraked: Mr. President, yesterday there were some activities in the Plenary Session on this motion. This motion is a technical one that requests the Convention to treat the Proposal in a very ceremonial, technical way on First Reading. I think, somehow, we reacted to this very simple motion. I request that we pass it on First Reading now so that we can dispose of it in this technical manner.

Delegate Falcam: I think, for the benefit of the Convention and my Delegation, it is fair for the Convention and my Delegation to hear the reasons why we are treating this particular Proposal in a ceremonial, technical and special way. I think that before we vote, we deserve some explanation in detail and to the point.

Delegate Mwety: Point of privilege, Mr. President. The honorable Chairman of the Palau Delegation who is also chairing the Legislative Subcommittee of the Structure Committee has not, in my opinion, done his homework on Proposal No. 100. I know that the legislative portion of Proposal No. 100 has been assigned to his Subcommittee. I also know that the Structure Committee is yet to finalize action on the structure of the legislative branch. All Subcommittee Chairmen in your Structure Committee have reported to the full Committee their findings and recommendations. Only the Subcommittee on Legislative has not made any report yet to the full Committee. The Chairman of the full Committee can better report to you on the transactions of

your Structure Committee. However, one thing will never fail the watchful eyes of the other members of the Committee, and that is: ever since our return from the recess, the Honorable Chairman of the Palau Delegation and Chairman of the Legislative Subcommittee has neither attended any Subcommittee meetings nor any meeting of the full Committee. For him to recall Proposal No. 100 and have it placed before the Convention for consideration without affording all members of the Convention the benefit of his findings and recommendations, somehow, in my opinion, belittles such an important Proposal. I will vote against the passage of Proposal No. 100 even on First Reading--not because I have anything against it or against the Palau Delegation. I will vote against it simply because the Subcommittee to which the Proposal was assigned has not done its homework.

Delegate Ngiraked: Mr. President, I appreciate the observation just made about my performance as Chairman of Legislative Subcommittee of your Committee on Governmental Structure. While there is very little bearing on the motion before this Convention, since the point has been raised, let me inform the honorable Delegate from Truk that I have submitted to the full Committee on Structure a report which proposes a unicameral legislature, generally along the lines of the Palau Proposal, or Delegate Proposal No. 100. Now, as to the request and point raised by Delegate Falcam, let me say this: since we are approaching the final thirty-day mark, let me turn around and ask the honorable Delegate a question. When has this Convention treated Delegate Proposal No. 100 ever since it was introduced as a document? I wish him to point out in the record any reference in Committee Reports, Committee Proposals or Delegate Proposals. I see in our Journal a consistency of avoiding even reference to Delegate Proposal No. 100, and this is the concern I raised yesterday in my speech.

Delegate Salii: Mr. President, I would like, if I may, to add a few more remarks to what Delegate Ngiraked has said on this question. It is the intention of this Delegation to bring this matter, this Delegate Proposal No. 100, to the Committee of the Whole for an open, unconstrained discussion. This has been our hope and our wish ever since the Proposal was introduced to this Convention way back in the early days, but because our rules preclude bringing this Proposal to the Committee of the Whole without certain preliminary actions, we have requested yesterday, and will continue to request today, that we pass Proposal No. 100 on First Reading in order to allow for a motion to bring it to the Committee of the Whole for a more orderly discussion. That is why we term the motion to pass on First Reading rather technical and ceremonious. There is another aspect of the problem which makes it necessary in our opinion to take this route and that is, while Delegate Proposal No. 100 was submitted as a complete package, it was assigned in parts to various committees of this Convention, and it relates to the problem--at least, maybe this is unique to the Palau Delegation, but we want to have a perspective, a framework, a complete framework within which to evaluate every individual Delegate Proposal as they come in. This has continued to be our problem as we see that various Delegate Proposals which touch upon single aspects of the Constitution without giving a frame of reference; and so we want to get a reaction from this Convention as to whether an attempt to give a framework is even acceptable or not. This is the reason this maneuver about Rules of Procedure and conduct and absence or participation of individual Delegates with respect to particular committees, we think is not very germane to the matter at hand. If the framework we are offering is not acceptable, I think it should be voted down on its own merits, rather than on the basis of some Rules of Procedure which originally were intended to guide this Convention, rather than to serve as obstacles to getting to really know each other's views and see if we have something we can agree on or not. Thank you, Mr. President.

Delegate Nimwes: Because of the uncertainties on my part as to the technical aspect regarding the special treatment here being proposed to afford to Proposal No. 100, I wonder if it would be agreeable to the Palau Delegation if this Proposal No. 100 could be reintroduced and treated in such a way that a special committee would work on it and report back to the Convention?

Delegate Ngiraked: The main object of the motion I made yesterday is simply to dispose of this matter to a proper committee so that this kind of discussion can take place. Whether it be in the Committee of the Whole; whether it be in Special Conference Committee; it does not make too much difference to me and to the Palauan Delegation. But if we pass this on First Reading then the Convention can dispose of this in a more constructive manner such as assigning it to the Committee of the Whole. This is the object of the motion.

Delegate Weital: Mr. President, point of information. Is it the intention of the Delegation from Palau to pass this Proposal in its original form?

Delegate Ngiraked: Of course, when we introduced the Proposal it was our hope that it would pass intact as a document. As we have said, this document is subject to refinement in device and language, and it has not received any treatment keeping it away from being simply a Palauan Proposal. Now, if we were to agree to and consent to assign it to Committee of the Whole, we will put it in a position where we can incorporate it into the Constitution or we could incorporate into the Proposal several proposals which have been adopted as a part of the future Constitution. It could come out as Committee Proposal No. 100, Conference Committee Draft No. 1. Mr. President, we simply want to move this away from it being simply the Palauan Proposal.

Delegate Weital: Mr. President, I would like to pursue the question I asked. In our Committee on General Provisions we brought to the Convention floor the Preamble of the Constitution, which I know everybody knows the Preamble of the Constitution was a part of this Palau Proposal. We have done some work on it; the Style Committee has done some work on it; and we passed a part of that Proposal. That is why, Mr. President, I ask the question: are we going to pass the Proposal 100 in its original form? What will happen to the work that has been done in the various committees? I do not understand what will happen to that work.

President Nakayama: If there is no objection, the Convention will have a short recess, subject to the call of the Chair.

The Convention recessed at 10:37 a.m. for a short recess, subject to the call of the Chair.

The Convention reconvened at 10:50 a.m.

Delegate Salii: Thank you, Mr. President. Mr. President and fellow Delegates: during the recess called by the Chair, conversations took place which, hopefully, will clarify the situation and the motion on the floor. The intent of the motion, as we have tried to explain, was to get some discussion underway on this Delegate Proposal No. 100. If the Delegates will bear with us and vote to pass the motion--to pass Delegate Proposal No. 100 on First Reading--then the officers of the Convention will find a way to make it possible for such a discussion to take place, maybe in a committee, or whatever they will decide to do so that this Proposal need not go directly into the Committee of the Whole. We will leave it up to the officers of the Convention to decide what to do when the Proposal is passed on First Reading. So, I will ask all Delegates to please allow this procedure to take place by voting to pass it on First Reading this morning. I understand that during the recess, also, explanations were given to clarify a question raised by Delegate Weital. Just for the record, the members of the Palau Delegation voted in favor of the amended Preamble which finally passed this Convention and we want to point out that as an example of the room within which things can improve within the original draft submitted by the Palau Delegation. We are hoping that more of this can take place if we can find the proper way to direct attention to the Proposal. Because we are running out of time we have sought to offer this provision now and I hope you will bear with me and vote to pass it on First Reading and let the officers decide what to do with Delegate Proposal No. 100.

Delegate Weital: Mr. President, I do not want to argue, but before I vote I want some clarification. I am concerned with the volume of the work your Committee on General Provisions has done so far. We worked on the Preamble; we worked on the territory of Micronesia; citizenship; withdrawal; Constitution supreme; amendment and ratification. All of these things take something from the Palau Proposal and something from other proposals and come out with a Proposal. I know these proposals were passed by the Convention. If we are to pass Proposal No. 100, I am not so clear what will happen to the work that has been done. Are we going to forget all about it and bring out the Preamble again? I don't want to argue, but I just want some clarification.

Delegate Ngiraked: This motion is not intended to embarrass nor frustrate any of the Committee's work, but rather to expedite it. Now, Delegate Weital has mentioned several proposals which have passed this Convention. If you allow this motion to pass, then one organization or subcommittee or an organ of this Convention will be able to incorporate those into the Proposal or to incorporate the Proposal into those things so we will have a framework into which to place our measures as they pass this Convention for future draft of the Constitution. So please, my fellow Delegate from Ponape, Daro Weital, please vote yes to the motion.

Delegate Falcam: Mr. President, I must thank my friend and fellow Delegate from Palau, Delegate Salii, for the very clear explanation as to the reasoning behind the apparent effort to get Proposal No. 100 before the Convention for discussion. I must indicate at this time, Mr. President, that I think the concern that the Palau Delegation has for Proposal No. 100 is shared by other people who have submitted proposals to this Convention. I am one of them myself--with Proposal No. 120. Another is Delegate Mwety with Proposal No. 29. These proposals are in our opinion also comprehensive and also set a framework within which this Convention must work. Mr. President, should the Convention move to adopt the motion on the floor to pass on First Reading Proposal No. 100, I would appreciate if the Delegates from Palau and the rest of the Delegates from other districts also consider the proposals I just mentioned. I would like, Mr. President, to amend the motion before this Convention to include Proposal No. 120, Proposal No. 29 to be considered simultaneously with Proposal No. 100 and adopted on First Reading this morning. Mr. President, I so move.

Delegate Ngiraked seconded the motion.

President Nakayama: Mr. Floor Leader, are we in order to act on such a motion?

Floor Leader Tmetuchl: Mr. President, I move for a short recess so that I may consult with the experts.

Delegate Tacheliol seconded, and the motion carried for a short recess, subject to the call of the Chair. The Chair declared such recess at 11:00 a.m.

The Convention reconvened at 11:12 a.m.

Delegate Falcam: Again, Mr. President, I hate to say this but because of technicalities I was under the impression that the motion to suspend Rule No. 36 which was made yesterday, and since we returned to yesterday's calendar I was under the impression that it was still in effect. Mr. President, I now move to withdraw my motion from the floor and move to suspend the Rule No. 36 to allow Proposal No. 120 and Proposal No. 29 to be withdrawn from Committee.

Delegate Ngiraked seconded and the motion carried to suspend Rule No. 36 to allow Proposal No. 120 and Proposal No. 29 to be withdrawn from Committee.

Delegate Falcam: Mr. President, I now move for the passage on First Reading of Delegate Proposal No. 120 and Delegate Proposal No. 29.

Delegate Ngiraked seconded the motion.

Floor Leader Tman: Mr. President, I move to withdraw Delegate Proposal No. 120 and Delegate Proposal No. 29 from the Committee and place them on the First Reading calendar.

Delegate Ngiraked seconded and the motion carried to withdraw Delegate Proposal No. 120 and Delegate Proposal No. 29 from the Committee and place them on the First Reading calendar.

President Nakayama: Delegate Proposal No. 120 and Delegate Proposal No. 29 are now on the First Reading calendar.

Delegate Falcam: Mr. President, I will now move to amend the main motion on the floor to include for consideration and passage on First Reading Delegate Proposal No. 120 and Delegate Proposal No. 29.

Floor Leader Tman seconded the motion.

Delegate Ngiraked moved for the previous question. Delegate Mwety seconded, and the motion carried to close debate.

The motion to amend the main motion on the floor by including for consideration and passage on First Reading Delegate Proposal No. 120 and Delegate Proposal No. 29 carried.

President Nakayama: Now we will vote on passage of Delegate Proposal Nos. 100, 120 and 29 on First Reading.

The motion carried and Delegate Proposal No. 100, Delegate Proposal No. 120 and Delegate Proposal No. 29 were passed on First Reading.

Floor Leader Tman: Mr. President, I move that Delegate Proposal No. 100, Delegate Proposal No. 120 and Delegate Proposal No. 29 be referred to a subcommittee on Administration consisting of all the Standing Committee chairmen, to be chaired by the Vice Chairman of the Administration Committee.

Delegate Ngiraked seconded and the motion carried to refer Delegate Proposal No. 100, Delegate Proposal No. 120 and Delegate Proposal No. 29 to a subcommittee on Administration.

REPORTS OF STANDING COMMITTEES

Delegate Wainit: Mr. President, I move for the acceptance of Committee Report No. 20, submitting Committee Proposal No. 13 which relates to the budget process.

Floor Leader Tman seconded and the motion carried to accept Committee Report No. 20.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 13, entitled "A Proposal relating to the budget process.".

Delegate Wainit: Mr. President, I move for the passage of Committee Proposal No. 13 on First Reading.

Floor Leader Tman seconded and the motion carried to pass Committee Proposal No. 13 on First Reading.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 12, entitled "A Proposal providing for a Public Auditor."

Floor Leader Tman: Mr. President, I move that the Convention resolve into the Committee of the Whole in order to consider Committee Proposal No. 12 on the Second Reading calendar.

Delegate Nimwes seconded, and the motion carried for the Convention to resolve into the Committee of the Whole.

The President requested Floor Leader Tman to preside over the Committee of the Whole.

The Convention resolved itself into the Committee of the Whole at 11:16 a.m.

The Convention reconvened in Plenary Session at 11:22 a.m.

President Nakayama requested that Floor Leader Tman present the oral report of the Committee of the Whole.

Floor Leader Tman: Mr. President, your Committee of the Whole has considered Committee Proposal No. 12 and is pleased to report that the Committee adopted Committee Proposal No. 12 and recommends its referral to the Committee on Style and Arrangement. I move for the acceptance of the oral report of the Committee of the Whole.

Delegate Wainit seconded, and the motion carried to accept the oral report of the Committee of the Whole.

Floor Leader Tman: I move that Committee Proposal No. 12 be referred to the Committee on Style and Arrangement.

Delegate Wainit seconded, and the motion carried to refer Committee Proposal No. 12 to the Committee on Style and Arrangement.

Committee Proposal No. 12.

A Proposal providing for a Public Auditor.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Appointment and Term of Office. There shall be a Public Auditor, appointed by the Executive with the advice and consent of the Legislature, who shall serve for a term of four years and thereafter until a successor shall have been appointed and confirmed.

SECTION _____. Independence. The Public Auditor shall be free from the administrative control of any person or authority in the performance of his functions and duties specified or provided for in this Constitution.

SECTION _____. Functions and Duties. The Public Auditor shall inspect and audit all public accounts and shall report the results of his inspections and audits to the Legislature at least once a year. The Public Auditor shall have such additional functions and duties as may be prescribed by law.

SECTION _____. Jurisdiction. The jurisdiction of the Public Auditor shall extend to all branches, departments, agencies and

statutory authorities of the central government and to such other public legal entities receiving public funds from the central government.

SECTION _____. Removal from Office. The Legislature may, by two-thirds vote _____, remove the Public Auditor from office at any time for cause. In such event, the Chief Justice shall appoint an acting Public Auditor to serve until such time as the Executive, with the advice and consent of the Legislature, appoints a new Public Auditor.

SECOND READING CALENDAR - FINAL ACTION

Committee Proposal No. 7, (CWD 1,2)(SD 1), entitled "A Proposal relating to the territory of the state of Micronesia.".

Committee Proposal No. 8, (CWD 1)(SD 1), entitled, "A Proposal relating to amending the Constitution.".

Delegate Williander: Mr. President, I move for the passage on Second and Final Reading of Committee Proposal No. 7, (CWD 1,2)(SD 1).

Floor Leader Tman seconded the motion.

Delegate Heinrich Iriarte: Mr. President, point of information. Under line 14, how far is our airspace? Or, what is the limit of our airspace?

Delegate Williander: I don't presume to know the correct answer, but it is indicated in the committee reports that above the land and sea of Micronesia and as far as sound can go--that is the limit of Micronesian airspace.

Delegate Toribiong asked that the question be repeated.

Delegate Heinrich Iriarte: My question is: how far is the airspace that we own? How far up?

Floor Leader Tman: Mr. President, I wish to make a suggestion to the Delegates that we should be dealing with the Proposal and any amendments made by the Style Committee. We have discussed the substance of the Proposal in the Committee of the Whole in prior sessions.

Delegate Ngiraked: Mr. President, in answer to the question about airspace and how far it goes: it goes as far as our future Air Force can reach. (Laughter)

President Nakayama: It will require a minimum of 34 affirmative votes to pass Committee Proposal No. 7 on final reading, and it will be done by roll call vote.

Following roll call vote on Committee Proposal No. 7, the Convention Secretary reported that there had been 44 affirmative votes and 1 negative. Committee Proposal No. 7,(CWD 1,2)(SD 1), had passed the Second Reading.

Delegate Williander: Mr. President, I move for the passage on Second and Final Reading of Committee Proposal No. 8, (CWD 1)(SD 1).

Floor Leader Tman seconded the motion.

President Nakayama: The same vote will be required to pass this proposal.

Following roll call vote on Committee Proposal No. 8, the Convention Secretary reported that there had been 44 affirmative votes and 1 negative. Committee Proposal No. 8,(CWD 1)(SD 1), had passed the Second Reading.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 7, (CWD 1,2)(SD 1), and Committee Proposal No. 8, (CWD 1)(SD 1), having passed Second Reading, were re-referred to the Committee on Style and Arrangement.)

Committee Proposal No. 7, CWD 1, CWD 2, SD 1.

A Proposal relating to the territory of the state of Micronesia.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

TERRITORY OF MICRONESIA

SECTION _____. National Territory. The nation of Micronesia is composed of the islands of the Micronesian Archipelago, made up of all islands of districts which ratify this Constitution, which formerly comprised the land territory of the Trust Territory of the Pacific Islands, together with the waters embraced therein, and the airspace above both land and water and all the other territories and waters belonging to the nation of Micronesia by historic right, custom, or legal title. The territory of the nation of Micronesia includes a marine space of 200 nautical miles measured outward from the archipelagic baselines, the seabed, subsoil, water column, insular and continental shelves, and such other marine and airspace over which the nation of Micronesia has, or shall hereafter acquire, sovereignty or jurisdiction. Subject to international treaty obligations and limitations assumed by the government of Micronesia by its own act and in its own name, the waters around and connecting the islands of the archipelago, irrespective of their breadth and dimensions, form part of the internal waters of the nation of Micronesia.

SECTION _____. District Boundaries. Each district shall be comprised of the islands as defined by laws in effect immediately prior to the effective date of this Constitution. Marine boundaries between adjacent districts shall be determined by law, applying the principle of equidistance. Boundaries of districts may be changed by law with the consent of the district legislatures concerned.

SECTION _____. Addition of Territory. Territory may be claimed, annexed, acquired or otherwise added to the national territory or a district of Micronesia by law; PROVIDED, that such acquisition shall be approved by the inhabitants of the area, if any, and the people of Micronesia. If the territory is to become a part of an existing district, the approval of the legislature for that district shall be required.

* * * * *

Committee Proposal No. 8, CWD 1, SD 1.

A Proposal relating to amending the Constitution.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

AMENDMENTS

SECTION _____. Amendments to this Constitution may be proposed by a Constitutional Convention, popular initiative, or the Congress of Micronesia, in a manner provided by law. A proposed amendment shall become part of the Constitution only when approved by three-fourths of the votes cast on that amendment in each of three-fourths of the districts of Micronesia. If conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number of affirmative votes shall prevail to the extend of such conflict.

SECOND READING CALENDAR - REFERRAL

Committee Proposal No. 10, (CWD 1)(CD 1), entitled "A Proposal relating to Citizenship, Naturalization and Immigration.", was referred to the Committee on Style and Arrangement.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 158, entitled "A Proposal relating to equal right to employment and subsequent career advancement, and taxation related thereto.", was introduced by Delegate Max Iriarte and Delegate William Eperiam.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 157, entitled "A Proposal relating to taxes on land.", was referred to the Committee on Finance and Taxation.

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Ngiraked: Mr. President, I wish to take this opportunity to ask this Convention to recognize the presence of an outstanding visitor from Palau, Dr. Minoru Ueki, the District Director of Health Services for Palau. (Applause)

ANNOUNCEMENTS

Delegate Tun: Mr. President, your Committee on General Provisions will meet today at two o'clock to deliberate on the transitional provisions of the Constitution.

Delegate Heinrich Iriarte: Your Committee on Governmental Structure will meet at 2:30 this afternoon in Room 4.

Delegate Ismael: Mr. President, your Committee on Governmental Functions will meet at two o'clock this afternoon in this room.

Delegate Ngiraked: I wish to announce on behalf of the Legislative Subcommittee of Governmental Structure that they have completed their work on the proposed structure of the legislative part of our Constitution. Such work has been presented to the Committee of the Whole and has been there for more than one month.

Delegate Willander: Your Committee on Style and Arrangement will have a meeting at four o'clock today in Room 4.

Floor Leader Tman: Mr. President, I move that the Convention recess until eleven o'clock tomorrow morning.

Delegate Toribiong seconded, and the motion carried to recess until 11:00 a.m., October 3, 1975.

The Convention recessed at 11:42 a.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

FIFTY-NINTH DAY

Friday, October 3, 1975

The Micronesian Constitutional Convention was called to order at 11:12 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Assistant Convention Secretary called the roll. There were 43 Delegates present. Delegates Andrike, Apis, Borja, Bossy, Gibbons, Haruo, John Heine, Kendall, Kijiner, Mary Lanwi, Olter, Salii and Stephen were excused. A quorum was present. Iroij Tomeing and Iroij Lanki were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 58th Day be adopted. Delegate Toribiong seconded, and the motion carried. The Journal of the 58th Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

Delegate Wiliander moved for a short recess. Floor Leader Tman seconded, and the motion carried. The Convention recessed, subject to the call of the Chair, at 11:17 a.m.

RECESS

The Convention reconvened at 11:20 a.m.

The Chair recognized Delegate Wiliander.

Delegate Wiliander: Thank you, Mr. President, I move for acceptance of Committee Report No. 21, relating to Citizenship, Naturalization and Immigration.[Committee Proposal No. 10, CWD1, CD1, SD1]

Floor Leader Tman seconded, and the motion carried. Committee Report No. 21, from the Committee on Style and Arrangement, was accepted by the Convention.

Delegate Wiliander: Mr. President, I move for acceptance of Committee Report No. 22, relating to the supremacy of the Constitution and the sovereignty of the Micronesian people and State. [Committee Proposal No. 11, SD1]

Delegate Falanruw seconded, and the motion carried. Committee Report No. 22, from the Committee on Style and Arrangement, was accepted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

None

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 13, entitled "A Proposal relating to the budget process.

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Mr. President, I move the Convention resolve into the Committee of the Whole to deliberate on Committee Proposal No. 13.

Delegate Tun seconded, and the motion carried.

The President requested Floor Leader Tman to preside over the Committee of the Whole.

The Convention resolved into the Committee of the Whole at 11:17 a.m.

The Convention reconvened in Plenary Session at 11:47 a.m.

The President requested the Floor Leader to present the oral report of the Committee of the Whole.

Floor Leader Tman: Mr. President, your Committee of the Whole, which considered Committee Proposal No. 13, is pleased to report as follows: Your Committee, after adopting proposed amendments offered by the Public Finance Committee to clarify the language in the first section, adopted both the amendment and the Committee Proposal, as amended, and recommends that the Proposal now be referred to the Committee on Style and Arrangement for further study of the phraseology. I move for acceptance of the oral report.

Delegate Tun seconded, and the motion carried. The oral report of the Committee of the Whole on Committee Proposal No. 13, CWD1, was accepted by the Convention.

Floor Leader Tman moved that Committee Proposal No. 13, CWD1, be referred to the Committee on Style and Arrangement.

Delegate Weital seconded, and the motion carried. Committee Proposal No. 13, CWD1, was referred to the Committee on Style and Arrangement, in the following form:

Committee Proposal No. 13, CWD1

A Proposal relating to the budget process.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE ____

SECTION ____. Budget Submission. The Executive shall submit an annual budget to the National Legislature at such time as may be set by law. The annual budget shall set forth a complete plan of proposed expenditures, anticipated revenues and such other monies available to the National Government for the ensuing fiscal year, together with such additional information as the National Legislature may require. In adopting the annual budget the National Legislature shall have the power to alter in any respect the proposed annual budget submitted by the Executive.

SECTION ____. Priority Status of Budget. No appropriation bills, except those recommended by the Executive for immediate passage, or to cover the costs of the legislature, shall be passed on final reading until the bill authorizing expenditures to finance the annual budget has been enacted by the National Legislature.

SECTION ____. Item Veto. The Executive may strike out items in appropriation bills passed by the National Legislature and the procedure in such cases shall be the same as in the case of the disapproval of an entire bill by the Executive.

SECOND READING CALENDAR - FINAL ACTION

Committee Proposal No. 10, CWD1, CD1, SD1, entitled "A Proposal relating to Citizenship, Naturalization and Immigration."

Committee Proposal No. 11, SD1, entitled "A Proposal relating to supremacy of the Constitution and the sovereignty of the Micronesian people and State."

The Chair recognized Delegate Williander.

Delegate Williander: Mr. President, because Committee Reports Numbers 21 and 22 concerning Proposals Numbers 10 and 11 were just passed out immediately before the Plenary Session started, I therefore move, Mr. President, that adoption on Second and Final Reading of Proposals Numbers 10 and 11 be delayed until tomorrow.

Floor Leader Tman seconded, and the motion carried. Action on Committee Proposals Nos. 10 and 11 was postponed until October 4, 1975.

The Chair recognized Delegate Falcam.

Delegate Falcam: Thank you, Mr. President. Mr. President, I would like to inform the Convention and the Chair that a proposed amendment to Committee Proposal Number 10 is being passed out for consideration by the Convention, and I would like to urge that each Delegate familiarize himself with the intent. Thank you very much.

SECOND READING CALENDAR - REFERRAL

The following Committee Proposals were referred to the Committee on Style and Arrangement:

Committee Proposal No. 7, CWD1, CWD2, SD1, entitled "A Proposal relating to the territory of the state of Micronesia."

Committee Proposal No. 8, CWD1, SD1, entitled "A Proposal relating to amending the Constitution."

Committee Proposal No. 12, entitled "A Proposal providing for a Public Auditor."

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 29, entitled "A Proposal establishing legislative, executive and judicial branches of government, and including a traditional leaders advisory council.", was referred to the Subcommittee on Administration.

Delegate Proposal No. 100, entitled "A Proposal relating to the provisions of the Constitution of Micronesia.", was referred to the Subcommittee on Administration.

Delegate Proposal No. 120, entitled "A Proposal relating to the government of the United Republics of Micronesia.", was referred to the Subcommittee on Administration.

Delegate Proposal No. 158, entitled "A Proposal relating to equal right to employment and subsequent career advancement, and taxation related thereto.", was referred to the Committees on Civil Liberties and Public Finance and Taxation.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Williander.

Delegate Williander: Thank you, Mr. President. I speak on a point of personal privilege.

President Nakayama: Please proceed.

Delegate Williander: Mr. President and honorable Delegates: I am disturbed by the events of the last few days.

The rules of this Convention were considered by each Delegation before we ever came to Saipan. When we met before the convening of the Convention, we went over the rules again. We all knew that Delegate Proposals were to go into Committee, be considered with all other Delegate Proposals and other ideas, and then each Committee was to report out its best judgment of what should go into the part of the Constitution for which it was responsible. We all understood we were not going to line up a whole Truk Proposed Constitution against a Palau Proposed Constitution, and both of them against a third Yapese Proposed Constitution. As Delegates we came to consult, and discuss, and in Micronesian style arrive at a consensus on the various points of view.

Two days ago we were told that when the Delegates from Palau came with their "seven minimum requirements" and then incorporated them into Delegate Proposal No. 100, that they were tricked. That, to their dismay, it was -- and I quote from the Journal, Mr. President -- "butchered into pieces and assigned to the various standing committees of the Convention where its ultimate fate was a dishonorable burial under piles of committee reports and proposals." The author of that statement then went on to say -- and again I quote -- "I do not know whether such action on Delegate Proposal No. 100 was triggered by design or simple unthoughtfulness, but it is clear to us that it would have been a clever way to do away with the seven minimum requirements embodied in Delegate Proposal No. 100."

Mr. President, the division of Delegate Proposal 100 among the various committees according to its subject content was just as provided by Rule 58 of this Convention. There was no trickery, no "unthoughtfulness."

Mr. President, let us examine the record to see whether in fact there has been discrimination against Proposal No. 100. The various parts of that Proposal have been considered. They have not been buried.

We all know that the General Provisions Committee reported out a Preamble which is almost word for word in Proposal 100. In the deliberations on Civil Liberties, the Delegates from Palau have referred to the Palauan Proposal, and the Committee's Proposals on civil liberties have been materially aided by the Palauan position. In the Functions Committee, on which I serve, I know that Delegate Toribiong has taken a very active part in proposing a division of taxes between the national and district governments. It cannot in any way be said that the position of the Palauan Delegates is not being taken into consideration. If anything, it is the other way! I know that my fellow Delegates will concur with me when I say that the Committee discussions have been acutely aware, painfully aware, of the Palauan position.

We are just at the brink of all the Committees reporting, and the Constitution being assembled, debated and adopted. I have reviewed the progress of the various Committees and I know this is going to happen. Let me review for you where we are:

State of the Constitution: Preamble, Proposal No. 100, passed.

Article 1, Territorial Jurisdiction was taken care of by Committee Proposal No. 7. Secession/Admission of New areas, will be taken care of by General Provisions working on that draft.

Article 2 of Proposal No. 100, concerning Sovereignty. Supremacy of the Constitution/Future Status is taken care of by Committee Proposal No. 11. National Government/District Powers in Proposal No. 100 will be taken care of by the Committee on Functions which is working on this.

Article 3, Civil Liberties. Freedom of Expression; Freedom of Assembly; Freedom of Religion; Protection of Custom is taken care of by Committee Proposals Nos. 1, 2, 4, and 9. Balance of Bill of Rights is to come out from Civil Liberties and that proposal is ready to come before the Convention. The same with Affirmative Rights; it is being taken care of by Civil Liberties.

Articles 4 to 7 in Proposal No. 100, Structure. Three Branches has passed. The Executive, which is the structure and functions, is taken care of by the Structure Committee, and I have the information that it is nearly completed with a final draft. This Committee is completing hearings and putting together a final draft on the functions of the Executive Branch. The Legislature, structure and functions, the Committee on Structure and the Committee on Functions are completing their work and coming out with a draft, and they are in line with Proposal No. 100. Judiciary on Proposal No. 100 is coming out of the Structure Committee. Independent Officers on Proposal No. 100, on public auditor and public defender, Committee Proposal No. 12 takes care of the Public Auditor. The Structure Committee is working on the draft for Public Defender.

Article 8 in Proposal No. 100, concerning Fiscal, is taken care of by Committee Proposal No. 10.

Article 9 in Proposal No. 100, concerning Citizenship, is in line also with Committee Proposal No. 10.

Article 10 in Proposal No. 100, concerning Amendment, has been taken care of by Committee Proposal No. 8.

Article 11, concerning Transition, the Committee on General Provisions is coming out with a draft. Transition Provisions, I am informed that the Committee on General Provisions is working also on the draft.

When we succeed in writing the best Constitution possible for all of Micronesia, it will not trouble me in the least if it is referred to as the "Palauan Proposal" or the proposal of any other Delegation or Delegate.

Mr. President and my fellow Delegates, in my opinion the success of this Convention is not dependent on a Delegate Proposal or on a Delegation Proposal. It is dependent on the inputs from every delegate, taken from all proposals.

Thank you, Mr. President. [Applause]

The Chair recognized Delegate Max Iriarte.

Delegate Max Iriarte: Thank you, Mr. President. If it would not be repugnant to custom or tradition, I would like to request very humbly that all of the traditional leaders from all of the districts get together on Monday at three o'clock. If there is any difficulty, I would like the Secretary to assist in enabling this to be possible.

The Chair recognized Delegate Cabrera.

Delegate Cabrera: Thank you, Mr. President. At this time, Mr. President, I take pleasure on behalf of my Delegation to present to you and the Convention the Mayor of Tinian Island, the Honorable Felipe Mendiola. [Applause] And with him is the Speaker of the Municipal Council of Tinian, the Honorable Harry Cruz. [Applause]

ANNOUNCEMENTS

Delegate Tun: Thank you, Mr. President. Mr. President, your Committee on General Provisions will not meet today. The Committee will not meet tomorrow, but there may be some materials to be distributed for the review of the members of the Committee. This will be announced tomorrow, but today there isn't any meeting. Thank you.

Delegate Ismael: Thank you, Mr. President. I would like to remind members of the General Functions Committee to meet here at two this afternoon. I am pleased to announce that Delegate Fritz and his lawyer will be appearing before the Committee on the draft relating to the jurisdiction of the court. Thank you.

Delegate Heinrich Iriarte: Thank you very much, Mr. President. Your Committee on Governmental Structure will meet this afternoon at 2:30 in Room No. 4.

Delegate Falcam: Thank you very much, Mr. President. I am suggesting to the members of the Subcommittee of the Committee on Administration that we have a preliminary meeting today after the Committee on Administration's meeting for preliminary discussion on how we handle Proposals Nos. 100, 120 and 29, and this will be in the same room where the Committee on Administration will meet.

Delegate Ngiraked: Mr. President, I rise to a point of information. I would like the Chair to give me the information as to the structure or makeup of the Committee to which Proposals Nos. 100, 120 and 29 were assigned yesterday. What is the Committee and who are the members?

President Nakayama: May I ask the Chairman of the Subcommittee to respond to the point of information?

Delegate Falcam: Thank you, Mr. President. As decided by the Convention yesterday, the members of the Subcommittee on Administration are as follows: Delegate Wainit, who is Vice Chairman of the Committee on Finance and Taxation; Delegate Carl Heine, who is Chairman of the Civil Liberties; Delegate Petrus Tun, Chairman of the General Provisions Committee; Delegate Wiliander, Chairman of the Style and Arrangement Committee; Delegate Sawaichi, Chairman of the Special Conference Committee; Delegate Hiroshi Ismael, Chairman of the Functions Committee; and Delegate Heinrich Iriarte, Chairman of the Structure Committee. Thank you very much, Mr. President.

President Nakayama: The Chair wishes to request all members of the Administration Committee, especially the Chairmen of standing committees, to meet right after the session in Room No. 1.

Delegate Wiliander: Thank you, Mr. President. I wish to announce to the members of your Committee on Style and Arrangement that there will be a meeting at four o'clock and with the permission of the Chairman of the Structure Committee, we wish to use Room No. 4.

President Nakayama: Any further business? Delegate Tman.

Floor Leader Tman: Thank you, Mr. President. There being no further announcements and no further business, I risk a motion and that is, I move the Convention recess until 10:30 tomorrow morning.

Delegate Falcam seconded, and the motion carried. The Convention recessed at 12:10 p.m.

Respectfully submitted,

Atherio R. Takesy
Assistant Convention Secretary

SIXTEENTH DAY

Saturday, October 4, 1975

The Micronesian Constitutional Convention was called to order at 11:15 a.m.

The Honorable John O. Ngiraked, Vice President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 36 Delegates present. Delegates Andrike, Apis, Borja, Bossy, Cruz, Gibbons, Haruo, Hathey, Max Iriarte, Kendall, Kijiner, Isaac Lanwi, Mary Lanwi, Manglona, Matenk, Nakayama, Olikong, Olter, Salii and Stephen were excused. Iroij Tomeing and Iroij Lanki were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 59th Day be adopted. Delegate Tun seconded, and the motion carried. The Journal of the 59th Day was adopted by the Convention.

President Ngiraked: Before we pass that item, ladies and gentlemen, let us go on the record in taking special notice that today is the 60th Day of the Convention and that we have reached the final 30-day mark.

On Item No. 6 of the Order of the Day, I have the information that there is a special request from the Marshallese Delegation. Delegate John Heine?

PETITIONS AND MEMORIALS

Delegate John Heine: Thank you, Mr. President. During the past two weeks Mrs. Lejelan Kabua and Mrs. Kabua Kabua passed away. It is a very sad occasion to our people in the Marshalls. With your permission, I would request that we have a moment of silence in memory of these two High Chief ladies who passed away.

President Ngiraked: Let us dedicate a moment of silent memorial to the bereaved families. Let us all rise.

A moment of silent prayer was observed in memory of Mrs. Lejelan Kabua and Mrs. Kabua Kabua.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Carl Heine.

Delegate Carl Heine: Thank you, Mr. President. I move for the acceptance of Committee Report No. 23, relating to Committee Proposal No. 14, entitled "A Proposal relating to the Bill of Rights.", from the Committee on Civil Liberties.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 23 was accepted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 14, "A Proposal relating to the Bill of Rights."

Delegate Carl Heine moved for the passage of Committee Proposal No. 14 on First Reading. Floor Leader Tman seconded, and the motion carried. Committee Proposal No. 14 was passed on First Reading by the Convention.

SECOND READING CALENDAR - FINAL ACTION

President Ngiraked: If there is no objection from the floor, the Chair wishes to defer consideration of the items under No. 10 of the Order of the Day.

Delegate Williander: I so move that we defer action on Second and Final Reading of Committee Proposals No. 10 and No. 11 until Monday, October 6.

Floor Leader Tman seconded, and the motion carried to defer action on Committee Proposals No. 10 and No. 11.

SECOND READING CALENDAR - REFERRAL

Committee Proposal No. 13 (CWD1), entitled "A Proposal relating to the budget process.", was referred to the Committee on Style and Arrangement.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 159, entitled "A Proposal relating to Eminent Domain.", was introduced by Delegate Iuke Tman.

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

None

ANNOUNCEMENTS

The Chair recognized Delegate Ismael.

Delegate Ismael: I think it is appropriate perhaps that in honor of our people we should ask the President to send dispatches to the families of the nobles who have passed away recently during the proceedings of this Convention to convey the condolences of this Convention to all our people -- to the Marshalls in memory of the two ladies enumerated by Delegate John Heine, to Palau in memory of the noble lady of the Ibedul, and to Truk in memory of the eldest Bossy.

President Ngiraked: Is it your desire, your wish or your request that we formally convey the condolences of the Convention to those families?

Delegate Ismael: Yes.

President Ngiraked: We will do so.

Delegate Tacheliol: Thank you, Mr. President. If I may, I would like to request the Convention to recognize the presence of two distinguished guests from Yap who are sitting in the gallery; namely, our District Director of Health Services, Dr. Antonio Goibuu, and Mrs. Carmen Dawi, who is with the Manpower Advisory Council. Would you please stand? (Applause)

Floor Leader Tman: I rise on a point of privilege to request the Convention for inclusion of an important article regarding the Law of the Sea that appeared yesterday in the Pacific Daily News. I have a clipping of that news article before the Clerk. That article will, in part, answer the question that was raised by Delegate Toribiong the other day with respect to the United States position as to the 200-mile limitation. I ask the indulgence of the Convention to move that that article that I referred to be inserted in the Journal as part of our Journal for the information of all the Delegates.

Delegate Tun seconded, and the motion carried to insert in the Journal of the 60th Day the article that appeared in the Pacific Daily News, October 3, 1975, as follows:

"Advisers Urge 200-Mile Zone

Washington (UPI) An oceanic advisory committee has urged Congress to stop waiting for international agreement and extend the nation's fisheries jurisdiction from 12 to 200 miles offshore.

The 25-man presidential panel said in a report released Wednesday that creation of a 200-mile economic-resource zone would help America's fishermen, increase national food resources and give the government more responsibility over fisheries management.

The report was drafted in June.

'The pressures on the living resources and the marine environment are such that the feeling grows we cannot afford to wait but must take action now,' the panel said in the report sent to Congress and the White House.

Commerce Secretary Rogers C. B. Morton said, however, that the administration believes such unilateral action 'is extremely dangerous and incompatible' with international Law of the Sea negotiations scheduled to resume next March in New York.

The Senate Commerce Committee approved a bill last Thursday which would establish a 200-mile fishing zone and forbid foreigners from taking anything but surplus fish from those waters. The House Merchant Marine Committee has approved a similar measure."

Delegate Carl Heine: I was going to announce a meeting of your Committee on Civil Liberties but I am going to postpone that until Monday. However, I wish to make very short remarks that there is a report before everyone in this Convention--a rather lengthy report--about 20 pages in length--and I would urge every member to read it carefully during this weekend for possible discussion of it on Monday. As you correctly stated earlier, Mr. President, we have only 30 days left of the Convention and this report might require the attention of the Delegates to this Convention. It contains all the 11 Bills of Rights which your Committee on Civil Liberties has been working on for the past several weeks. Thank you, Mr. President.

Delegate Yoma: This question I want to direct to the Chairman of the Committee on Civil Liberties. Do I understand correctly that this is the balance of the entire submission from that Committee?

Delegate Carl Heine: That is the present workload that the Committee has been considering, and unless there are any other unusual matters with respect to rights that come to this Committee for consideration, this is the balance of the entire work of your Committee on Civil Liberties. It contains a total of 15 articles of Bills of Rights altogether.

Delegate Falcam: I should like to congratulate the Chairman and the Committee on Civil Liberties for expeditious work and a job well done. Thank you.

Delegate Fritz: This may be a point of information with respect to the assignment of proposals referred to the Committee on Governmental Structure. There are a few proposals referred to that Committee which were withdrawn and assigned to the Subcommittee on Administration for action. Would you please explain to me whether the Committee on Governmental Structure will continue to complete some of the work which it has already done on part of that assignment, or do we just let the Subcommittee on Administration take over that matter from the Committee on Governmental Structure?

President Ngiraked: What is the effect of the action taken yesterday on these three measures, Floor Leader Tman?

Floor Leader Tman: The effect is that Delegate Proposals No. 79, No. 100 and No. 120 are now assigned to the Subcommittee on Administration. Any committee is at liberty to introduce or submit to the Convention any committee proposal that pertains to that specific function.

President Ngiraked: Are those three measures out of the Committee on Governmental Structure?

Floor Leader Tman: That is correct. That's why I specifically mentioned the numbers. Those three Delegate Proposals are now out of the Committee on Governmental Structure. However, that does not necessarily mean that the Committee on Governmental Structure or any committee, for that matter, is relieved of its responsibility to study and make a recommendation to this Convention in the area of its jurisdiction.

Delegate Techeliol: For my colleague Delegate Fritz' information--I think he was absent yesterday from the Committee meeting--I explained during the Structure Committee meeting yesterday that we will proceed with our work. Although these three proposals have been reassigned, it won't stop the Committee from doing its task. We will proceed to work on our work and will report to the Convention as soon as we get all this ready. Thank you.

Delegate Cabrera: I would like to introduce to the Convention two guests with us this morning from the Saipan community--Rokucho Billy and Mrs. Bernie Rankin. (Applause)

Delegate Wainit: I would like to announce that your Committee on Public Finance and Taxation will have a very urgent and important meeting right after the Plenary Session. I beg the indulgence of the following members to be present: Delegates Philippo, Tman, Cabrera, Sawaichi, Nakamura, Eperiam, Tun, and all others that are left out.

Delegate Weital: I just want to request the members of the Committee on Civil Liberties to be prepared to make a convincing explanation to me regarding capital punishment on Monday.

Delegate Tun: Your Committee on General Provisions will not meet today. By Monday your Committee will have had one whole day and two afternoons of recess. Therefore, on Monday, all the members of that Committee are expected to attend the meeting. The time of that meeting will be announced during the Plenary on Monday.

Delegate Yoma: Thank you, Mr. President. This morning I would like to introduce to the Convention a very important member of Public Affairs. As you know, every district of the Trust Territory is represented in that department by a sufficient number of representatives. However, the District of Yap is represented by only one individual and that gentleman, ladies and gentlemen, is Mr. Patrick Mangar. (Applause)

President Ngiraked: Notwithstanding the number, Yap is well represented.

Delegate Williander: I wish to announce that your Committee on Style and Arrangement will meet on October 6, which is Monday, at 10:00 a.m., in Room No. 4.

Delegate Ismael: I wish to remind the members of your Committee on Governmental Functions of a meeting at two o'clock, Monday afternoon. Depending on the outcome of today's meeting of the Finance Committee, we may be meeting then to iron out our differences relative to the taxing power of the various levels of government. So, please be here at two o'clock in this chamber on Monday afternoon. Thank you.

Floor Leader Tman: If there is no further business or announcements, I rise on a point of privilege on behalf of the Convention officers. Mr. President, on behalf of the Convention officers and Secretary of the Convention, I wish to urge all District Delegation Chairmen to encourage their Delegates to be present in the Convention since we are approaching the end of the Convention.

I move that the Convention recess until 11:00 a.m., Monday.

Delegate Tmu seconded, and the motion carried. The Convention recessed at 11:40 a.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

SIXTY-FIRST DAY

Monday, October 6, 1975

The Micronesian Constitutional Convention was called to order at 11:05 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Assistant Convention Secretary called the roll. There were 41 Delegates present. Delegates Andrike, Apis, Borja, Bossy, Gibbons, Haruo, Kalles, Kendall, Kijiner, Isaac Lanwi, Mary Lanwi, Olikong, Olter, Saiji and Stephen were excused. Iroij Lanki was also present. A quorum was present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 60th Day be adopted. Delegate Ngiraked seconded, and the motion carried. The Journal of the 60th Day was adopted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 14, "A Proposal relating to the Bill of Rights."

Delegate Carl Heine moved for passage of Committee Proposal No. 14 on First Reading. Floor Leader Tman seconded, and the motion carried. Committee Proposal No. 14 was passed on First Reading by the Convention.

SECOND READING OF COMMITTEE PROPOSALS - FINAL ACTION

Committee Proposal No. 10, CWD1, CD1, SD1, "A Proposal relating to Citizenship, Naturalization and Immigration."

Committee Proposal No. 11, SD1, "A Proposal relating to supremacy of the Constitution and the sovereignty of the Micronesian people and state."

Delegate Williander moved for passage of Committee Proposal No. 10, CWD1, CD1, SD1, on Second and Final Reading. Floor Leader Tman seconded.

The Chair recognized Delegate Falcam.

Delegate Falcam: Thank you, Mr. President. As the Convention will recall, a proposed amendment was distributed to the Delegates during our previous meeting and it is essentially self-explanatory. I would like to move now for the adoption of the proposed amendment.

Delegate Ngiraked seconded.

Delegate Falcam: Mr. President, I would like to request that the Secretary read the proposed amendment for the benefit of the Convention. Thank you.

The Chair so directed the Secretary who read the following:

"Amendment to Committee Proposal No. 10, CWD1, CD1, SD1

"Amendment No. 1:

On page 2, delete lines 7 to 12, inclusive, being the entire Section on 'Naturalization' and insert in lieu thereof:

'SECTION_____. Naturalization. Eligibility requirements and procedures for naturalization shall be established by law.'"

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Thank you, Mr. President. Mr. President, if I may, I wish my ignorance to be enlightened and I wish to request the introducer of the proposed amendment to explain the difference between the current Section and his proposed Section.

Delegate Falcam: Thank you very much, Mr. President. The Section on Naturalization in Committee Proposal No. 10, CWD1, etc. provides for naturalization procedures for Micronesian nationals to become naturalized. I would merely wish to indicate here that in this provision we may be embarking on something that we may not be able to have any flexibility in the future should circumstances warrant some changes. Consequently, this amendment is meant to give the future national legislature some flexibility to act should circumstances dictate such action. This is regarding naturalization. This is merely to give the future Government of Micronesia some room to move about when conditions, circumstances dictate so. Thank you very much, Mr. President.

Delegate Nimwes: Point of information, Mr. President. I wonder if this proposed amendment is not a substantive one.

Delegate Wiliander: Thank you, Mr. President. The answer to Delegate Chutomu Nimwes' point of information is, it is true. It is a substantive amendment. That amendment was discussed in the Committee on Style and Arrangement and, therefore, the Committee felt that the separate proposed amendment be presented to the Plenary Session instead of the Committee on Style proposing that amendment. I would like to say, however, that the majority of your Committee on Style and Arrangement feels that specific instructions in regard to naturalization is a function of the Legislature and, therefore, only general instructions should be presented in this Constitution. Thank you, Mr. President.

Delegate Tun: Thank you, Mr. President. Mr. President, I would like to make a few remarks; perhaps it is incumbent on me to do so as Chairman of your Committee on General Provisions. The Committee does not object to the proposed amendment. Whether or not we should adopt it is a policy decision that would have to be made by the Delegates. I see some differences between the proposed amendment and Committee Proposal No. 10, the Section on Naturalization. The Section on Naturalization in Committee Proposal No. 10 guarantees right in the Constitution that certain classes of individuals will be eligible for naturalization, and this is quite in accordance with the intent of a number of proposals dealing with the subject of naturalization which have been introduced and assigned to the Committee on General Provisions. It guarantees that certain classes of individuals will definitely be eligible for naturalization. By comparison, the proposed amendment does not guarantee this. The Naturalization Section in the Proposal places certain restrictions right in the Constitution and also authorizes the future national legislature to establish additional restrictions and procedures under which individuals, whether Micronesian nationals or not, may be naturalized to become Micronesian citizens. The Naturalization Section was agreeable to the Committee on General Provisions because the Committee felt that not everything concerning naturalization should be left to the discretion of the future national legislature of Micronesia, but, as I stated earlier, this is a policy decision this Convention has to make. Thank you.

Delegate Ngiraked: Thank you, Mr. President. Mr. President, I think the proposed amendment, as offered by Delegate Falcam, sufficiently takes care of the problem and in an orderly fashion. I think that is all we need and I think it is necessary and proper that we pass the amendment. I urge all the Delegates to vote in favor of the amendment.

Floor Leader Tman: Thank you, Mr. President. I have no quarrel with the proposed amendment. I wish merely to indicate that perhaps it would have been preferable if such amendment could have been proposed in the Committee of the Whole.

The voice vote was inconclusive and a show of hands was called for. By a vote of 21 ayes to 10 nays, the amendment to Committee Proposal No. 10, CWD1, CD1, SD1, was adopted by the Convention.

Floor Leader Tmau: Mr. President, just a point of clarification. Committee Proposal No. 10 is now Committee Proposal No. 10, CWD1, CD1, SD1, CD2.

President Nakayama: Before I entertain further discussion, I will ask the Secretary to read the Committee Proposal No. 10, as amended.

The Secretary read the following:

"Committee Proposal No. 10, CWD1, CD1, SD1, CD2

"A Proposal relating to Citizenship, Naturalization and Immigration.

"RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE_____

SECTION_____. Citizenship and Nationality.

1. Any person who is a citizen of the Trust Territory of the Pacific Islands on the day prior to this Constitution becoming effective shall be a citizen and national of Micronesia.

2. Any person born of parents one or both of whom are citizens of Micronesia shall be a citizen and national of Micronesia at birth.

3. Any citizen of Micronesia who is recognized as a citizen of another nation shall, within three years of becoming 18 years of age, or within three years of the effective date of this Constitution, whichever is later, register his intent to retain his Micronesian citizenship and renounce his citizenship of any other nation; OTHERWISE, he shall be a Micronesian national.

4. Any citizen of the Trust Territory of the Pacific Islands, who becomes a national of the United States of America under the terms of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, may become a citizen of Micronesia by applying to a Micronesian court of competent jurisdiction within six months after the date he becomes a United States national.

5. Upon ratification of this Constitution, this article shall be construed to apply both retroactively and prospectively.

SECTION_____. Naturalization. Eligibility requirements and procedures for naturalization shall be established by law.

SECTION_____. Immigration. Eligibility requirements and procedures for the admission of immigrants shall be established by law."

President Nakayama: Are you ready to vote? All right, the minimum required vote to pass on Final Reading Committee Proposal No. 10 is 30. We shall now vote by roll call.

Following the calling of the roll on Committee Proposal No. 10, CWD1, CD1, SD1, CD2, the Secretary reported 40 affirmative votes and one abstention. Committee Proposal No. 10, CWD1, CD1, SD1, CD2, passed Second and Final Reading.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 7, CWD1, CD1, SD1, CD2, having passed Second Reading, was re-referred to the Committee on Style and Arrangement.)

Delegate Williander moved that Committee Proposal No. 11, SD1, pass Second and Final Reading. Delegate Falanruw seconded.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President, I wish to reiterate the concern I previously expressed in the Convention regarding the timeliness of this important and serious provision of our future Constitution. Whether I am going to vote yes or no to this proposal is contingent on many, many things that have yet to take place in the Convention. I am not speaking against or in favor of this provision because I do not know what is going to be in the Constitution of Micronesia. That is an expression of reservation, Mr. President.

Delegate Toribiong: Thank you, Mr. President. Mr. President, I just wish to say a few words concerning Section 2, Subsection 2, which speaks of the limitation of the right to own land in Micronesia to Micronesian citizens only. Even though I may not disagree with that specific concept or limitation, I feel that perhaps that should have been dealt with under a different provision, because the way this subsection reads at this time, it would seem to assume that there would be a provision somewhere in the Constitution to limit ownership of land in Micronesia to Micronesians only and I don't look on this kind of limitation as an inalienable sovereign right. So, I just wish to make that observation to the Convention.

Delegate John Heine: Thank you, Mr. President. Before I can cast my vote on this very important issue, I wonder what kind of guarantee we can offer to protect all the rights that we claim as ours in this particular proposal. I have a feeling that we can have a proposal passed by the Convention, but then how can we protect these? What measures do we have that could guarantee these rights to us? What kind of guarantee do we have?

Delegate Sony: Thank you, Mr. President. I just want to raise a point of inquiry here before I cast my vote. I would like to know what this statement on page 2, line 5 means. What does this statement mean? That's lines 5 and 6.

Delegate Williander: Thank you, Mr. President. Although the question, I think, is not concerned with the style, I wish to offer my own explanation. I think this would mean in an area of ambassadorship or foreign relations where any Micronesian ambassador would handle himself not as the representative of himself, but he would try to have himself recognized as the representative of the Micronesian nation. I think every nation has its own identity and personality, for that matter, so I think this is one of the areas which this provision refers to. I would appreciate if other members of the Committee on General Provisions would help to answer Delegate Sony's question.

Delegate Ismael: Thank you, Mr. President. I want to raise a question relative to page 2, line 6. On page 2, line 6, there are only two words here that read "independent state." We are now committing ourselves and all our people for the independence of Micronesia. Before I cast my vote on this issue, I want to seriously address myself to this question because of the mandate of my people in Kusaie relative to the issue of political status. Thank you, Mr. President.

Delegate Namwarki Max Iriarte moved for a recess subject to the call of the Chair. Floor Leader Tman seconded, and the motion carried.

The Convention recessed, subject to the call of the Chair, at 11:43 a.m.

RECESS

The Convention was called to order at 12:05 p.m.

President Nakayama: Is there any more discussion on Committee Proposal No. 11, Style Draft 1?

Delegate Ismael: Mr. President, under Section 2, item 4, and under Section 3, Delegation of Governmental Power, I am uncomfortable with the wording of this section. I would like to see included in this section exactly what the relationship is between this provision and the Compact now under negotiation by the Congress of Micronesia with the United States. A lot of us would like to see this and we would like, for example, under Section 2, item 4, to find out from this Convention whether in fact we are opting for an independent nation. The independent state, on line 6, I am not sure with this wording whether or not we are talking about what is the relationship of the Government of Micronesia versus the districts. Under Section 3 I would like to see spelled out in black and white that this provision in the Constitution -- whether it is subservient or otherwise to the Compact of Free Association now under consideration. Mr. President, for this reason, and also because of the fact that we have not come out with the substance of most of the sections to be included in our Constitution, I would like to ask all of the members to study this seriously and pass it in the last week of the Convention. I move that we defer action on this extremely important provision until the last week of the Convention, November 3.

Delegate Sony seconded.

Delegate Nimwes: Point of privilege, Mr. President. I am not so sure whether we should discuss this proposal since it was reported out by the Style Committee. I think discussion should have been done during the Committee of the Whole proceedings.

Floor Leader Tmau: Mr. President, point of information. The point raised by Delegate Ismael to defer action without any specific date, is it that the Chairman of the Functions Committee wishes to treat it under the jurisdiction of the General Provisions Committee?

Delegate Ismael: Mr. President, point of privilege. I did not quite get the context of the Floor Leader's statement.

Floor Leader Tmau: Mr. President, I was just wondering if, with the motion to defer offered by Delegate Ismael, this Committee wishes to consider this the responsibility of the General Provisions Committee?

Delegate Ismael: No, Mr. President. I am speaking entirely on my personal observation. I am very concerned about this because when I came up to this Convention, I was mandated by my people to opt for a Free Association State with the United States. Here, by implication, it states that we are going to be an independent state. I would, therefore, like to see spelled out in black and white that this provision is superior to the Compact, if we are going to go for independence.

Delegate John Heine moved for the previous question. There was no second.

Delegate Cruz: Point of information, Mr. President. I am somewhat concerned about this particular measure also, and I am certainly in agreement with my colleague, Delegate Ismael. I am concerned about page 2, lines 1 and 2, the section on the limitation of the right of land ownership by Micronesian citizens only. Many of our former Micronesian citizens who have subsequently become U.S. or Japanese citizens, or what else, own land at the present time, especially in my district of the Marianas where there are many of these cases. I would like to support the suggestion of Delegate Ismael that we return this to the Committee, and I ask whoever is on the Committee which will take care of this, I ask their indulgence to please make sure that someone from the Marianas Delegation is present in this consideration.

President Nakayama: The question before the Convention right now is deferment of Proposal No.11,SD1, until November 3.

The motion carried. Committee Proposal No. 11, SD1, was deferred until November 3.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 160, entitled "A Proposal relating to an ombudsman.", was introduced by Delegates Tacheliol, Falanruw and Toribiong.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 159, entitled "A Proposal relating to Eminent Domain.", was referred to the Committee on Governmental Functions.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate John Heine.

Delegate John Heine: Thank you, Mr. President. I think I heard someone say something about eminent domain. I wonder how we can place that on the calendar again when it was defeated two times. May I be enlightened on that?

President Nakayama: This is a new proposal. It is not the same proposal. It is a new Delegate Proposal No. 159.

Delegate John Heine: Mr. President, suppose some of the wording in that new proposal coincides with the same wording of the other proposal that was defeated, what will happen then?

Floor Leader Tman: Mr. President, I think we are off the track. We are not to deliberate on that particular proposal.

President Nakayama: That is correct. Any further business? Delegate Tman.

Floor Leader Tman: Mr. President, I wish to humbly request the indulgence of this Convention to rise on a point of personal privilege to say a few words.

Mr. President and distinguished Delegates, I said earlier I rise on a point of personal privilege because I have not requested leave from my traditional chiefs or the Chairman of my Delegation to say what I am about to say.

Mr. President, in the light of what transpired the other day when Delegate Proposal No. 100 and No. 120 and No. 29 were pulled out of Committee and placed on the First Reading Calendar, and assigned to the Subcommittee of the Committee of Administration, it was quite misleading for an article appearing in the Pacific Daily News to say that Palau does not have any representative on that Subcommittee because no Palauan holds a chairmanship. I want the record to be straight, and I specifically request the broadcast personnel who are covering this Convention, so that in particular the people of Palau will know and other Micronesians will know that there is a Chairman from Palau on one of our Committees, namely Delegate Jacob Sawaichi. In that same article, Mr. President, reference is made to Mr. Leo Falcam as the District Administrator of Ponape. I had thought that all of us here are Delegates to this Convention. I did not know that the Chief Executive of the Trust Territory has his representative in this Convention.

Another point, Mr. President, on several occasions, the Pacific Daily News has dubbed me to be a representative of a different area. In the previous occasion, during the Congressional session, I was called a Representative from Ponape District. Just recently I was dubbed a Delegate from Truk, and just this morning my Senator, John Mangefel, was also labeled as a Representative from Truk. We do not mind to represent

all other districts of Micronesia but, in all fairness to my constituents and Senator Mangefel's constituents, I think the press has done an injustice to them. Truk has gained one Representative and one Senator at the expense of Yap. Whatever the press needs to call me, it does not matter. Gentlemen, I assure you that I am now and will always remain a Yapese. Even if I return from this Convention in dishonor and disgrace, I know that my people will not deprive me of the privilege of being a Yapese, and by the same token, Mr. President, I cannot and will not abjure my loyalty to them and the course for which they stand, the solidarity of Micronesia. [Applause]

Delegate Leo Falcam: Thank you, Mr. President. Mr. President, ladies and gentlemen, I would like to say Amen to my friend, the Delegate from Yap. [Applause]

Delegate Ngiraked: Mr. President, despite the fact that this Constitutional Convention has, through its proper organ, expressed a concern about the lack of proper dissemination of information in the districts regarding the progress and activities of this Constitutional Convention, the condition seems to persist, particularly in Palau District where there has been no proper dissemination of information about our activities whatsoever. As we approach the crucial final days of this Constitutional Convention, I think, Mr. President, it has become very important and imperative that this Convention, through its proper organ, exert itself along this line and make sure we get some news out through the district level. Therefore, Mr. President, I move that this Convention address a petition, through the office of the President, requesting the High Commissioner to take immediate and positive steps towards effective and intensive dissemination of information about the activities and progress of the Micronesian Constitutional Convention, especially in the area of radio broadcasting and as much program materials as are made available. Thank you.

Floor Leader Tman seconded.

President Nakayama: May I say, for the information of the Convention, that a letter on this subject matter was forwarded to the High Commissioner's office last week?

The motion carried.

President Nakayama: Motion is carried. The office will forward the sentiment as expressed by the Delegate from Palau.

Delegate Nimwes: Thank you, Mr. President. I would like to officially welcome Delegate Tman to Truk any time. [Laughter]

Delegate Cruz: Mr. President and gentlemen, I am not trying to defend the Pacific Daily News, but if you read today's paper, on page 6, the news is originated from the MNS, Micronesian News Service. They also put Manny Muna here instead of Danny Muna, who was in Washington. They said five delegates spent five weeks in the States, in Washington, and that's not true because I've been here two weeks already. It should be four. Thank you.

ANNOUNCEMENTS

Floor Leader Tman: Thank you, Mr. President. I have been requested by the Chairman of the Committee on Administration to announce a meeting immediately after the Plenary Session. All members are urged to attend.

Delegate Heinrich Iriarte: Thank you very much, Mr. President. Your Committee on Governmental Structure will meet tomorrow morning at exactly nine o'clock in Room No. 4, and I would like to urge all the members of that Committee to attend. Mr. President, I would like to urge, with due respect and because of Public Law No. 5-60, which provides the traditional leaders to be Delegates to this Convention, my Committee is still waiting for a position of the traditional leaders as to their role in the new government. With due respect, the Committee is still waiting for the position of the traditional leaders regarding their role. Again, with due respect and honor, I would like to request the results of the traditional leaders' meeting today to be given to my Committee. Thank you very much, Mr. President.

Delegate Tun: Thank you, Mr. President. Your Committee on General Provisions will meet at 2:30 this afternoon in Room No. 1. Some materials, including six proposals on the subject of transition were distributed to the members of the Committee this morning. These are to be brought to the meeting as the subject for discussion this afternoon will be transition. All members of the Committee are urged to attend the meeting. Thank you.

Delegate Willander: Thank you, Mr. President. Your Committee on Style and Arrangement will have a meeting at four o'clock today in Room No. 4.

Delegate Ismael: Thank you, Mr. President. I would like to remind members of your Committee on Governmental Functions of our meeting today at two o'clock. It will be a short meeting, and because it will be a short meeting, we will also invite you for a meeting with the Public Finance and Taxation Committee at seven o'clock at the Ponape District Delegation Conference Room at Hamilton's. I urge all members to please attend and, before you come at seven o'clock, please read the Public Finance and Taxation Proposal Draft No. 3, which was distributed this morning so that you can be conversant with it before you meet with the other Committee in a joint meeting, and I would like to ask the Chairman of Public Finance and Taxation to chair this meeting tonight. Hamilton's, seven o'clock tonight. Thank you.

President Nakayama: May I remind the traditional leaders of their meeting at three o'clock in Committee Room No. 3, the Civil Liberties Committee Room?

Floor Leader Tmetuchl: Thank you, Mr. President. If there is no further business and no further announcements, I move the Convention recess until 11:00 a.m. tomorrow.

Delegate Tun seconded, and the motion carried.

The Constitutional Convention recessed at 12:30 p.m.

Respectfully submitted,

Asterio R. Takesy
Assistant Convention Secretary

SIXTY-SECOND DAY

Tuesday, October 7, 1975

The Micronesian Constitutional Convention was called to order at 11:07 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 43 Delegates present. Delegates Andrike, Apis, Borja, Eperiam, Gibbons, Haruo, Wilfred Kendall, Mary Lanwi, Nimwes, Ngiraked, Olikong, Philippo and Salii were excused. A quorum was present. Iroij Lanki and Iroij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 61st Day be adopted. Delegate Tun seconded, and the motion carried. The Journal of the 61st Day was adopted by the Convention.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 14, entitled "A Proposal relating to the Bill of rights."

Floor Leader Tman: Mr. President, I move the Convention resolve itself into the Committee of the Whole in order to deliberate on Committee Proposal No. 14, relating to the Bill of Rights.

Delegate Falanruw seconded, and the motion carried to resolve into the Committee of the Whole.

The President requested Floor Leader Tman to preside over the Committee of the Whole.

The Convention resolved into the Committee of the Whole at 11:15 a.m.

The Convention reconvened in Plenary Session at 11:31 a.m.

The President requested the Floor Leader to present the oral report of the Committee of the Whole.

Floor Leader Tman: Mr. President, your Committee of the Whole, which considered Committee Proposal No. 14 regarding the Bill of Rights, begs leave to report as follows: in the short deliberations of the Committee it was the consensus of the Committee of the Whole that due to the importance and complexity of Committee Proposal No. 14, some Delegates are not yet ready and need more time before taking up action on the Proposal. Your Committee, therefore, recommends that action on Committee Proposal No. 14 be deferred until Friday, October 10, 1975. Mr. President, I move for the acceptance of the oral report of the Committee of the Whole.

Delegate Tacheliol seconded, and the motion carried to accept the oral report of the Committee of the Whole.

Floor Leader Tman: Pursuant to the recommendation of the Committee of the Whole, I move that action on Committee Proposal No. 14 be deferred until Friday, October 10, 1975.

Delegate Tun seconded, and the motion carried to defer action on Committee Proposal No. 14 until Friday, October 10, 1975.

SECOND READING CALENDAR - REFERRAL

Committee Proposal No. 10, Committee of the Whole Draft No. 1, Convention Draft No. 2, Style Draft No. 1, was re-referred to the Committee on Style and Arrangement.

INTRODUCTION OF DELEGATE PROPOSALS

None

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 160, entitled "A Proposal relating to an ombudsman.", was referred to the Committee on Governmental Functions and the Committee on Governmental Structure.

INTRODUCTION OF RESOLUTIONS

Resolution No. 30, entitled "Resolution expressing the sense of the Micronesian Constitutional Convention concerning the possibility of separate administration of any part of Micronesia prior to termination of the Trusteeship and referendum on the future Constitution of Micronesia.", was introduced by Delegates Rasa, Albert, Williander, Bound, Bossy, Kalles, Kijiner and Robert.

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Sony: Mr. President, I would like to ask this Convention to recognize the presence this morning of some very important, prominent leaders from Truk District. I would like to start with introducing the Vice-Speaker of the Truk District Legislature, the Honorable Joseph Muritok from Fefan Island. (Applause) The next gentleman is the Honorable Susumu Aizawa, Chairman of the 197h Truk District Magistrate's Conference. He is also the Chairman of the Truk District ESG Task Force. A prominent and well-to-do businessman in Truk District, he is also a professional baseball player in both Japan and Micronesia. (Applause) Next is the unbeatable magistrate, Saka Manas of Eot Island who has been in that position since way, way back--about 12 years to date. (Applause) Next is a very important magistrate from one of the busiest municipalities in the Namonwito Atoll who is not only responsible for his island, but some 100 students, also, from Weipat High School located in Ulul Municipality. Magistrate Leon Episom. (Applause) Next is Magistrate Anter Eko who has been in that post since his teenage years and he is still the Magistrate of Ta Municipality of Truk (which happens to be Strik Yoma's former island). Magistrate Eko has been in that post for about 20 years now, and he is still the Magistrate of Ta Municipality and he will be the next paramount traditional chief of Ta Municipality. Magistrate Anter Eko. (Applause) On the traditional side we have Chief Upwini Ruepwen of Tol Island who is the paramount traditional chief of Tol Municipality. He is a former presiding judge in Truk District and former magistrate of Tol Municipality. (Applause) We also have a traditional chief from the island of Fefan, Chief Kani Rewin. He is also very active in the religious side of that society, Chief Rewin. (Applause) We have,also, one of the prominent leaders from a municipality of Moen, Mr. Enchy Louis. A village chief and a very active leader in Moen Municipality, Mr. Louis. (Applause)

Delegate Williander: Mr. President, I wish to add some information to that given by Delegate Sony regarding our elected and traditional leaders from Truk. The traditional and elected leaders from Truk have come to Saipan mainly in order to be present at the Convention. They had no other business in Saipan, but just wanted to pay their respects to the Micronesian Constitutional Convention.

Floor Leader Tman: Mr. President and fellow Delegates, in the name of the Convention, I wish to welcome the elected and traditional leaders from Truk as guests of the Convention.

Delegate Ismael: Mr. President, I would like to ask this Convention to recognize the presence this morning of a young Kusaiean leader, Mr. Claude Philip. (Applause)

Delegate John Heine: I would like to correct that announcement made by my fellow Delegate. Claude Philip is a Marshallese. (Laughter)

Delegate Yoma: Mr. President, Claude Philip is also the most active leader of the FSC Task Force in the Marshalls.

ANNOUNCEMENTS

Delegate Ismael: Mr. President, your Committee on Governmental Functions will meet at two o'clock this afternoon in this Chamber.

Delegate Tun: Mr. President, your Committee on General Provisions will meet at 1:30 p.m. today to dispose of five and one-half proposals dealing with the subject of the transition. I urge all members to be present.

Delegate Heinrich Iriarte: Mr. President, your Committee on Governmental Structure will meet at two o'clock today in Room 4.

Delegate Otter: Your Committee on Finance and Taxation will meet at 9:30 a.m. tomorrow.

Delegate Wiliander: Your Committee on Style and Arrangement will meet at three o'clock today on the righthand side of this Chamber.

Delegate Falcam: Mr. President, I have waited until all committees made announcements of their meeting times. Right now I am in the position of designating a time and place for the first meeting of the Subcommittee on Administration to consider Delegate Proposals Nos.29, 100 and 120. However, I cannot find any specific time that might be convenient for all the chairmen of the standing committees. For that reason I would like to ask the chairmen of the standing committees to meet with me right here at my desk as soon as we adjourn today's meeting.

Floor Leader Tman: Mr. President, there being no further business and no further announcements, I move that we recess until eleven o'clock tomorrow morning.

Delegate Albert seconded, and the motion carried. The Convention recessed at 11:38 a.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

SIXTY-THIRD DAY

Wednesday, October 8, 1975

The Micronesian Constitutional Convention was called to order at 11:10 a.m.

The Honorable Toshiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Assistant Convention Secretary called the roll. There were 46 Delegates present. Delegates Andrike, Apis, Borja, Gibbons, Haruo, Carl Heine, Kendall, Mary Lanwi, Nimwen and Salii were excused. A quorum was present. Iroij Lanki and Iroij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 62nd Day be adopted. Delegate Tacheliol seconded the motion.

The Chair recognized Delegate Sony.

Delegate Sony: Thank you, Mr. President. I would like to bring to the attention of the Convention that on the sixth line from the bottom of the first paragraph under Miscellaneous and Unfinished Business, the word "Truk" should be changed to "Tol", so that it will read "Tol Municipality" instead of "Truk Municipality."

Floor Leader Tman: I apologize for not having caught that. We didn't mean to change Truk District into a municipality. The correction will be duly noted.

President Nakayama: I will have the Secretary make the necessary technical correction.

Delegate Fritz: On the same page in respect to Chief Upwini, I want to make a minor correction. He is not a former associate judge but he is a former presiding judge of the Truk District court.

President Nakayama: Thank you.

There being no further corrections to the Journal, the motion carried to adopt the Journal of the 62nd Day.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Williander.

Delegate Williander: I move for the acceptance of Committee Report No. 24, relating to Committee Proposal No. 12 (SD1) entitled "A Proposal providing for a Public Auditor.", from the Committee on Style and Arrangement.

Delegate Falanruw seconded, and the motion carried. Committee Report No. 24 was accepted by the Convention.

Delegate Williander: I move for the acceptance of Committee Report No. 25, relating to Committee Proposal No. 13 (CWD1, SD1) entitled "A Proposal relating to the budget process.", from the Committee on Style and Arrangement.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 25 was accepted by the Convention.

SECOND READING CALENDAR - FINAL ACTION

Committee Proposal No. 12 (SD1), entitled "A Proposal providing for a Public Auditor."

The Chair recognized Delegate Williander.

Delegate Williander: I move that Committee Proposal No. 12 (SD1) be adopted by the Convention on Second and Final Reading.

Floor Leader Tman seconded the motion.

Delegate Toribiong: I wish to offer an amendment to Committee Proposal No. 12 (SD1). That amendment is numbered No. 2 which has been distributed to all the Delegates. This amendment would make the office of the Public Auditor financially secure from the political influence of the executive or legislative bodies. It should add the following sentence on page 1, line 9, so that the following sentence shall be part of that proposal. It shall read:

> "The salary of an incumbent Public Auditor shall not be reduced during his term of office, except when the salaries of all public officers are reduced, and then only in the same proportionate amount."

This is similar to the protection given to judges in the third branch of our government.

President Nakayama: Before we entertain the amendment, I will have the Secretary read the proposal.

Committee Proposal No. 12 (SD1)

A Proposal providing for a Public Auditor.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Appointment and Term of Office. There shall be a Public Auditor, appointed by the Executive with the advice and consent of the Legislature, who shall serve for a term of four years and thereafter until a successor shall have been appointed and confirmed.

SECTION _____. Independence. The Public Auditor shall be free from the administrative control of any person or authority in the performance of his functions and duties specified or provided for in this Constitution.

SECTION _____. Functions and Duties. The Public Auditor shall inspect and audit all public accounts and shall report the results of his inspections and audits to the Legislature at least once a year. The Public Auditor shall have such additional functions and duties as may be prescribed by law.

SECTION _____. Jurisdiction. The jurisdiction of the Public Auditor shall extend to all branches, departments, agencies and statutory authorities of the national government and to other public legal entities receiving public funds from the national government.

SECTION _____. Removal from Office. The Legislature may, by two-thirds vote _____, remove the Public Auditor from office at any time for cause. In such event, the Chief Justice shall appoint an acting Public Auditor to serve until such time as the

Executive, with the advice and consent of the Legislature, appoints a new Public Auditor.

Delegate Toribiong: I now move that Committee Proposal No. 12 (SD1), page 1, line 9, be amended by my amendment.

Delegate Tachelliol seconded the motion.

Delegate John Heine: Mr. President, with due respect to this proposal we are now discussing, I wonder if the Committee that was assigned the task exhaustively tried to find out if it will cost more to have a public auditor or would it cost the government less if we were to hire an independent auditing organization? Following that remark, Mr. President, I think whoever is appointed by the government or by any officials of the government of Micronesia to this post will be subject to the power of the political party that is in power at the time. What I fear is that if we allow a public auditor to be chosen by the government, then maybe we will not get the right figures we would like to have from him. My question is directed to the Committee Chairman who was in charge of this particular measure.

Delegate Toribiong: Mr. President, I wish to respond to Delegate John Heine's question by saying that the point now is not whether or not we are going to have a public auditor. The point is that we have a proposal to be adopted by this Convention and if we are going to have a public auditor, I think we should put him into a position where he can best serve the public and that amendment would make him independent from any other influences which may be imposed through the use of salaries.

President Nakayama: The immediate question before the Convention is the proposed amendment to Committee Proposal No. 12 (SD1).

Floor Leader Twan: I wish to make a procedural recommendation. I also note that there is another proposed amendment. I wonder if the introducer of Amendment No. 2, as is stated here, would withdraw his motion to amend and permit the other amendment to be offered on the floor because I wish to recommend that these amendments be introduced and the Proposal and the amendments be referred before we debate on the amendments and the Proposal.

Delegate Toribiong: I have no objection to that arrangement, and I hereby open myself to such an appropriate approach.

Floor Leader Twan: Point of information. May I then take it that the motion to amend has been formally withdrawn?

President Nakayama: The answer is yes.

Delegate Yoma: As suggested by the Floor Leader, I would like to offer an amendment to Committee Proposal No. 12 (SD 1), a copy of which was distributed to all of the Delegates. If I may I would like to explain the purpose and the nature of the amendment. It was felt by the members of the Committee that this amendment would be desirable and essential. It is non-controversial and it is believed that it would add considerably to the improvement of the Proposal. The amendment will simply clarify the responsibilities and duties of the public auditor with respect to those non-governmental organizations which are performing essential community and public service functions but whose existence are dependent entirely on charity. An example of such an organization that is closer to home would probably be PATS in Ponape District. At present, the Committee on Style and Arrangement felt that this is essential for the working of the office of the public auditor in order to properly discharge his responsibilities under this Proposal. I, therefore, move for the adoption of Amendment No. 1 to Committee Proposal No. 12 (SD1).

Delegate Falauruw seconded the motion.

Floor Leader Tman: I wish to risk a motion that Committee Proposal No. 12 (SDI) and the two amendments offered, one by Delegate Toribiong and one by Delegate Yoma, be specifically referred to the Chairman of the Committee on Public Finance and Taxation and the Chairman of the Committee on Style and Arrangement.

Delegate Toribiong seconded, and the motion carried to refer Committee Proposal No. 12 (SDI) and Amendments No. 1 and No. 2 to the Chairman of the Committee on Public Finance and Taxation and to the Chairman of the Committee on Style and Arrangement.

> Committee Proposal No. 13 (CWDI, SDI), entitled "A Proposal relating to the budget process."

The Chair recognized Delegate Willander.

Delegate Willander: I move that Committee Proposal No. 13 (CWDI, SDI) be adopted by the Convention on Second and Final Reading.

Floor Leader Tman seconded the motion.

The President requested the Convention Secretary to read Committee Proposal No. 13 (CWDI, SDI), as follows:

Committee Proposal No. 13 (CWDI, SDI)

A Proposal relating to the budget process.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Budget Submission. The Executive shall submit an annual budget to the National Legislature at such time as may be set by law. The annual budget shall set forth a complete plan of proposed expenditures, anticipated revenues and other monies available to the National Government for the ensuing fiscal year, together with such additional information as the National Legislature may require. In adopting the annual budget the National Legislature shall have the power to alter in any respect the proposed annual budget submitted by the Executive.

SECTION _____. Priority Status of Budget. No appropriation bills, except those recommended by the Executive for immediate passage, or to cover the costs of the legislature, shall be passed on final reading until the bill appropriating monies for the annual budget has been enacted by the National Legislature.

SECTION _____. Item Veto. The Executive may item veto an appropriation in any bill passed by the National Legislature, and the procedure in such cases shall be the same as in the case of the disapproval of an entire bill by the Executive.

President Nakayama: Are you ready for the question? The minimum requirement is 35 affirmative votes to pass the measure on Final Reading.

Delegate John Heine: Point of information, Mr. President. In this proposal wouldn't a conflict arise? I think generally the thinking of the whole delegation right here in the Convention is that the national government should be weaker than the district? How can the national government have any say when it doesn't have the power to tax?

Delegate Philippe: Thank you, Mr. President. This is just a point of information. On Line 6 of Committee Proposal No. 13 (CWDI, SDI) it mentions "fiscal year". Which fiscal year—starting July 1 or October 1?

Delegate Wainit: The "fiscal year" referred to or used in this Proposal was discussed at some length in the Committee, and it was felt that this is something that can be established by law and, therefore, there is no reason why we should go through that detail in this Proposal. Thank you.

Floor Leader Tmun: I move for the previous question.

Delegate Tun seconded, and the motion carried to close debate.

President Nakayama: We shall now vote by roll call. The minimum required vote for passage is 35.

Following roll call vote on Committee Proposal No. 13 (CWDI, SDI), the Secretary reported 45 affirmative votes and one no vote. Committee Proposal No. 13 (CWDI, SDI) passed Second and Final Reading.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 13 (CWDI, SDI), having passed Second Reading, was re-referred to the Committee on Style and Arrangement.)

INTRODUCTION OF DELEGATE PROPOSALS

None

INTRODUCTION OF RESOLUTIONS

None

REFERRAL OF RESOLUTIONS

Resolution No. 30, entitled "Resolution expressing the sense of the Micronesian Constitutional Convention concerning the possibility of separate administration of any part of Micronesia prior to termination of the Trusteeship and referendum on the future Constitution of Micronesia.", was referred to the Committee on General Provisions.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Floor Leader Tmun.

Floor Leader Tmun: Mr. President, I request this Convention to recognize the presence of the distinguished Representative from the 18th Representative District, Congressman Lambert Aafin. (Applause)

While I have the floor, Mr. President, I also wish this Convention to recognize one of the distinguished members from my community, a former Senator, a former Vice Speaker of the Yap District Legislature, a distinguished businessman and a member of the Health Council, Mr. Joseph Tamag. (Applause)

Delegate Manglona: Mr. President and fellow Delegates, please permit me to say a few words in regard to Item No. 30 on the Order of Business for today. I want to point out for the record that I regret to see that this Resolution has been introduced on the floor of this Convention. I want to make it on the record that this is a very insulting Resolution for our people in the Marianas District. The reason why I said that this is an insulting expression, Mr. President and fellow Delegates, is because in the past twenty years our people in the Marianas have continuously made known their desire that they want to become part of the United States. This desire has continuously gone on and on for many years. It has been expressed by the people of the various municipalities in the Marianas--by people from Tinian, Rota and Saipan. It is insulting because in February the Marianas District concluded its negotiations with the United States. It is insulting because the people in June made known their desire by voting 78.8% in favor of the proposed Covenant for the Marianas District. Therefore, Mr. President and fellow Delegates, I must urge you, please, not to act on this particular measure. I want to assure

you that as your fellow Delegate I will work for the better relationship of the Marianas people and your districts. Therefore, I think we should be accorded also this respect of what our people want. Thank you very much. (Applause)

Delegate Falcam: Under this order of business, I would like to make two miscellaneous announcements. No. 1, I am pleased to advise the President and the Convention that your Subcommittee on Administration, to which the Convention referred Delegate Proposals No. 29, No. 100 and No. 120, had its first meeting last night and will be submitting a progress report which will be on tomorrow's calendar. No. 2, I would like also to ask the Chair and the Convention to recognize a fellow friend and prominent citizen of Ponape District, a former member of the Congress of Micronesia and a very active civic leader, Dr. Otter Paul. (Applause)

Delegate Sony: Thank you, Mr. President. Once again I would like to take this opportunity, on behalf of the Truk Delegation, to request this Convention to recognize the presence of some visitors from Truk District who are visiting us today. First is Mr. Ernes Siales, Community Development Officer in Truk District. The second gentleman is Mr. Sikaret Loriu, Chief of the Sanitation Department in Truk District. The third one I would like to introduce to this Convention is the Floor Leader of the Truk District Legislature, Mr. Fermin Likiche. The last visitor from Truk is Dr. Kiosi Aniol, the Director of Health Services in Truk District. (Applause)

Delegate Weilat: Thank you, Mr. President. I wish to exercise my freedom of speech and expression at this time. Today marks the 63rd Day of the Convention. We have 27 days to go and I wish to request the Committee on Administration, and I am sure that they are aware of what I have in mind right now, to be thinking about the production of this Constitutional Convention. What will happen to the document that we may produce? Are we prepared to handle such a document? How are we going to inform the people in our districts? How would the Delegates of this Convention assist and explain to the people of the districts before the ratification of this Constitution? I need not specify or tell the Convention the details of what I have in mind. I am sure the Administration Committee is prepared to produce these important matters to the Convention before we go home in November. I brought up this same idea in our General Provisions Committee and I am sure the Committee is preparing to do something, perhaps to request the Convention to request the Congress of Micronesia to think about it. Perhaps we need additional money for the work of the Convention. Maybe we need money for the Delegates to use after the Convention. Perhaps we need another Constitutional Convention or maybe an extension of the work we are doing right now. Mr. President, I shall stop here. I am sure it is clear what I have in mind to all the Delegates. Thank you very much. (Applause)

Delegate Cabrera: Thank you, Mr. President. I have a request of the Chair but before I make that request, I would like the Convention to recognize the presence of Mrs. Edward Pangelinan who is present in the gallery this morning. (Applause)

Mr. President, consistent with my statement to the Convention on September 26, I would like to ask the Chair to appoint a Special Credentials Committee to evaluate the credentials of Mr. Alonzo Igisomar who has been appointed by the District Administrator to serve in Dr. Palacios' seat. Thank you.

Delegate Williander: Mr. President, in looking back to the Order of Business on October 7 under Item No. 10, Committee Proposal No. 11, relating to the supremacy of the Constitution, in effect was tabled to November 3, 1975. If I am in order, Mr. President, I move to remove from the table of the Convention Committee Proposal No. 11 and to have it placed on the Order of Business on October 17, 1975.

Delegate Sony seconded the motion.

President Nakayama: Is that motion in order, Mr. Floor Leader?

Floor Leader Tman: I think the intent of the motion is in order--that is in effect to change to a different date from November 3 to October 17, 1975.

Delegate Ismael: In discussing this motion with the introducer of this morning's motion, it was felt that because of the extreme importance of this particular Proposal perhaps the Convention would not have sufficient time if it was to amend various sections of it. Therefore, it was thought that by moving it up further in the calendar it would give the Convention more time to consider it. Therefore, I am in favor of the motion and urge the Delegates to please pass it favorably.

There being no further discussion, the motion carried to place Committee Proposal No. 11 on the Order of Business on October 17, 1975.

Delegate Rasa: Thank you, Mr. President. I would like to comment on Resolution No. 30. I do understand and accept the comments made by my colleague, Delegate Manglona, from Rota. However, I am here representing the minority and I have every intention of doing so. As for the intention of the Resolution, I will comment on the intention of this Resolution at a later date. Thank you, Mr. President.

Delegate Cruz: Mr. President, I want to comment on the remark made by Delegate Rasa. He stated that he represents the minority. I understand that Mitch Pangelinan was elected and Mitch Pangelinan represents the view and the aspirations of the majority of the people of the Marianas. That's one of the reasons why Mitch decided not to attend the Convention. The law provides that the next runner-up in that particular election will replace the man who resigned. Mr. Rasa was defeated in the election. He doesn't represent anybody. He lost the election. He represents himself. Mr. President and gentlemen, I respectfully submit that we are here to frame a Constitution. It is very important that none of us force upon any individual district, because it will not work. We cannot force any individual district. It will never work. It is like a man and a woman bonded into matrimony, neither of which wants to commit such matrimony. The consequence will be disastrous and ultimately a divorce. Gentlemen, please, I beg this Convention. We never introduced a resolution to hamper or interfere with the future of our sister districts. To the contrary, we come here every day with prayers that this Constitutional Convention will be successful. At the same time, I respectfully urge your blessing and your prayers that the people of the Marianas will also realize its over 20-year dream, and that is to become a Commonwealth of the Northern Marianas. With all due respect to my colleagues, please forgive me but this is what the people want--my people here, not one individual Delegate. So, I ask you to forgive me for this. This is very important that all of us should understand. Thank you very much. (Applause)

Floor Leader Tman: Point of privilege.

President Nakayama: State your point of privilege, Floor Leader Tman.

Floor Leader Tman: May I request the Delegates from the Marianas to confine their differences to themselves..

Delegate Weital: Point of privilege.

President Nakayama: Please proceed.

Delegate Weital: I would like to read a chapter in the Bible--Chapter 3 of Ecclesiastes, which says:

There is a right time for everything:

A time to be born, a time to die;
A time to plant; A time to harvest;
A time to kill; A time to heal;
A time to destroy; A time to rebuild;
A time to cry; A time to laugh;
A time to grieve; A time to dance;
A time for scattering stones; A time for gathering stones;
A time to hug; A time not to hug;
A time to find; A time to lose;
A time for keeping; A time for throwing away;
A time to tear; A time to repair;
A time to be quiet; A time to speak up;
A time for loving; A time for hating;
A time for war; A time for peace;

Amen. (Applause)

President Nakayama: I wonder who wrote that one.

Delegate Cabrera: Thank you, Mr. President. With all due respect to the statements made by the three members from my Delegation, I want to beg the indulgence and the understanding of the Convention in that I regret very much the discussion that took place with respect to the Resolution. I do think, however, that at the appropriate time such discussions will have been warranted.

President Nakayama: Thank you very much. If there is no further miscellaneous business, the Chair wishes to appoint members of a Credentials Committee to review the credentials of Mr. Alonzo Igisomar. The Committee will consist of Delegate Soukichi Fritz as its Chairman, Delegate Tachelial, as a member, and Delegate Kendall, in absentia, as a member. Please report back to the Plenary no later than tomorrow.

MISCELLANEOUS COMMUNICATIONS

No. 19. Letter from Hon. Francisco C. Ada, District Administrator, Mariana Islands District, appointing Mr. Alonzo Igisomar as a Delegate to the Micronesian Constitutional Convention.

ANNOUNCEMENTS

The Chair recognized Delegate Wainit.

Delegate Wainit: Thank you, Mr. President. I would like to announce that your Committee on Public Finance and Taxation will meet tomorrow at 9:30 a.m. Your Committee will meet to celebrate the end and completion of the hard work delegated and assigned to your Public Finance Committee which completed its work as of this morning with the final adoption by your Committee of the last three proposals to be submitted by your Committee on Public Finance; namely, a proposal on the taxing power of the government, a proposal on the borrowing power of the government, and finally a proposal on the general fund and fiscal aspects of the government. Thank you.

Delegate Tun: Thank you, Mr. President. Your Committee on General Provisions will meet at two o'clock this afternoon to conclude its work. I would advise the members to eat lunch because we will remain in session until we finish our work this afternoon or tonight.

Delegate Heinrich Iriarte: Your Committee on Governmental Structure will meet at two o'clock this afternoon in Room 4. Thank you, Mr. President.

Delegate Ismael: Your Committee on Governmental Functions will meet at two o'clock this afternoon. On behalf of that Committee I would like to extend an invitation to the dignitaries who are visiting this Convention to feel free to come and participate in our deliberations of the functions of government which should wind up some time either today or tomorrow for submittal to the Convention. Thank you.

President Nakoyama: For the benefit of the visiting dignitaries, will you announce the meeting place?

Delegate Ismael: The meeting will be at two o'clock in this chamber.

Delegate Fulcam: I would like to advise the members of the Subcommittee on Administration that there will be no meeting until Friday of next week. Thank you.

Delegate Fritz: I wish to announce that the Credentials Committee will meet at one o'clock this afternoon. Thank you.

Delegate Yoma: I would like to announce that it is time for lunch. (Laughter)

Floor Leader Tman: Thank you, Mr. President. I think our stomachs require that we recess until 11:00 a.m. tomorrow. I move to that effect.

Delegate Tun seconded, and the motion carried. The Convention recessed at 12:05 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

SIXTY-FOURTH DAY

Thursday, October 9, 1975

The Micronesian Constitutional Convention was called to order at 11:10 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 46 Delegates present. Delegates Andrike, Borja, Gibbons, Haruo, Carl Heine, Namwarki Max Iriarte, Kendall, Nimwes, Salii and Wainit were excused. A quorum was present. Iroij Lanki and Iroij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman: Mr. President, at the request of Delegate Manglona, on page 298 of the Journal of yesterday, the top paragraph, the words "this District" should read "your Districts." With that minor correction, I move for adoption of the 63rd Day Journal.

Delegate Cabrera seconded, and the motion carried. The Journal of the 63rd Day was adopted by the Convention.

REPORTS OF SPECIAL COMMITTEES

The Chair recognized Delegate Falcam.

Delegate Falcam: Thank you very much, Mr. President. The report of the Subcommittee on Administration is before the Convention. I should like to move for its acceptance by the Convention.

Floor Leader Tman seconded, and the motion carried. Special Committee Report No. 5, regarding Delegate Proposals Nos. 29, 100 and 120, was accepted by the Convention.

The Chair recognized Delegate Fritz.

Delegate Fritz: Mr. President, I move that Special Committee Report No. 6 from the Special Credentials Committee be accepted by the Convention.

Floor Leader Tman seconded, and the motion carried. Special Committee Report No. 6, regarding seating of the Honorable Alonzo Igisomar as a Delegate, was accepted by the Convention.

Delegate Fritz: Mr. President, in accordance with the recommendation of Special Committee Report No. 6, I move that Delegate Alonzo Igisomar be seated as a member of the Micronesian Constitutional Convention.

Floor Leader Tman seconded, and the motion carried.

President Nakayama: At this point I would like to ask the Sergeant-at-Arms to escort Delegate Alonzo Igisomar to his seat.

Delegate Igisomar was escorted to his seat.

President Nakayama: May I say, on behalf of the Convention, congratulations to Mr. Igisomar. [Applause]

Delegate Cabrera: Mr. President, I would just like to call to the attention of the Chair and the Convention that with the seating of Delegate Igisomar, it completes the number of Delegates from the Marianas. Thank you.

President Nakayama: Thank you very much.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Tun.

Delegate Tun: Thank you, Mr. President. I move that Standing Committee Report No. 26 be accepted by the Convention.

Delegate Falanruw seconded, and the motion carried. Standing Committee Report No. 26, from the Committee on General Provisions, submitting Resolution No. 31 regarding a name for the new government of Micronesia, was accepted by the Convention.

SECOND READING CALENDAR - REFERRAL

Committee Proposal No. 12, SD1, entitled "A Proposal providing for a Public Auditor.", with two amendments, was referred to the Chairmen of the Committee on Style & Arrangement and Committee on Finance & Taxation.

Committee Proposal No. 13, CWD1, SD1, entitled "A Proposal relating to the budget process.", was re-referred to the Committee on Style and Arrangement.

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 161, entitled "A Proposal relating to control of dangerous drugs.", was introduced by Delegates Philippo and John Heine.

ACTION ON RESOLUTIONS

Delegate Tun moved that Resolution No. 31, "Resolution designating a name for the new government of Micronesia.", be adopted by the Convention. Delegate Olikong seconded.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President, the name of the future Micronesian government, I think, is one of the subjects of the Convention that can wait. I appreciate the concern and the efforts of the Committee. This is no reflection on the Committee's work in any way, but I think we have to wait for a while before we can appropriately act on the designation of a name for our government.

Delegate Falcam: Thank you very much, Mr. President. Perhaps it might be helpful if I made some observations here regarding the reasons behind the early submission of this resolution. As a member of the Style and Arrangement Committee and after discussion of that Committee, regarding arrangement, wording of the proposals as they are approved by this Convention, the entire Committee on Style and Arrangement finds it rather difficult to proceed with its work in making sure that the designations of different sections and different items in the Constitition are consistent with the proposals as they come in. Accordingly, we thought it would be helpful and expedite our work if the Convention at this time designated a name so that the Style and Arrangement Committee could be guided by it. I appreciate the fact that this is one of the matters that this Convention could take up toward the end of the session. I would merely like to point out that the Style Committee wishes to be guided by some designation that will facilitate our work. We can sit back and look at different names and different designations as they appear in different proposals from different committees. In order to avoid a rush job at the end of the Convention we submitted this resolution, so, while I understand Delegate Ngiraked's concern, I do feel that it is not too early to designate an official name of our future government. Thank you very much, Mr. President.

Delegate Sony: Thank you, Mr. President. Mr. President, I just want to ask the members of the committee to which this resolution was assigned as to why they prefer the name "Federated States of Micronesia" over the name "Federated Republics of Micronesia." What's the reason for preferring Federated States over Federated Republics of Micronesia?

Delegate Cruz: Mr. President, I think if a baby is delivered, the first thing you do is name it, call it a name. Mr. Leo Falcam is correct. I think we should adopt this; it is very important.

Delegate Ngiraked: Mr. President, I think if we are looking for a working terminology just for the purpose of coordinating our language in referring to our future government, and because we are working toward unity, I think there are more designations that are conducive to unity, for example, the Union of Micronesian States.

Delegate Cabrera: Thank you, Mr. President. I wholeheartedly support the reasons enumerated by Mr. Falcam, and I want to call the attention of this Convention to the fact that if we keep deferring resolutions, proposals and what have you, the Convention, at the end of its days, will be swamped and be faced with a myriad of tasks in adopting resolutions and what have you, and we will not be as articulate as we hope to be. I think if the name does not strike the fancy of one Delegation, well, suggest another name, but let's try acting on proposals and resolutions as they are introduced in the Convention. That's all. Thank you.

Delegate Isaac Ianwi: Thank you, Mr. President. In the Report No. 26, there are seven names submitted: Federated Republics of Micronesia; Federated Island Republics of Micronesia; Island Republics of Micronesia; Republic of Micronesia; Union of Micronesia; United Island Republics of Micronesia; Union of Island Republics of Micronesia. Now, Mr. President, in this Resolution No. 31 offered by the Committee on General Provisions is another name which is not stated in the report, so it is up to the Convention or various Delegations or Delegates to suggest which to pick up from the report, the names in the report or the one on the resolution. So, I agree that we need a name before we go in and do our work in the Style and Arrangement Committee because this is what is holding our job back because there is no name for the government, so we cannot put it in the proper style, the proposals assigned to our Committee.

Delegate Weital: Thank you, Mr. President. I wish to answer the question raised by the Delegate from Truk. The reason for selecting the name "Federated States of Micronesia" is the fact that the Committee on General Provisions would like to see consistency in names. Should we call our country Federated States of Micronesia, then we would call Ponape the State of Ponape, State of Truk, State of Kusaie, and what have you. So, the Committee went after the consistency of names. Also, as read out or enumerated by Delegate Ianwi, we also reviewed these names. For example, you say Republic of Micronesia; we call the country Republic of Micronesia. What shall we call Ponape? You see? This is one of the reasons we selected the name Federated States of Micronesia. I am not sure whether or not I answered the question raised by Delegate Sony, but I thought I would relay that to him.

Delegate Sony: Thank you, Mr. President. I think I understand the reasoning behind the Committee's favoring the words "Federated States." I would like to ask another question, whether the Committee feels that the word "States" reflects the same political image as the word "Republics" would. May I be enlightened on this? State and Republic, would they mean exactly the same? The State could be a dictatorship state, but a Republic is a government operating based on law.

President Nakayama: A point of information has been raised.

Delegate Cruz: Mr. President, "Republic" connotes independent status of each of the Republics, whereas "State" connotes a legal entity within an independent country. I got this from one of the lawyers. [Laughter]

Delegate Ismael: Mr. President, in looking at this proposal, if we chose to call our islands the Federated Island Republics of Micronesia, and you use the first letter of each word in the name, F I R M, some people are going to be swearing at us, spitting on us. If we are going to use Republic of Micronesia, R O M, we had better be careful. If we are going to use it like U S A, we are going to turn around and use some of these and this is abusive language in some of the major languages of Micronesia. I, therefore, support the designated name given by the Committee, because F S M is Fiji School of Medicine. That's fair enough. [laughter]

Delegate Williander: Thank you, Mr. Speaker — uh, Mr. President. [laughter]

President Nakayama: Were you in the House?

Delegate Williander: Mr. President, I think we have reached the stage of constitutional drafting where we must give serious consideration to a name or names. It will give a symbol; it will give identity; it will also mark us as apart from the other world. So, Mr. President, I think that your Committee on General Provisions is very lenient in not only giving a name but giving several names. So, I urge this Convention adopt one of the names. I wish also to remind the Convention regarding Resolution No. 29, which recommends the name of IslandRepublics of Micronesia. The word "Island" is descriptive of our nation and the word "Republics" would give the connotation that the power comes from the people. So, what I am really saying, Mr. President, is that if the Convention doesn't adopt the name in Resolution No. 31, I think we should adopt the name in Resolution No. 29. Thank you, Mr. President.

Delegate Ngiraked: Mr. President, I raise a point of information. It has been the general consensus of this Convention not to go too deep into district affairs as far as telling them what they want to adopt in their Constitutions in the future. In this Resolution No. 31, Mr. President, we are already designating municipalities as districts. Maybe we should adopt the designation of the districts as a state, but maybe we should stop right there. In going as far as designating municipalities, they are a proper subject to be taken up when each district drafts their own Constitution and organizes their own government. I want to know if there is a specific reason for the Committee to go that far.

President Nakayama: Does anyone wish to respond to the point of information raised by Delegate Ngiraked? Delegate Cabrera.

Delegate Cabrera: Thank you, Mr. President. I just wanted to make an observation, Mr. President, on a point raised by my friend, Delegate Ngiraked. First of all, I think we are acting only on a resolution. The resolution is an official expression of the Convention. It is needed because we need to have guidance. We need it for the Style and Arrangement Committee to have some guidance so they can proceed with their work. I am not too sure exactly whether the power of this Convention will extend beyond the limit of the scope of its duties. I think it is well understood that we are here to draft a Constitution for Micronesia and that does not include the respective states, districts or municipalities. What happens in these districts is the business of the respective districts so long as they conform to the Constitution that we will have adopted here. I think whatever the name will be, it will have to be changed to reflect the real desire of the respective districts. Thank you.

Delegate Tun: Thank you, Mr. President. Mr. President, if this resolution is adopted by the Convention, it will constitute, as has been stated, an official expression of the Convention. However, the resolution will not be binding upon the districts. The Committee considered the point raised by Delegate Ngiraked. The Committee is in full accord with the point that this Convention should not designate names for subdivisions of states. The only reason we went as far as to designate municipalities as districts is so that there will be no confusion in the future. Some states may be referring to what are now their municipalities as counties, some as municipalities, some as districts, and so forth, and this is going to cause a lot of confusion. As I stated earlier, if we pass this resolution, it is not going to be binding on any one district or municipality. Thank you.

Delegate Philippo: Thank you, Mr. President. Before I give my full support to the resolution, as a member of the General Provisions Committee, we went into lengthy discussion about the name, and when we did, it was with the advisors, some of the legal advisors in the Convention. We went over all the definitions of district, state, republic, nation, federation, federated states, commonwealth. We came up with the conclusion that the most appropriate name is "Federated States." Now, I would like to read a short definition brought by our legal advisors:

> "Federated State. An independent central organism, having its own machinery absorbing, in view of international law, all the individual states associated together."

Now, I want to go a little further with the definition of republic:

> "Republic. A commonwealth; that form of government in which the administration of affairs is open to all citizens. In another sense, it signifies the state, independently of its form of government."

The reason I support the use of "Federated States" is that it is more general and the reason I don't support the use of "Republic" is that there are so many with that name, the Republic of China, the Republic of the Philippines. Here I have a son, a firstborn son. Now, I am not going to give him a name that is imitative; I am going to search for a really good name. So, this is the name of our first nation, and we have to think about a good name. So, Mr. President, I think I would like to present here my full support of the resolution submitted by our Committee on General Provisions. Thank you.

Delegate Weital: Thank you, Mr. President. Mr. President, I am sure sooner or later this Convention will select a name, but I should like to caution this Convention not to select name No. 2 in the list. I like the abbreviation of this "Federated Islands Republic of Micronesia." It is an English word, "firm." But if we approve this and give our country this name, don't go to Truk after that. [Laughter] The Trukese can explain what it means, so stay away from that name and I am serious about it. Thank you, Mr. President.

Delegate Cabrera: Thank you, Mr. President. Just one final observation before we vote, as I am sure we have had enough discussion on the subject resolution. Before we do that, Mr. President, I would like to request my good friend, Delegate Ngiraked, to vote for it. After all, it's the name used in Proposal No. 100. Thank you.

Delegate Falcam: Thank you, Mr. President. I have no objection to the suggested name before the Convention. The Delegates will have to be cautious in designating the official name for our future government, a name that will distinctly identify Micronesia or the Micronesian Government. We have to realize that there are islands in the Pacific Ocean that are within the geographic designation of Micronesia, so the name should designate this Micronesia, not the other Micronesia, the other islands that fall within Micronesia. The name will have to be, as stated by the Chairman of the Style and Arrangement Committee, descriptive of the new nation and have some meaning. The recommended names or designations in Committee Report No. 26, perhaps each one has meaning and is descriptive, so what the Committee recommended, plus what we have in the report, are possible names for our future government, so we really should decide on it today. Thank you very much, Mr. President.

Floor Leader Tman: Mr. President, with the indulgence of the Convention, I request a very short recess. I wish to check on one aspect of the Rules. I so move, Mr. President.

Delegate Tacheliol seconded, and the motion carried. The Convention recessed, subject to the call of the Chair at 11:50 a.m.

RECESS

The Constitutional Convention reconvened at 11:59 a.m.

President Nakayama: Is there any further discussion on the adoption of Resolution No. 31? If not, we will vote.

The motion carried. Resolution No. 31 was adopted by the Convention.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Wiliander.

Delegate Wiliander: Mr. President, I wish to take this opportunity to introduce Mr. Michael Sanford, who will be the consultant to the Committee on Style and Arrangement, who has just arrived two days ago and he is in the gallery. [Applause]

Delegate Cruz: Thank you, Mr. President. This morning I want to introduce the legal consultant for the Marianas Delegation, the Honorable Eddie Pangelinan. [Applause]

Delegate Philippo: Thank you, Mr. President. Just a point of information. Has there been any deadline set for the submission of Delegate Proposals?

President Nakayama: As far as I know, there has been no deadline set for the submission of Delegate Proposals.

Delegate John Heine: Mr. President, has there been any date set as to the final date of our Convention?

President Nakayama: That date is set by law and I believe it is November 9.

Delegate John Heine: Thank you. I made my reservations the same.

MISCELLANEOUS COMMUNICATIONS

Miscellaneous Communication No. 20, a letter from the Honorable Francisco C. Ada regarding the seating of Mr. Igisomar.

ANNOUNCEMENTS

Delegate Falcam: Thank you, Mr. President. This will perhaps properly fall under miscellaneous business. During the last couple of weeks I have noticed that every time the Convention seats somebody, we displace a member of this Delegation. When the Honorable Iroij from the Marshalls were seated, we displaced two members of my Delegation, and when we seated the Honorable Alonzo Igisomar this morning, we further displaced another one. I am afraid if this goes on we might be displaced completely outside the Hall of this Convention. I hope this will be the last displacement. Thank you, Mr. President. [Laughter]

Delegate Tun: Thank you, Mr. President. Your Committee on General Provisions will have a brief meeting right after the Plenary this morning in Room No. 1. Thank you.

Delegate Tacheliol: Thank you, Mr. President. Your Subcommittee on Executive of your Committee on Governmental Structure will meet at two o'clock in our staff attorney's office to finalize our work. Thank you.

Delegate Ismael: Thank you, Mr. President. Your Committee on Governmental Functions will meet at two o'clock in this chamber to consider two proposals.

Delegate Olter: Mr. President, your Committee on Public Finance will again meet at 9:30 tomorrow morning in Room No. 3.

Delegate Yoma: Thank you, Mr. President. Despite our present status, I think it is entirely appropriate that today, for the first time, this Convention should officially recognize the presence in the gallery of the First Lady of the sovereign District of Ponape, Mrs. Iris Falcam. [Applause]

President Nakayama: Thank you. I have been asked to announce a reminder to all the chiefs who are meeting at three o'clock in Room 4, three o'clock this afternoon. I would also like to ask members of the Administration Committee to meet right after recess just for a few minutes so that we can let Delegate Tun attend to his own committee business.

Delegate Cabrera: Thank you, Mr. President. I should like to request the Chairman of the Chiefs, if that is the appropriate title of whoever is conducting the meeting, to also include newly seated Delegate Ngirsomar. Thank you.

President Nakayama: Yes. He is a member of that group.

Floor Leader Tmetuchl: There being no further business, I move the Convention recess until 11:00 tomorrow morning.

Delegate Tun seconded and the motion carried. The Convention recessed at 12:15 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

SIXTY-FIFTH DAY

Friday, October 10, 1975

The Micronesian Constitutional Convention was called to order at 11:15 a.m.

The Honorable Toniwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 45 Delegates present. Delegates Andrike, Apis, Borja, Bossy, Gibbons, Haruo, Max Iriarte, Kendall, Nimwes, Salii, Stephen and Wainit were excused. A quorum was present. Iroij Lanki and Iroij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman: Mr. President, I move for the adoption of the Journal of the 64th Day.

Delegate Toribiong seconded, and the motion carried. The Convention adopted the Journal of the 64th Day.

REPORTS OF STANDING COMMITTEES

Delegate Olter: Mr. President, since Committee Report No. 27 has just been distributed to the members of this Convention, I move that we defer action on Committee Report No. 27 and Committee Proposal No. 15 until tomorrow, October 11.

Floor Leader Tman seconded, and the motion carried to defer action on Committee Report No. 27 and Committee Proposal No. 15 until Saturday, October 11, 1975.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 14, entitled "A Proposal relating to the Bill of Rights."

Delegate Luktun: Point of privilege, Mr. President. Before we take action on the Second Reading of Committee Proposal No. 14 I would like to say a few things on behalf of all the traditional leaders in this Convention. I was directed yesterday by the chiefs and traditional leaders to speak on their behalf this morning relative to Committee Proposal No. 14 by the Committee on Civil Liberties. Mr. President, before I make a motion to defer action on Committee Proposal No. 14, I beg leave of this Convention to explain the necessity of making such a motion. As you all know, the traditional chiefs of this Convention met yesterday to formulate a position on the functional role to be performed by the traditional leaders of Micronesia in the new national government. We had in mind yesterday to formulate our position and make our views on this matter known to the whole Convention, possibly through your Committee on Structure. However, during our meeting it was pointed out that Committee Proposal No. 14 from Civil Liberties has sections in it which provide for prohibition on discrimination and equal protection of the law. And concern was expressed that those provisions may be interpreted by future courts in Micronesia in such a way as to render inoperable any body of traditional leaders in the central government. This expression of concern probably caused some doubt in the minds of some of our group and it was suggested that if the chiefs considered that their role in the central government is a very important issue, the Convention will give them enough time to study the Proposal and ascertain if there is going to be any conflict between provisions of Committee Proposal No. 14 and what they have in mind in terms of what kind of role and what kind of functions they will perform in the central government. It was for that reason that I

was requested by the group to make the motion which I am about to make now. I want to make it very clear that I am not opposed in principle to Committee Proposal No. 14 since I am a signatory to that Proposal, as well as a lot of traditional leaders in this Convention. The only reason we want to postpone action is that we need time to meet today, in the afternoon, and go over the Proposal with both the attorneys of the Structure Committee and Committee on Civil Liberties. They will give us their legal opinion on whether or not we are going to have any conflict on this. So, I want to make it clear that I am for the passage of Committee Proposal No. 14, but not today. I now move that we defer action on Committee Proposal No. 14 until Monday, October 13.

Floor Leader Tman seconded the motion.

Delegate Carl Heine: Point of privilege, Mr. President. Before we take any further deferral action on Committee Proposal No. 14, Mr. President, I am very sorry to have to rise and speak in opposition to Chief Luktun who is not only a member of your Committee on Civil Liberties, but has been a personal friend of mine for a long time. I am also very sorry that some staff members of this Convention and the chairmen of other committees have appeared before the Committee of Chiefs and created doubts in their thinking with respect to certain provisions in Committee Proposal No. 14. I was, as Chairman of Civil Liberties, never invited to appear before the chiefs, nor the counsel for the Committee. We would appreciate very much appearing and clarifying some of the points which the chiefs wish to make clear. If you will recall, Mr. President, this proposal was introduced exactly one week ago---Friday of last week. On Tuesday of this week we again deferred action on it for the second time. This is the only proposal that has gone through two First Readings by this Convention and right now we are asking for another, a third, delay in action. I don't know for whose interests those people who appeared before the Committee of Chiefs and created doubts are working for. But, Mr. President, everybody is well aware that we have less than one month to go in this Convention. It has been pointed out many times in this Convention that every time we defer action on any proposal, we do not solve anything. We simply delay action because somebody did not care to read or study whatever is before them. I want to assure all traditional leaders in this Convention that there is no conspiracy, there is no plot on anyone's part---especially in this Committee or in this Convention---to try to undermine their positions or their place in the future Micronesian government. I would be more than happy to appear before this Committee of Chiefs and clarify some misunderstandings that have been brought on before them. I will go along with their deferment until tomorrow, but I also want to point out that we can pass this on Second Reading and the chiefs can still have another chance when the Proposal comes before the Convention again for Third Reading. We can request the Committee on Style to hold action on it while we clarify some of the misunderstandings with the traditional leaders. But I do not see why we must delay again on this Proposal when it has already been one week and everybody has had a chance to study and read it. I think we need to pass it on Second Reading and send it to the Committee on Style. Thank you, Mr. President.

Delegate Ngiraked: Point of information, Mr. President. I would like someone to inform me, before we defer action on Proposal No. 14, what actual effect processing this measure, adopting it, and incorporating it into the Constitution, will have on the traditional leaders' role in our national government? What effect will it have on their role in our national government?

President Nakayama: A point of information has been raised. Does anyone have the answer to that point?

Delegate Ngiraked: Mr. President, perhaps I should make it more clear. Will it enhance their role; will it reduce their role; will it completely eliminate their role?

Delegate Carl Heine: As far as that section is concerned, it will not reduce their role; it will not enhance their role; it will make them equal with everyone else.

President Nakayama: May I request the Convention to confine its debate to the time to defer the measure. If you want to change it from the suggested time, I request that your points be confined to that question.

Delegate Ngiraked: I understand the concern of the Chairman of your Civil Liberties Committee and I appreciate the effort he has made to try to expedite the work of the Convention. If the concern of the traditional leaders present here in the Convention is that which is expressed by Chief Luktun, I think I should join him and beg the indulgence of the Delegates to give them more time. They are slow, but let us give them more time to participate with us.

Floor Leader Tman: Point of information, Mr. President. If I understand correctly, I think the traditional leaders would like to have further time to review Committee Proposal No. 14 and the work of the Structure Committee and to see the work in proper perspective. I wonder if Monday would be sufficient time for them to be ready to consider Committee Proposal No. 14 and other relevant matters?

Delegate Falcam: I would like to make an observation here regarding the timing as indicated by Delegate Luktun from Yap and the reference to the Floor Leader's concern about whether Monday would be sufficient time. I would like to preface my observation that while I realize there are only twenty-some days remaining for this Convention, and while I appreciate the concern of the Chairman of the Committee on Civil Liberties, we should keep in mind that there are almost sixty Delegates working and there are almost sixty different levels of comprehension working for the Constitution. There are times that we may think and feel that we have understood important issues--and all of a sudden we find ourselves wondering why we voted yes or no on a particular matter. I am very much concerned that the language we are using in this Convention is a second language to all of us and is not well understood by most of us, if not all. These are highly technical, highly abstract issues written in a language unfamiliar to most of us so I can sympathize with the efforts of the traditional chiefs in attempting to make sure that they fully appreciate and fully understand what they are adopting and making a part of the Constitution of our new government. I would very much like to see the motion amended to perhaps add a few more days. I think it is only proper that the chiefs, themselves, would be in a better position to amend the motion.

Delegate Sony: Mr. President, I am just wondering what good would this deferring action do to the minds of the young Delegates? I know that the reason for deferring action is for the chiefs to firm up their position on the Bill of Rights, but would that change the thinking--the beliefs--of the young Delegates? It seems to me that we are only concerned with the chiefs' interests. What good would that deferring of action on this Bill of Rights do in changing the attitudes of the young Delegates?

Delegate Ngiraked: Mr. President, let me prevail upon the patience and indulgence of the Delegates and move to make an amendment to the motion to defer by moving that we delay action on Committee Proposal No. 14 until next Friday, October 17.

Delegate Sawaichi seconded the motion to defer action on Committee Proposal No. 14 until Friday, October 17.

Delegate Wiliander: Mr. President, point of information. Do the chiefs plan to present an amendment to Committee Proposal No. 14?

President Nakayama: The chiefs merely ask that we give them more time, until Monday. As to whether they propose to present an amendment, we have no information on that.

Delegate Cabrera: Mr. President, I would like to further amend the motion to require that the group of chiefs call witnesses in the process of deliberation on whether or not they would endorse the Proposal.

Delegate Ngiraked seconded the motion.

Floor Leader Tmau: Mr. President, I don't think the proposed amendment to the amendment now before the floor is germane. We can only discuss the deferral as to time.

President Nakayama: The Chair will rule the latest amendment to the amendment out of order. I believe the intent behind asking for time by the chiefs is that they will try to find people that can help them to understand the Proposal.

Delegate Ngiraked: There is a point in my motion to defer until Friday that is due to a very unfortunate incident in Palau. Chief Ibedul is down there and expects to be here on Monday. I would like for him to have the opportunity to participate and fully understand what is going on relative to the traditional leaders' role in our future government. I hope it is not too much to ask.

Delegate John Heine: Point of privilege, Mr. President. I understand from all the discussion taking place in here this morning regarding Committee Proposal No. 14 that the original request for deferment was requested by the chiefs themselves for Monday. Therefore, not in opposition of other amendments to the request for deferment, I would like to see that the Convention will stick to the request of the chiefs themselves for Monday. I would vote for deferment only until Monday. Any amendment I would decline because it was not the request of the chiefs.

President Nakayama: We will now vote. The question is to amend the motion to amend by changing it from Monday to next Friday, October 17.

The motion carried to amend the main motion to defer action on Committee Proposal No. 14 from Monday, October 13, to Friday, October 17.

President Nakayama: The question before the Convention is to defer action on Committee Proposal No. 14 until next Friday, October 17.

Upon voice vote the Chair called a division of the house and asked for a vote by show of hands. The motion carried and Committee Proposal No. 14 was deferred until Friday, October 17.

SECOND READING CALENDAR - FINAL ACTION

Committee Proposal No. 12, Style Draft No. 1, entitled "A Proposal providing for a Public Auditor."

Delegate Wilfander: Mr. President, I move that we defer action on Committee Proposal No. 12, SD 1, until tomorrow, October 11.

Delegate Tacheliol seconded, and the motion carried to defer action on Committee Proposal No. 12, SD 1, until Saturday, October 11.

INTRODUCTION OF DELEGATE PROPOSALS

None

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 161, entitled "A Proposal relating to control of dangerous drugs.", was referred to the Committee on Governmental Functions.

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

None

ANNOUNCEMENTS

Delegate Tun: Mr. President, your Committee on General Provisions will meet at two o'clock this afternoon to review reports on Proposals and to sign other reports.

Delegate Heinrich Friarte: Your Committee on Governmental Structure will not meet today.

Delegate Ismael: Mr. President, I would like to remind all members of your Committee on Governmental Functions that we will meet at 1:30 this afternoon in this Chamber.

Delegate Otter: Your Committee on Finance & Taxation will meet tomorrow morning at 9:30 in Room 3 and, if possible, again right after the Plenary Session tomorrow.

Delegate Weital: Mr. President, I wish to announce to your Committee on Civil Liberties that I want capital punishment!

President Nakayama: For yourself? (Laughter) If there are no further announcements, I have been asked to announce that there will be a meeting of the chiefs today in Room 4 at three o'clock. They are requesting the services of the attorney to the Civil Liberties Committee and, also, the Chairman of that Committee if he can attend.

Floor Leader Tman: Mr. President, I hesitate to make this motion, but I move that the Convention recess until 10:30 tomorrow morning.

Delegate Tun seconded the motion.

Delegate Yoma: Mr. President, today is payday and even during the weekdays when people are expected to show up to work promptly, you find others coming in a little late. I wonder if the Floor Leader would object to amending his motion to either one o'clock or some couple of hours later, keeping in mind the way we behave as human beings.

Floor Leader Tman: I do not object to making it any time.

President Nakayama: We will now vote. All those in favor of the motion to recess the Convention until 10:30 tomorrow morning?

Motion carried. The Convention recessed at 11:50 a.m.

Respectfully submitted,

Asterio R. Takesy
Assistant Convention Secretary

SIXTY-SIXTH DAY

Saturday, October 11, 1975

The Micronesian Constitutional Convention was called to order at 11:15 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 36 Delegates present. Delegates Andrike, Borja, Cabrera, Cruz, Falcam, Gibbons, Haruo, John Heine, Max Iriarte, Kalles, Kendall, Kijiner, Manglona, Nakamura, Olikong, Salii, Sawaichi, Tacheliol, Toribiong, Wainit and Williander were excused. Iroij Lanki was also present. Iroij Tomeing was excused.

President Nakayama: Is there a quorum present?

Convention Secretary: Mr. President, there is no quorum.

President Nakayama: There is no quorum, so before I declare the session in recess, I would like to ask if the chairmen of each committee have any announcements to make.

The Chair recognized Delegate Tun.

Delegate Tun: Your Committee on General Provisions will meet right after our recess.

Delegate Heinrich Iriarte: Thank you, Mr. President. Your Committee on Governmental Structure will meet right after this session. We will have a very short meeting.

Delegate Ismael: Thank you, Mr. President. Your Committee on Governmental Functions will not meet until Monday at two o'clock.

Delegate Philippo: Thank you, Mr. President. Point of information. I understand that Monday is Columbus Day and I am just wondering if there will be a session held? Thank you.

President Nakayama: Yes. This Convention will meet at eleven o'clock on Monday morning.

If there are no further announcements, I hereby declare the session recessed to reconvene at 11:00 a.m., Monday morning.

The Convention recessed at 11:20 a.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

SIXTY-SEVENTH DAY

Monday, October 13, 1975

The Micronesian Constitutional Convention was called to order at 11:10 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 45 Delegates present. Delegates Andrike, Borja, Cruz, Gibbons, Haruo, John Heine, Max Iriarte, Kendall, Salii, Sawaichi, Termeteet and Wainit were excused. A quorum was present. Iroij Tomeing and Iroij Lanki were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journals of the 65th and 66th Days be adopted. Delegate Ngiraked seconded and the motion carried. The Convention adopted the Journals of the 65th Day and 66th Day.

COMMUNICATIONS FROM T.T. GOVERNMENT

Delegate Ngiraked: Mr. President, I move that the T.T. Communication No. 2 be inserted into the Journal.

Floor Leader Tman seconded, and the motion carried to insert T.T. Communication No. 2 into the Journal. It is as follows:

ZCZC HSAØØ9/Ø9/SW SZA
P Ø9Ø1Ø5Z OCT 75
FM HICOMTERPACIS SAIPAN MARIANA ISLANDS
TO ALDISTADS TERPACIS
BT
REGARDING DISSEMINATION OF MICRO CONCON INFORMATION BY YOUR DISTRICT RADIO STATIONS AND ESG TASK FORCE. ON BEHALF OF MICRO CONCON, PRESIDENT NAKAYAMA REQUESTED THIS OFFICE THAT YOU ALLOW MORE RADIO TIME FOR BROADCASTING NEWS ITEMS AND PROGRAMS RELATED TO ACTIVITIES AND PROCEEDINGS OF CONCON. CONCON PUBLIC INFORMATION OFFICE RELEASES DAILY VIA MNS PROCEEDINGS AND OTHER NEWS ON CONCON ACTIVITIES. IN ADDITION TO THESE, BROADCAST DIVISION SENDS BY TELEPHONE SUMMARIES OF DAILY CONCON ACTIVITIES BOTH IN ENGLISH AND YOUR LOCAL LANGUAGE. CIVIC AFFAIRS DIVISION ALSO SENDS ESG NOTES WHICH CONTAINS ALL CONSTITUTIONAL PROVISIONS SO FAR ADOPTED BY THE CONVENTION. OF COURSE, SUCCESSFUL INFORMATION DISSEMINATION IN YOUR DISTRICT DEPENDS LARGELY ON YOU AND YOUR STAFF. REQUEST THAT YOU PERSONALLY ENSURE THAT ALL NEWS ITEMS AND OTHER INFORMATION RELATED TO CONCON BE AIRED AS SOON AS RECEIVED AND BE GIVEN REASONABLY ADEQUATE AIR TIME. PLEASE SUBMIT TO THIS OFFICE NO LATER THAN OCTOBER 17 A REPORT EXPLAINING WHAT YOUR STATION HAS DONE WITH ABOVE MENTIONED RADIO PROGRAMS SO FAR. STRONGLY URGE THAT LOCAL STATION ESTABLISH FIXED TIMES DAILY WITH PROMOTIONAL ACTIVITIES RESERVED FOR CONCON BROADCASTS. LOCAL ESG TASK FORCES, CAO'S AND BROADCAST PERSONNEL URGED TO DEVELOP DAILY PROGRAMS USING MATERIAL RECEIVED. DEPHICOM COLEMAN
BT

REPORTS OF STANDING COMMITTEES

Delegate Olter: Mr. President, I move for the acceptance of Committee Report No. 27.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 27 was accepted by the Convention.

Delegate Tun: Mr. President, I move for the acceptance of Committee Report No. 28.

Delegate Nakamura seconded, and the motion carried to accept Committee Report No. 28.

Delegate Tun: Mr. President, I move for the acceptance of Committee Report No. 29.

Delegate Nakamura seconded, and the motion carried to accept Committee Report No. 29.

Delegate Tun: Mr. President, I move for the acceptance of Committee Report No. 30.

Delegate Nakamura seconded, and the motion carried to accept Committee Report No. 30.

Delegate Tun: Mr. President, I move for the acceptance of Committee Report No. 31.

Delegate Nakamura seconded, and the motion carried to accept Committee Report No. 31.

Delegate Tun: Mr. President, I move for the acceptance of Committee Report No. 32.

Delegate Nakamura seconded, and the motion carried to accept Committee Report No. 32.

Floor Leader Tman: Mr. President, while we are still under Reports of Standing Committees, I am sure all the Delegates have seen something on their desks called a Preliminary Constitution of the Federated States of Micronesia. Just for the information of the Delegates, this was compiled at the request of the President and the Administration Committee. It was done primarily by the Style Committee in collaboration with the staff so that we will know where we stand now as far as our work is concerned.

Delegate Ngiraked: Mr. President, for purposes of reference, I recommend that we give some designation to this document. Maybe "Constitutional Draft A," or something.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 15, entitled "A Proposal relating to disposition of Public Monies."

Committee Proposal No. 16, entitled "A Proposal relating to the continuation of rights, duties, proceedings and Trust Territory laws."

Committee Proposal No. 17, entitled "A Proposal relating to existing District and Municipal Governments."

Committee Proposal No. 18, entitled "A Proposal relating to assumption of rights, obligations, liabilities, and contracts of the Government of the Trust Territory of the Pacific Islands."

Committee Proposal No. 19, entitled "A Proposal relating to suffrage."

Committee Proposal No. 20, entitled "A Proposal relating to renegotiation of certain land leases."

Delegate Otter: Mr. President, I move for the passage of Committee Proposal No. 15 on First Reading.

Floor Leader Tman seconded, and the motion carried to pass Committee Proposal No. 15 on First Reading.

Delegate Tun: Mr. President, I move for the passage of Committee Proposal No. 16 on First Reading.

Floor Leader Tman seconded, and the motion carried to pass Committee Proposal No. 16 on First Reading.

Delegate Tun: Mr. President, I move for the passage of Committee Proposal No. 17 on First Reading.

Delegate Nakamura seconded, and the motion carried to pass Committee Proposal No. 17 on First Reading.

Delegate Tun: Mr. President, I move for the passage of Committee Proposal No. 18 on First Reading.

Floor Leader Tman seconded, and the motion carried to pass Committee Proposal No. 18 on First Reading.

Delegate Tun: Mr. President, I move for the passage of Committee Proposal No. 19 on First Reading.

Floor Leader Tman seconded, and the motion carried to pass Committee Proposal No. 19 on First Reading.

Delegate Tun: Mr. President, I move for the passage of Committee Proposal No. 20 on First Reading.

Floor Leader Tman seconded, and the motion carried to pass Committee Proposal No. 20 on First Reading.

SECOND READING OF COMMITTEE PROPOSALS - FINAL ACTION

Committee Proposal No. 12, Style Draft No. 1, entitled "A Proposal providing for a Public Auditor."

Delegate Willander: Mr. President, I move for adoption on Second and Final Reading of Committee Proposal No. 12, Style Draft No. 1.

Floor Leader Tman seconded the motion.

Floor Leader Tman: Mr. President, I understand there is a proposed amendment to this Committee Proposal. I yield the floor to the Chairman of the Style Committee.

Delegate Willander: Mr. President, I move for the adoption of amendments one and two, as presented by Delegate Olter, to Committee Proposal No. 12, Style Draft No. 1.

Floor Leader Tman seconded the motion.

Delegate Mimwes: Point of information, Mr. President. May I have copies of the proposed amendments?

Floor Leader Tman: The proposed amendments were distributed on Saturday.

President Nakayama: We will now vote on adoption of the proposed amendments to Committee Proposal No. 12, Style Draft No. 1.

The Motion carried and the proposed amendments to Committee Proposal No. 12, Style Draft No. 1, as presented by Delegate Olter, were adopted by the Convention.

Delegate Sony: Point of information, Mr. President. Many Delegates feel that Committee Proposal No. 12 is too specific and is getting into the legislation area. I want to raise a question as to whether or not it is not enough to provide provisions to the effect that public funds be audited every year. Wouldn't the establishment or insertion of that statement warrant the need to audit all branches of the government? I understand that Committee Report No. 17 pointed out that it is necessary to get into specific areas in order to prevent or guard against legislative efforts to control and circumscribe the independent character of this position. I wonder whether it is not enough to just state that public funds be audited every year and the procedure would be established by law, and by that law should protect against such control of the legislature.

President Nakayama: A point of information has been raised. Does the maker have in mind a Committee or someone to respond? If not, we will vote by roll call on the adoption of Committee Proposal No. 12, Style Draft No. 1, Convention Draft No. 1. The minimum aye votes to pass this Proposal will be 34 for Second Reading.

Following roll call vote the Convention Secretary reported that Committee Proposal No. 12, Style Draft No. 1, Convention Draft No. 1, had been adopted by the Convention. There were 43 yes votes and 2 abstentions.

Committee Proposal No. 12, Style Draft No. 1, Convention Draft No. 1.

A Proposal providing for a Public Auditor.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Appointment and Term of Office. There shall be a public Auditor, appointed by the Executive with the advice and consent of the Legislature, who shall serve for a term of four years and thereafter until a successor shall have been appointed and confirmed.

SECTION _____. Independence. The Public Auditor shall be free from the administrative control of any person or authority in the performance of his functions and duties specified or provided for in this Constitution. The salary of an incumbent Public Auditor shall not be reduced during his term of office.

SECTION _____. Functions and Duties. The Public Auditor shall inspect and audit all public accounts and shall report the results of his inspections and audits to the Legislature at least once a year. The Public Auditor shall have such additional functions and duties as may be prescribed by law.

SECTION _____. Jurisdiction. The jurisdiction of the Public Auditor shall extend to all branches, departments, agencies and statutory authorities of the national government and to other public legal entities and nonprofit organizations receiving public funds from the national government.

SECTION _____. Removal from Office. The Legislature may, by two-thirds vote _____, remove the Public Auditor from office at any time for cause. In such event, the Chief Justice shall appoint an acting Public Auditor to serve until such time as the Executive, with the advice and consent of the Legislature, appoints a new Public Auditor.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 12, SD 1, CD 1, having passed Second and Final Reading, was re-referred to the Committee on Style and Arrangement.)

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 162, entitled "A Proposal relating to Eminent Domain.", was introduced by Delegate Soiter Mwety.

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Ngiraked: Mr. President, I speak to the subject of unfinished business of the Convention. This morning I found on my desk a copy of the draft Constitution. This is a significant step toward the accomplishment of our job here at the Convention. Mr. President, I request the Convention to give this report and document some designation for the purpose of our future reference, at this time.

President Nakayama: Thank you. If there is no objection from the floor, I will designate this as Constitutional Draft No. 1 or Draft A, something to that effect. If it is alright, we will designate this draft as Constitutional Draft A.

Delegate Cabrera: I think all of us agree that during the early stages of this Convention there have been speculations, rumors, what have you, relative to the pessimism that some people have with respect to this Convention not coming up with a Constitution. I would like to request, Mr. President, that copies of this preliminary draft be also given to the press so that they may be able to do some story on it.

Delegate Mwety: Mr. President, I beg leave of this Convention to make a few remarks.

Mr. President, honorable traditional leaders and fellow Delegates:

Twice already this Convention has taken up eminent domain measures. Twice we have heatedly discussed eminent domain. And twice we have defeated eminent domain bills. Although these eminent domain measures have been defeated, the subject continues to be a problem to this Convention.

Some Delegates claim that the power of eminent domain is inherent in a sovereign government. If the Constitution is silent on eminent domain--- that is, if we don't give the power to somebody---courts may decide that the future government has eminent domain power automatically. Or, they may decide that eminent domain rests with whatever level of government that is responsible for foreign affairs.

Frankly, these arguments do not impress me. Maybe a foreign court would decide that its government has an automatic eminent domain power. Maybe an American court, reading American legal history, would decide that the government naturally has eminent domain power. I doubt that a Micronesian court would agree. The idea of eminent domain is a foreign concept to Micronesia. It has no place in our language, no place in our history, no place in our culture, and---I submit---no place in our Constitution. Any Micronesian judge who has the least respect for our customs, who has any concern at all for the wishes of his people,will not decree that the government has eminent domain powers.

Eminent domain Proposal No. 159 amounts to another effort to have this Convention change its mind. However, I fail to see the rationale behind allowing districts to decide for themselves whether eminent domain should or should not be permitted. Suppose all districts but one forbid eminent domain. Does that mean that this one district must sacrifice private lands for the public use of the entire nation?

Mr. President, I am introducing an eminent domain proposal of my own. This proposal is designed to clear up the matter of eminent domain once and for all. It will also end the "silence" on eminent domain which some people have worried about. My proposal says that the power of eminent domain shall be reserved to the people of Micronesia. This means just what it says. It means no central government eminent domain. No district government eminent domain. No municipal government eminent domain.

Perhaps I should explain what I mean when I propose that eminent domain power be left to the people. I do not mean this as a meaningless phrase. Rather, it reflects my best judgement on what should be done and what might be done in the future. It is my belief that our new government shall find it necessary to start out slowly and cautiously. Perhaps it will have to reduce the services that are now provided. I believe the land being used by the present government will be more than sufficient to meet the requirements of our new government. I do not believe it will be necessary for the government to acquire additional land for twenty-five to fifty years.

If the day does come when the government does need land for public use, I am quite sure that our children and children's children will respect such needs, if they are legitimate. At that time, they may choose to grant the power of eminent domain. To the government, through the process of constitutional amendment, or even through the much easier process of legislation. But I think that rather than make the decision for them now, we should have some trust in the wisdom of people who follow us on this earth. I realize that the process of constitutional amendment is time-consuming, but I am sure that our leaders will see that such amendments are proposed, discussed and adopted.

Mr. President, I am sure that the people of Micronesia, now and in the future, will want to secure for themselves the best possible government. If that government needs lands, if it makes a convincing case, it will get those lands. It may even get the eminent domain power, if it really needs it.

Mr. President, I urge this Convention to make the right decision now. I urge this Convention to end the discussion of eminent domain now. I urge this Convention to give a vote of confidence to the people of Micronesia...the people of today and the people of tomorrow...by giving the people the right to decide about eminent domain.

Thank you, Mr. President. (Applause)

Delegate Apis: Mr. President, twenty days have passed since I was hospitalized and this Convention was interrupted. After reading the Journal of the 51st Day, I would like to express my appreciation for the concern that the Convention took in my behalf. (Applause)

Delegate Tmetuchl: Mr. President, with the leave of this Convention, I would like to introduce a distinguished guest who is sitting in the gallery this morning, Mrs. Justina Takesy. (Applause)

MISCELLANEOUS COMMUNICATIONS

Miscellaneous Communication No. 21 was a letter of resignation from Delegate Jose R. Cruz.

Miscellaneous Communication No. 22 was a letter from Delegate Bossy and Delegate Mwoty regarding staff support.

ANNOUNCEMENTS

Delegate Tun: Mr. President, your Committee on General Provisions will meet at two o'clock today.

Delegate Ismael: Mr. President, I would just like to remind the members of your Committee on Governmental Functions that we will have a meeting today at two o'clock in this Chamber. The purpose of our meeting is to review our Proposal on court jurisdiction.

Delegate Olter: I would like to ask the members of your Committee on Finance and Taxation to meet in Room 3 tomorrow morning at 9:30 to discuss whatever matters are still in the Committee or might be referred to the Committee.

Delegate Cabrera: I would be very much remiss if I did not do right by one of my constituents. He has been here for a long time and I have never introduced him. Mr. President and Fellow Delegates, my good constituent is Mr. Juan Teregeyo. He is behind the bar. (Applause)

President Nakayama: If there are no further announcements, I wish to ask the Administration Committee to meet in Room 1 right after recess for a brief discussion. And I would like to remind the traditional leaders of their meeting at three o'clock today in Room 1.

Floor Leader Tmun: Mr. President, there being no further announcements, I move that the Convention recess until eleven o'clock tomorrow morning.

Delegate Olikong seconded and the motion carried. The Convention recessed at 11:55 a.m.

Respectfully submitted,

Asterio R. Takesy
Assistant Convention Secretary

SIXTY-EIGHTH DAY

Tuesday, October 14, 1975

The Micronesian Constitutional Convention was called to order at 11:00 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 47 Delegates present. Delegates Andrike, Apis, Borja, Cruz, Haruo, Kendall, Kijiner, Philippo, Rasa and Salii were excused. A quorum was present. Iroij Lanki and Iroij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 67th Day be adopted. Delegate Tacheliol seconded, and the motion carried. The Journal of the 67th Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Ismael.

Delegate Ismael: I move that Committee Report No. 33 be accepted by the Convention.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 33, from the Committee on Governmental Functions, submitting Committee Proposal No. 21, entitled "A Proposal relating to the functions of government.", was accepted by the Convention.

Delegate Tun: I move that Committee Report No. 34 be accepted by the Convention.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 34, from the Committee on General Provisions, submitting Committee Proposal No. 22, entitled "A Proposal relating to judicial guidance.", was accepted by the Convention.

Delegate Tun: I move that Committee Report No. 35 be accepted by the Convention.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 35, from the Committee on General Provisions, submitting Committee Proposal No. 23, entitled "A Proposal relating to transfer of property to the new national government.", was accepted by the Convention.

Delegate Heinrich Iriarte: I move that Committee Report No. 36 be accepted by the Convention. In addition to this, I would like the Convention to put the date on this report as October 14, 1975.

Delegate Ngiraked seconded, and the motion carried. Committee Report No. 36, from the Committee on Governmental Structure, submitting Committee Proposal No. 24, entitled "A Proposal relating to a structure for the government of the Federated States of Micronesia.", was accepted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 21, "A Proposal relating to the functions of government."

Delegate Ismael: Before this Convention today is a proposal from your Committee on Governmental Functions. I would like to move that the Convention pass on First Reading Committee Proposal No. 21 relative to the functions of government.

Floor Leader Tman seconded, and the motion carried to pass Committee Proposal No. 21 on First Reading.

Committee Proposal No. 22, "A Proposal relating to judicial guidance."

Delegate Tun: Mr. President, I move for the passage of Committee Proposal No. 22 on First Reading.

Floor Leader Tman seconded, and the motion carried to pass Committee Proposal No. 22 on First Reading.

Committee Proposal No. 23, "A Proposal relating to transfer of property to the new national government."

Delegate Tun: Mr. President, I move for the passage of Committee Proposal No. 23 on First Reading.

Floor Leader Tman seconded the motion.

Delegate Manglona: Mr. President, I have a point of information on Section 1 of this proposal pertaining to the transfer of property which reads in part: "All right, title, and interest to any property owned, held in trust, or otherwise used by the Government of the Trust Territory of the Pacific Islands shall be transferred to the national government..." My question now is, what will happen to those properties that are now being leased by the military which are known as military retention areas, such as the areas in Saipan, Tinian and also the land leased by the military in Kwajalein? What will happen to those properties--whether they will also be transferred back to the national government or whether the lease has to continue on for the 99-year lease?

President Nakayama: Would someone respond to the point of information?

Delegate Tun: Mr. President, all the lands that are presently leased, all the leases will remain in effect.

There being no further discussion, the motion carried to pass Committee Proposal No. 23 on First Reading.

Committee Proposal No. 24, "A Proposal relating to a structure for the government of the Federated States of Micronesia."

Delegate Heinrich Iriarte: I move for the passage of Committee Proposal No. 24 on First Reading. Before we vote on this proposal on First Reading, I would like to request that because both the report and the proposal are kind of lengthy, as you will see the report has 62 pages and the proposal has 26 pages, that this proposal be placed on the calendar for about at least one week. I am requesting that we place it on the calendar by October 21.

Delegate Falcam seconded the motion.

Floor Leader Tman: Point of information. Do I take it that the motion is to pass the proposal on First Reading and that it be placed on the calendar on October 21 for Second Reading?

President Nakayama: Would you explain the motion?

Delegate Heinrich Iriarte: The motion is to pass the proposal on First Reading today and place it on the calendar on October 21 for Second Reading.

There being no further discussion, the motion carried to pass Committee Proposal No. 24 on First Reading.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 15, "A Proposal relating to disposition of Public Monies."

Committee Proposal No. 16, "A Proposal relating to the continuation of rights, duties, proceedings and Trust Territory laws."

Committee Proposal No. 17, "A Proposal relating to existing District and Municipal Governments."

Committee Proposal No. 18, "A Proposal relating to assumption of rights, obligations, liabilities, and contracts of the Government of the Trust Territory of the Pacific Islands."

Committee Proposal No. 19, "A Proposal relating to suffrage."

Committee Proposal No. 20, "A Proposal relating to renegotiation of certain land leases."

Floor Leader Tmau: In order to allow a more thorough and free discussion of this number of Committee Proposals on Second Reading Calendar, I move that the Convention resolve into the Committee of the Whole.

Delegate Falanruw seconded, and the motion carried to resolve into the Committee of the Whole.

The President requested Floor Leader Tmau to preside over the Committee of the Whole.

The Convention resolved into the Committee of the Whole at 11:20 a.m.

The Convention reconvened in Plenary Session at 1:00 p.m. (Due to illness of the President, the presiding officer after the Convention reconvened in Plenary Session was Vice President Chutomu Nimwes.)

The Chair requested the Floor Leader to present the oral report of the Committee of the Whole.

Floor Leader Tmau: Your Committee of the Whole, which considered Committee Proposals No. 15 through No. 20 is now pleased to report as follows: with respect to Committee Proposal No. 15, after a lengthy discussion the Committee adopted the proposal and recommends its referral to the Committee on Style and Arrangement. However, Mr. President, several points were raised with respect to Committee Proposal No. 15, particularly from the Palau Delegation. Their concern was that the pertinent section of Delegate Proposal No. 100 with respect to equal distribution of foreign aid funds was not adequately accommodated in Committee Proposal No. 15. With respect to Committee Proposals No. 16, No. 17, No. 18 and No. 19, your Committee of the Whole adopted these proposals with little debate and recommends that they be referred to the Committee on Style and Arrangement. With respect to Committee Proposal No. 20 relating to the renegotiation of certain land leases, your Committee of the Whole recommends to the Plenary that the proposal be re-referred to the Committee on General Provisions with instructions to come up with an appropriate amendment based on the discussion in the Committee of the Whole and that the proposal be placed on Friday's Second Reading Calendar. I move for the acceptance of the oral report.

Delegate Toribiong seconded, and the motion carried to accept the oral report of the Committee of the Whole.

Floor Leader Tmetuchl: In accordance with the recommendation of your Committee of the Whole, I move that Committee Proposals No. 15, No. 16, No. 17, No. 18 and No. 19 be referred to your Committee on Style and Arrangement.

Delegate Toribiong seconded, and the motion carried to refer Committee Proposals No. 15, No. 16, No. 17, No. 18 and No. 19 to the Committee on Style and Arrangement, in the following form:

Committee Proposal No. 15

A Proposal relating to the disposition of Public Monies.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. General Fund. There shall be a General Fund within the National Treasury, into which shall be deposited all public monies raised or received by the National Government, except as otherwise provided by this Constitution or by law. No money shall be withdrawn from the General Fund except pursuant to appropriation law.

SECTION _____. Special Funds. There shall be such Special Funds within the National Treasury as may be established by law. No money shall be withdrawn from any Special Fund except pursuant to law.

SECTION _____. Foreign Financial Assistance. Foreign financial assistance received by the National Government shall be deposited in a Special Foreign Aid Fund to be distributed equitably as provided by law, with the exception of foreign financial assistance which by its own special nature or terms provides for a different method of distribution.

Committee Proposal No. 16

A Proposal relating to the continuation of rights, duties, proceedings and Trust Territory laws.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Existing Laws, Rights and Proceedings. All laws of the Trust Territory of the Pacific Islands not inconsistent with this Constitution shall continue in force until they expire or are amended or repealed, and all existing writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgements, sentences, orders, decrees, appeals, causes of action, defenses, contracts, claims, demands, titles and rights shall continue unaffected except as modified in accordance with the provisions of this Constitution.

Committee Proposal No. 17

A Proposal relating to existing District and Municipal Governments.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

GENERAL PROVISIONS

SECTION _____. Local Government. After the effective date of this Constitution, district and municipal governments, including agencies thereof, district legislatures and municipal councils, shall continue to exist and to function to the extent that their charters or operations are consistent with this Constitution and laws hereunder.

Committee Proposal No. 18

A Proposal relating to assumption of rights, obligations, liabilities, and contracts of the Government of the Trust Territory of the Pacific Islands.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

GENERAL PROVISIONS

SECTION _____. Assumption of Rights, Obligations, Liabilities, and Contracts. The national government of the Federated States of Micronesia shall assume all rights, obligations, and liabilities of, and honor all contracts entered into by the Government of the Trust Territory of the Pacific Islands. Rights, obligations, and liabilities of districts which fail to ratify this Constitution and contracts entered into by the Government of the Trust Territory of the Pacific Islands to the extent they benefit districts which fail to ratify this Constitution shall not be honored or assumed by the national government of the Federated States of Micronesia.

Committee Proposal No. 19

A Proposal relating to suffrage.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Suffrage. Every citizen who has attained the age of 18 years shall not be denied the right to vote in national elections; HOWEVER, the national legislature shall establish by law: (1) a minimum period of local residency, (2) disqualification for mental incompetency or insanity, (3) disqualification while on parole, probation, or under sentence for any crime for which a person has been convicted by any court in Micronesia, and (4) voter registration requirements.

Floor Leader Tman: Pursuant to the recommendation of your Committee of the Whole, I move that Committee Proposal No. 20 be re-referred to the Committee on General Provisions with the instruction as indicated in the oral report, and that the proposal be placed on Friday's Second Reading Calendar.

Delegate Tachelliol seconded, and the motion carried to re-refer Committee Proposal No. 20 to the Committee on General Provisions and to place the proposal on Second Reading Calendar on Friday, October 17, 1975.

SECOND READING CALENDAR - REFERRAL

Committee Proposal No. 12 (SD1, CD1), entitled "A Proposal providing for a Public Auditor.", was re-referred to the Committee on Style and Arrangement.

INTRODUCTION OF DELEGATE PROPOSALS

None

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 162, entitled "A Proposal relating to Eminent Domain.", was referred to the Committee on Governmental Functions.

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President, based on the voluntary resignation of Delegate Jose R. Cruz from the Marianas District, I move that this Convention declare that seat vacant.

Delegate Toribiong seconded and the motion carried declaring Jose R. Cruz' seat vacant in the Micronesian Constitutional Convention.

Delegate Cabrera: Thank you, Mr. President. I would just like to inform the Convention that a letter of acceptance has been sent by the President of the Convention to the Honorable Jose R. Cruz, who has tendered his resignation as a Delegate to this Convention, and that letters have also been sent to the Honorable Oscar C. Rasa who was the runner-up for that particular precinct where ex-Delegate Cruz was elected to this Convention.

President Nimwes: Thank you.

ANNOUNCEMENTS

The Chair recognized Delegate Ismael.

Delegate Ismael: Thank you, Mr. President. I would like to announce to the members of your Committee on Governmental Functions to meet at three o'clock today in this chamber.

Delegate Heinrich Iriarte: Thank you very much, Mr. President. I would like to announce that your Committee on Governmental Structure will meet at three o'clock this afternoon in Room No. 4.

Delegate Tun: Thank you, Mr. President. Your Committee on General Provisions will not meet today.

Delegate Otter: I would like to ask the members of your Committee on Public Finance and Taxation to meet in Room No. 3 tomorrow at 9:30 a.m. for coffee and signing of reports.

Delegate Williander: Mr. President, I wish to announce to the members of your Committee on Style and Arrangement that there will be a meeting at three o'clock tomorrow afternoon. The place is in this chamber. Thank you.

Floor Leader Tman: If there are no further announcements, I move that the Convention recess until 11:00 a.m. tomorrow.

Delegate Tim seconded, and the motion carried. The Convention recessed at 1:10 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

SIXTY-NINTH DAY

Wednesday, October 15, 1975

The Micronesian Constitutional Convention was called to order at 11:05 a.m.

The Honorable Lorenzo LG. Cabrera, Vice President, presided.

A moment of silent prayer was observed.

The Assistant Convention Secretary called the roll. There were 50 Delegates present. Delegates Andrike, Borja, Haruo, Heinrich Iriarte, Kendall and Salii were excused. A quorum was present. Iroij Janki and Iroij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 68th Day be adopted. Delegate Falanruw seconded.

The Chair recognized Delegate Weital.

Delegate Weital: There is a word missing here, Mr. President. After Delegate Mangilonn's statement yesterday, he said "over." "Over" is not in the Journal. Is it set procedure to just leave out that word?

President Cabrera: I believe that was not said intentionally and was not meant to be a part of his statement.

Delegate Manglona: Mr. President, I appreciate the concern of my colleague from Ponape. I am sorry I disrupted the Convention yesterday. I thought I was using the radio communications and that is why after I made my remarks I used the word "over." I ask the indulgence of this Convention for that mistake on my part.

President Cabrera: Thank you.

The motion to adopt carried and the Journal of the 68th Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Tun.

Delegate Tun: Mr. President, I move for the acceptance of Standing Committee Report No. 37.

Delegate Tacheliol seconded and the motion carried. Committee Report No. 37, from the Committee on General Provisions, submitting Committee Proposal No. 25, entitled "A Proposal relating to the capital of Micronesia and jurisdiction and control over property of the national government.", was accepted by the Convention.

Delegate Nakamura: Mr. President, I move that Minority Report No. 37-A be accepted.

Delegate Toribiong seconded and the motion carried. Committee Minority Report No. 37-A on Committee Proposal No. 25 was accepted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 25, "A Proposal relating to the capital of Micronesia and jurisdiction and control over property of the national government."

The Chair recognized Delegate Tun.

Delegate Tun: Mr. President, I move for adoption on First Reading of Committee Proposal No. 25.

Delegate Falanruw seconded and the motion carried. Committee Proposal No. 25, relating to the capital of Micronesia and jurisdiction and control over property of the national government, was adopted by the Convention on First Reading.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 21, "A Proposal relating to the functions of government."

Committee Proposal No. 22, "A Proposal relating to judicial guidance."

Committee Proposal No. 23, "A Proposal relating to transfer of property to the new national government."

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Mr. President, in order to consider Committee Proposals Nos. 21, 22 and 23, I move the Convention resolve into the Committee of the Whole.

Delegate Ngiraked seconded.

The Chair recognized Delegate Weital.

Delegate Weital: Point of privilege, Mr. President. I chose to say a few words regarding Committee Proposal No. 21 before the Committee of the Whole, in other words, in this Plenary Session, so that it would be recorded in the Journal. I notice that many of the things we say in the Committee of the Whole are not recorded completely, so, Mr. President, I wish to say a few words regarding Committee Proposal No. 21 at this time.

Floor Leader Tman: In order to grant the good Delegate that privilege, I withdraw my motion to resolve into the Committee of the Whole.

President Cabrera: Since the mover of the motion to resolve into the Committee of the Whole has withdrawn his motion, please proceed with your statement.

Delegate Weital: Thank you, Mr. President, and I thank the Floor Leader.

Mr. President and Fellow Delegates:

I wish to thank our Committee on Governmental Functions for their fine job of developing Committee Proposal No. 21. This proposal, however, by its own admission on page 1 of its report, is still incomplete. In light of this fact, I urge that the Committee and this Convention to give more thought to provisions referring to education of our people on page 4, lines 5 through 7 of the proposal.

It says, "To promote education and health care and establish standards therefor and to establish and operate institutions of higher learning." This is fine, Mr. President, but I think in building a nation, education deserves greater emphasis. I believe our Constitution should say more than just "promote" and establish standards and operate schools. I say, let's write a provision in our Constitution which will give our children an island-oriented education instead of a carbon copy imitation of the United States educational system. Let's have a system which promotes love of our country, a system that teaches the duties and obligations of Micronesian citizenship, a system that develops moral character, personal discipline, and emphasizes the vital role our young people can play in building a new nation. Our Constitution should be taught in our schools as part of the curricula, and Micronesian culture and traditions should be taught and preserved as part of the educational process.

Education, Mr. President, is an investment in the future of our nation. Therefore, let's make our Constitution a mandate to our schools and teachers. Let's dedicate and reorient our schools to the goal of nation building.

Thank you. [Applause]

Delegate Ismael: Thank you, Mr. President. Your Committee on Governmental Functions is mindful of the fact that Committee Reports are likely to be used to interpret the intention of the Convention with respect to the language of the Constitution. For the record, I would like to correct an oversight in the drafting of one minor section of Committee Report No. 33 of the Functions Committee.

With the indulgence of the Delegates, I would like to ask them to turn to page 3 of our Committee Report and after the words "Currency, banking and commercial paper", insert the word "securities."

The second minor point I would like to bring up, Mr. President, is on lines 9 and 10 of the proposal and page 10, item 8 of the Report. "Commercial Paper" refers to negotiable instruments such as promissory notes, bank checks, and so forth. The term "securities" refers to instruments of property ownership and evidence of debts such as corporate stocks and bonds which may, but need not be negotiable. In explaining the intent of the Committee with respect to this provision, your Committee neglected to make clear that it intended it to apply to non-negotiable securities as well as to negotiable ones.

The purpose of my comment today is to insure that the record reflects the fact that the Committee intends this provision to apply to both categories of legal instruments.

Thank you, Mr. President.

President Cabrera: Thank you, Delegate Ismael.

Floor Leader Tman: Thank you, Mr. President. Since we are correcting the report, also in Committee Report No. 33, on page 4, there are some unnecessary words there. Where it states, in the middle of the page, ". . . the Committee Proposal grants the national government the express power to establish a postal system. But the Committee's proposal does not expressly state that the national government shall also have the power to establish a postal system." I think that does not belong there.

President Cabrera: Has everyone made the necessary technical correction?

Delegate Nimwes: Point of information, Mr. President. Where are we?

Floor Leader Tman: Mr. President, I move the Convention resolve into the Committee of the Whole.

Delegate Toribiong seconded and the motion carried. The Convention resolved into the Committee of the Whole at 11:35 a.m.

The Convention reconvened in Plenary Session at 1:20 p.m.

President Cabrera: We will now hear a report from the Chairman of the Committee of the Whole.

Floor Leader Tman: Thank you, Mr. President. Your Committee of the Whole, which deliberated on Committee Proposals Nos. 21, 22 and 23, begs leave to report as follows:

With regard to Committee Proposal No. 21, your Committee of the Whole adopted the first two sections of the proposal. However, during the deliberations there appeared to be some conflict between Committee Proposal No. 21, reported out by the Functions Committee, and Committee Proposal No. 24, slated for action on October 21, reported out by the Committee on Structure.

After consultation with members of both committees, it was mutually agreed that the Committee Proposal be deferred until October 20 in order to allow time for the two committees to reconcile their differences.

With respect to Committee Proposal No. 22, relating to judicial guidance, your Committee of the Whole adopted the proposal with the understanding that your Style and Arrangement Committee should look carefully into the phraseology of the proposal and, if necessary, make necessary amendments in order to reflect the intent of the General Provisions Committee as reflected in its Committee Report.

With regard to Committee Proposal No. 23, relating to Transfer of property to the new national government, your Committee of the Whole made two amendments. They were treated as oral amendments because they involved merely deletion of one phrase "to the states" and one entire clause that was supposed to give some exceptions to the districts which failed to ratify the Constitution.

Mr. President, I now move for acceptance of the oral report from the Committee of the Whole.

Delegate Tun seconded and the motion carried. The oral report of the Committee of the Whole was accepted by the Convention.

Floor Leader Tmau: Mr. President, in accordance with the recommendations of the Committee of the Whole, I move that Committee Proposal No. 21 be deferred until October 20 with instructions that the Committee on Functions and the Committee on Structure get together in the meantime and reconcile their differences.

Delegate Ngiraked seconded and the motion carried. Action on Committee Proposal No. 21 was deferred until October 20, 1975.

Floor Leader Tmau: Mr. President, with the understanding that the Style and Arrangement Committee will take a careful look at Committee Proposal No. 22 as to its proper wording, I move that Committee Proposal No. 22 be referred to the Committee on Style and Arrangement, as follows:

Committee Proposal No. 22

"A Proposal relating to judicial guidance.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____.

SECTION _____. Judicial Guidance. The Courts of Micronesia shall decide cases in a manner consistent with this Constitution, laws thereunder, Micronesian customs and traditions, and the total social and physical configuration of Micronesian life. Judicial decisions of the Trust Territory Courts rendered prior to the effective date of this Constitution and the common law shall not be binding precedents."

Delegate Toribiong seconded and the motion carried.

Floor Leader Tmau: Mr. President, I move that Committee Proposal No. 23, Committee of the Whole Draft 2, be referred to the Committee on Style and Arrangement.

Delegate Tun seconded and the motion carried. Committee Proposal No. 23, CWD 2, was referred to the Committee on Style and Arrangement, as follows:

Committee Proposal No. 23, CWD 2

"A Proposal relating to transfer of property to the new national government.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE____.

GENERAL PROVISIONS

SECTION____. Transfer of Property. All right, title, and interest to any property owned, held in trust, or otherwise used by the Government of the Trust Territory of the Pacific Islands shall be transferred to the national government of the Federated States of Micronesia for retention or distribution according to the functions provided for in this Constitution."

Delegate Ismael: Point of information, Mr. President. Would the Floor leader clarify one point for me, please? Did he say the whole proposal of No. 21, or did he exclude Sections 1 and 2 which were recommended for adoption?

Floor Leader Tmau: The first two sections of Committee Proposal No. 21 were accepted by the Committee of the Whole. If the two committees wish, there is nothing wrong for them to go over the whole proposal.

SECOND READING CALENDAR - REFERRAL

Committee Proposal No. 15, entitled "A Proposal relating to disposition of Public Monies.", was referred to the Committee on Style and Arrangement.

Committee Proposal No. 16, entitled "A Proposal relating to the continuation of rights, duties, proceedings and Trust Territory laws.", was referred to the Committee on Style and Arrangement.

Committee Proposal No. 17, entitled "A Proposal relating to existing District and Municipal Governments.", was referred to the Committee on Style and Arrangement.

Committee Proposal No. 18, entitled "A Proposal relating to assumption of rights, obligations, liabilities, and contracts of the Government of the Trust Territory of the Pacific Islands.", was referred to the Committee on Style and Arrangement.

Committee Proposal No. 19, entitled "A Proposal relating to suffrage.", was referred to the Committee on Style and Arrangement.

Committee Proposal No. 20, entitled "A Proposal relating to renegotiation of certain land leases.", was re-referred to the Committee on General Provisions.

INTRODUCTION OF DELEGATE PROPOSALS

None

INTRODUCTION OF RESOLUTIONS

None

ACTION ON RESOLUTIONS

Resolution No. 1, CD1, "Resolution declaring a consensus of the Constitutional Convention that a federation of autonomous states be established as the sovereign government of Micronesia."

The Chair recognized Delegate Sawaichi.

Delegate Sawaichi: Mr. President, before we take action on this resolution, I move for a short recess.

Floor Leader Tman seconded and the motion carried. The Convention recessed, subject to the call of the Chair, at 1:27 p.m.

RECESS

The Convention was called to order at 1:30 p.m.

Delegate Sawaichi: Mr. President, this is a very important resolution which needs to be studied by the Delegates and, therefore, I move that action on this resolution be deferred until November 6.

Delegate Sony seconded.

Delegate Toribiong: Mr. President, I would just like to say that if we defer action on this until November 6, the purpose of this resolution will then be moot since it is supposed to give the committees some guidance.

Delegate Falcam: Mr. Chairman, may I ask the reason behind the deferment of this resolution, just for my information?

President Cabrera: Delegate Sawaichi, would you care to respond to that question?

Delegate Sawaichi: Mr. President, during the short recess I consulted with the members of my Committee and they suggested that we should defer action until November 6 so we could study it more.

The motion to defer action carried and Resolution No. 1, CD1, was deferred until November 6.

UNFINISHED AND MISCELLANEOUS BUSINESS

President Cabrera: At this point, I would like to venture a suggestion to the Convention and this is in conformance with the concern expressed in the discussion in the Committee of the Whole in that time is of the essence. The Convention is faced with a tremendous task on proposals, resolutions that are ready for consideration before the Convention, and, personally, I would like to move up the time of the Plenary Session to ten o'clock. This is, of course, just a suggestion.

Delegate Ismael: Thank you, Mr. President. Because of the consensus from the Committee of the Whole relative to Proposal No. 21 from the Functions Committee and Proposal No. 24 from the Structure Committee, I would like to urge that the legal staff of the Structure Committee analyze our paper, Proposal No. 21, so that the members of the Structure Committee could study it intelligently while our staff does the same for Proposal No. 24. We will not be meeting with the Structure Committee until the Functions Committee meets tomorrow afternoon to review the analysis given us by our legal advisors, at which time we can sit down with the Structure Committee and work out a schedule for an intelligent joint committee meeting on the two proposals. Mr. President, in order to accommodate the wishes of the Delegates from the Structure Committee that these two proposals be brought up at the same time on the floor, I would like to amend the motion for deferment of Proposal No. 24 yesterday, to be put on the calendar for October 21, and move that up to 20, so that both Proposals 21 and 24 can be considered by the Convention on the same date.

Delegate Ngiraked seconded.

Delegate Nimwes: Mr. President, we are out of order. We are not following the Order of the Day.

Floor Leader Tman: Mr. President, the correct motion is to reconsider the motion to defer action until October 21. The point of order is well taken.

Delegate Ismael: Mr. President, am I out of order by bringing up this motion to considermoving up the date of deferral on Proposal No. 24?

President Cabrera: The motion should have been made when action to defer was taken.

Delegate Ngiraked: Mr. President, the Chairman has a problem. I wish to dispense with the formality of rules and try to solve this problem, so I move to suspend whatever legal obstacles there are to allow him to solve his problem.

Delegate Falcam seconded.

President Cabrera: Is that a motion to suspend the rules? Which rules?

Delegate Ngiraked: Any rule.

President Cabrera: The subject motion has to be adopted by two-thirds.

Delegate Nimwes moved for a recess. Delegate Sony seconded, and the motion was defeated by a show of hands.

Delegate Williander: Mr. President, I wish to introduce to the Convention a newcomer to Truk who happens to be in the gallery this morning observing the Convention. The gentleman is Mr. Gerald Seck who is directing attorney for the Truk Micronesian Legal Services office. [Applause]

Delegate Yoma: Mr. President, what happened to the motion made by Delegate Ismael?

President Cabrera: It was out of order.

Delegate Ngiraked: Mr. President, there is a motion to suspend whatever impediments there are to give the Chairman a chance, as he has a problem, to solve his problem, and it is requested in the interest of expediency.

Delegate Toribiong seconded. The President requested a vote by show of hands and noted that it would take a two-thirds majority to pass. The motion was defeated.

ANNOUNCEMENTS

Delegate Williander: Mr. President, I wish to remind members of the Committee on Style and Arrangement that there will be a meeting at three o'clock in this chamber.

Delegate Falcam: Thank you, Mr. President. For those who are interested, I would like to announce to the Convention that today an election is taking place in Ponape for the district legislature. Twenty-four seats, 75 candidates, and the result will be transmitted to the Ponape Delegation office tonight. For those who are interested, the office will be open and there will be refreshments. Thank you, Mr. President.

President Cabrera: The Chair has been asked to announce to all traditional leaders that they will have a meeting at three o'clock this afternoon . I believe that the meeting will take place in Room No. 4.

Delegate Gong: Thank you, Mr. President. I would like to make a special request now for purposes of strategy and coordination among Delegates on certain issues. I would like to request the administration to ask the staff to expedite distribution of the Order of Business. Thank you, Mr. President.

Delegate Tun: Thank you, Mr. President. Your Committee on General Provisions is supposed to have a meeting at two o'clock today. That meeting is canceled until further notice.

Floor Leader Tman: Mr. President, I move the Convention recess until 10:00 a.m. tomorrow.

Delegate Tacheliol seconded and the motion carried. The Convention recessed at 1:45 p.m.

Respectfully submitted,

Asterios K. Tukesy
Assistant Convention Secretary

SEVENTIETH DAY

Thursday, October 16, 1975

The Micronesian Constitutional Convention was called to order at 10:30 a.m.

The Honorable Carl Heine, Vice President, presided.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 45 Delegates present. Delegates Andrike, Borja, Falcam, Gibbons, Haruo, Heldart, Max Iriarte, Kendall, Limes, Nakayama and Salii were excused. A quorum was present. Ifoij Laaki and Ifoij Tmeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 69th Day be adopted. Delegate Tuchelio seconded, and the motion carried. The Journal of the 69th Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Olter.

Delegate Olter: Mr. President, I move for the acceptance of Committee Report No. 38.

Delegate Cabrera seconded, and the motion carried to accept Committee Report No. 38.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 26, entitled "A Proposal relating to Taxation."

Delegate Olter: Mr. President, I move for the passage of Committee Proposal No. 26 on First Reading.

Floor Leader Tman seconded, and the motion carried to pass Committee Proposal No. 26 on First Reading.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 25, entitled "A Proposal relating to the capital of Micronesia and control over property of the national government."

Floor Leader Tman: Mr. President, in order to consider Committee Proposal No. 25, I move that this Convention resolve into the Committee of the Whole.

Delegate Falanruw seconded, and the motion carried. The Convention resolved into the Committee of the Whole at 10:40 a.m.

The Convention reconvened in Plenary Session at 11:42 a.m.

President Heine: The Chair will now hear the report of the Committee of the Whole.

Delegate Weital: Mr. President, the Committee of the Whole had lengthy discussion on Committee Proposal No. 25 and I regret to report that the Committee did not come to agreement regarding the Proposal. In this deliberation two

motions were brought to the attention of the Committee of the Whole, one from the majority proposal and the other was the minority proposal. In discussing these Proposals it was then decided by the Committee of the Whole to defer action on both Proposals to next Friday, October 24, 1975.

Delegate Ngiraked: Mr. President, I move we accept the oral report of the Committee of the Whole.

Delegate John Heine seconded, and the motion carried to accept the oral report of the Committee of the Whole.

Delegate Weital: Mr. President, I move we defer action until October 24, 1975, on Committee Proposal No. 25 and the Minority Committee Proposal.

Delegate Toribiong seconded, and the motion carried to defer action on Committee Proposal No. 25 and the Minority Committee Proposal thereto until Friday, October 24, 1975.

SECOND READING CALENDAR - REFERRAL

Committee Proposal No. 22, entitled "A Proposal relating to judicial guidance.", was referred to the Committee on Style & Arrangement with special instructions to carefully assess the wording thereof.

Committee Proposal No. 23, Committee of the Whole Draft No. 2, entitled "A Proposal relating to transfer of property to the new national government.", was referred to the Committee on Style & Arrangement.

INTRODUCTION OF DELEGATE PROPOSALS

None

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Philippo: Mr. President, I just want to ask for information regarding the Proposal we were just handling. I make a special request regarding some solution to the Proposal we just deferred. I would like to ask if they have come up with the full determinations and totals of the whole package regarding the surveys, engineering studies, determination of land availability, cost analogy, and other technical considerations. This is in regard to our General Provisions' recommendations. To make it easier to discuss both Proposals, I have made this request. Thank you.

President Heine: Will the Chairman of the General Provisions please answer that?

Delegate Nimwes: Delegate Philippo is also a member of the Committee on General Provisions and I think it is the responsibility of the Delegates within that Committee, or other Delegates, to look for such information. Thank you.

Delegate Tacheliol: Mr. President, with leave of the Convention I would like to introduce some very important visitors who are observers to this Convention today from Yap. First let me introduce to this Convention the Speaker of the Yap District Legislature who has been occupying that position since the creation of that Legislature, Mr. Joachim Falmog. (Applause) Second is Mr. Hilary Damai who is our District Agriculturalist and also a legislator, who is Chairman of the R & D Committee in the Yap District Legislature. (Applause) Also we have with us this morning Mrs. Speaker Falmog. (Applause) And last, but not least, we have with us the Speaker's niece, Ruthy Giyeg. (Applause)

ANNOUNCEMENTS

Delegate Sony: Your Committee on Civil Liberties will meet at two o'clock this afternoon in Room 3. I would like to request that those chiefs who are members, and the rest of the members, please to attend as the meeting is very important. We will consider Proposal amendments to some of the Bill of Rights.

Delegate Tun: The meeting of your Committee on General Provisions which was postponed yesterday will be held today at two o'clock in Room 1. I urge all members to attend.

Delegate Ismael: Mr. President, I would like to remind all members of your Committee on Functions that there will be a meeting this afternoon at two o'clock in this Chamber.

Delegate Olter: There will be no meetings of your Committee on Finance & Taxation until further notice.

Delegate Heinrich Iriarte: Your Committee on Governmental Structure will have a meeting at two o'clock today in Room 4 to consider two or three Proposals that are in that Committee.

Delegate Willander: Mr. President, your Committee on Style & Arrangement will have a meeting today at 3:30 p.m. in Room 1.

Floor Leader Tman: Mr. President, there being no further announcements, I move that the Convention recess until ten o'clock tomorrow morning.

Delegate Falanruw seconded, and the motion carried. The Convention recessed at 12:55 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

SEVENTY-FIRST DAY

Friday, October 17, 1975

The Micronesian Constitutional Convention was called to order at 10:15 a.m.

The Honorable Leo A. Falcam, Vice President, presided.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 48 Delegates present. Delegates Andrike, Borja, Eperiam, Haruo, Kendall, Nakayama, Nifon and Tachelial were excused. A quorum was present. Iroij Lonki and Iroij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 70th Day be adopted. Delegate Falanruw seconded, and the motion carried. The Journal of the 70th Day was adopted by the Convention.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 14, entitled "A Proposal relating to the Bill of Rights."

Committee Proposal No. 20, entitled "A Proposal relating to renegotiation of certain land leases."

Committee Proposal No. 26, entitled "A Proposal relating to Taxation."

Delegate Chief Bossy: Point of privilege, Mr. President. Allow me to make a few remarks so that it can be reflected in the Journal before we move into the Committee of the Whole.

President Falcam: Please proceed.

Delegate Chief Bossy: Mr. President, comrade traditional leaders and fellow Delegates:

Mr. President, today this Convention faces, possibly for the last time, an issue---a problem which has been haunting many Micronesians for more than two decades. It may also be the reason why many Micronesians are extremely reluctant to grant any form of power that may have effects on their titles to land.

I am speaking of the many land leases which the present T.T. Government, through its agents---a few bad, ugly Americans and their confused Micronesian partners---intentionally and in bad faith, mischieviously lured and tricked some Micronesians into signing these agreements not knowing that such leases gave the government the right to use their land indefinitely. It was expounded to them that these lands will be returned to them after or during the early 1960's. When the time of reversion came, these landowners tried to move back on to their lands but, much to their surprise, they were bluntly told that they could not because the government has indefinite use right over these lands.

Realizing that they had been tricked by the agents of the T.T. Government, from that point on every single one of them tried to the best of his or her ability to find ways to get his or her land back. Having been unsuccessful in their attempt to secure their titles back by themselves, they turned to

our Congress of Micronesia, hoping that they, as leaders and as representatives, would find solutions to their problems. Our own Congress was unable to help because it has not the power to correct these mistakes. The Micronesian Legal Services Corporation spiritedly argued and pleaded to the T.T. courts that such leases are basically shocking to our sense of fairness and justice, having no place in any legal system of justice, but the T.T. courts have always ruled for the T.T. Government. Having exhausted all possible avenues to undo those wrongs, the only last place that may surely correct these wrongs is here---this Convention.

Fellow Delegates, this is the only place where these wrongs can be corrected once and for all. Hear the cries of our fellow Micronesians who have been suffering so that others could be happy. Let us light a small candle of justice now to show our own people that with this Constitution the injustice and unfairness of the past will not be repeated by our own government. Thank you.

The Chair recognized Floor Leader Tman.

Floor Leader Tman: I now move that the Convention resolve into the Committee of the Whole to consider Committee Proposals No. 14, No. 20 and No. 26.

Delegate Falanruw seconded, and the motion carried to resolve into the Committee of the Whole.

The Chair requested Floor Leader Tman to preside over the Committee of the Whole.

The Convention resolved into the Committee of the Whole at 10:25 a.m.

The Convention reconvened in Plenary Session at 12:40 p.m.

The President requested the Floor Leader to present the oral report of the Committee of the Whole.

Floor Leader Tman: Your Committee of the Whole, which deliberated on Committee Proposals No. 14, No. 20 and No. 26, begs leave to report as follows: Committee Proposal No. 14 was considered in your Committee of the Whole section by section. All the sections were adopted except one---that is, action on Section 4 of the Proposal was deferred until tomorrow's calendar in order to resolve two conflicting proposed amendments. The sponsors will get together with the Committees on Functions, Civil Liberties and Structure and the traditional leaders to try to reconcile the differences. With regard to Committee Proposal No. 20, your Committee of the Whole adopted an amendment proposed by the Committee on General Provisions and therefore the Committee Proposal, as adopted by the Committee of the Whole, should now read Committee Proposal No. 20, Committee of the Whole Draft 1. Your Committee of the Whole recommends to the Convention that Committee Proposal No. 26 be deferred until October 22; that is, Tuesday of this coming week. (see p. 352)

Mr. President, I move for the acceptance of the oral report.

Delegate Tun seconded the motion.

Delegate Ngiraked: I beg your pardon, Mr. President. I think I misled the Floor Leader (in the Committee of the Whole). Next Tuesday is October 21, and I wish the report to be amended.

President Falcam: Thank you, Delegate Ngiraked.

Delegate Wainit: I was going to raise the same point.

Floor Leader Tman: I thank the fellow Delegates for the correction. Point of information. Is the oral report accepted?

President Falcam: The Chair will now call for the question.

The motion carried to accept the oral report of the Committee of the Whole.

Floor Leader Tman: In view of the fact that Section 4 of Committee Proposal No. 14 is still pending in the Committee of the Whole, I move that Committee Proposal No. 14 remain on the Second Reading Calendar tomorrow.

Delegate Nakamura seconded, and the motion carried to keep Committee Proposal No. 14 on the Second Reading Calendar for Saturday, October 18, 1975.

Floor Leader Tman: I move that Committee Proposal No. 20, CWD 1, be referred to the Committee on Style and Arrangement.

Delegate Ngiraked seconded, and the motion carried to refer Committee Proposal No. 20, CWD 1, to the Committee on Style and Arrangement, as follows:

Committee Proposal No. 20, CWD 1

A Proposal relating to renegotiation of certain land leases.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

GENERAL PROVISIONS

SECTION _____. Renegotiation of Certain Leases. Five years after the effective date of this Constitution, land lease agreements for an indefinite term are void; HOWEVER, prior to this date parties to such agreements shall be required, in good faith, to renegotiate and to conclude new agreements. When the national government is a party to such agreement, it shall initiate the negotiations.

SECTION _____. Land Leased to the United States. The national government of The Federated States of Micronesia shall seek renegotiations for any land leased to the Government of the United States of America.

Floor Leader Tman: In accordance with the recommendation of your Committee of the Whole, I move that Committee Proposal No. 26 be deferred until Tuesday, October 21.

Delegate Ngiraked seconded, and the motion carried to defer action on Committee Proposal No. 26 until Tuesday, October 21, 1975.

SECOND READING CALENDAR - FINAL ACTION

Committee Proposal No. 11, SD 1, entitled "A Proposal relating to supremacy of the Constitution and the sovereignty of the Micronesian people and State."

Delegate Williander: I move that Committee Proposal No. 11, SD 1, be adopted on Second and Final Reading.

Floor Leader Tman seconded the motion.

The Chair recognized Delegate Ismael.

Delegate Ismael: Thank you, Mr. President. Mr. President and fellow Delegates, this particular Committee Proposal, according to the Chairman of the Committee on General Provisions, was prepared in the early part of this Convention and, therefore, the Committee was very concerned about various limitations relative to what can and what cannot be incorporated in treaties. I wish to point out to the Convention that Section 2, Item No. 1, relative to the concern of traditional rights and civil rights, is already covered by Committee Proposal No. 14 in a very comprehensive manner. On Item No. 2--limitation of the right to own land--it is our understanding that General Provisions is coming up with a package--a comprehensive proposal--relative to this limitation. On Item No. 3 relative to ownership of Micronesian marine and air space, this is already covered by General Provisions' Committee Proposal No. 7. Item No. 4 is also covered sufficiently under Section 1 of this Proposal. Under Section 3, "Treaty" is provided for in the second sentence of Section 1. Also, if the Convention adopts Committee Proposal No. 21, this is covered on page 2, line 4 through line 6. As a result of this, Mr. President, I would like to move for amendment to the motion for deletion of Sections 2 and 3 of this Proposal in their entirety.

Delegate Toribiong seconded the motion.

Delegate Ngiraked: Has the mover of the motion attempted to come to some understanding with the Chairman of the Committee on General Provisions?

President Falcam: Delegate Ismael, can you respond to that question?

Delegate Ismael: Yes, Mr. President. We had a conference session last night with the Chairman and the Vice Chairman of the Committee on General Provisions. Those attending this committee were the Chairman of the Committee on Governmental Functions, as well as the Vice Chairman, and the Chairman of the Subcommittee on Governmental Functions. It was the joint decision of this conference committee that we request for an amendment to this particular Proposal to delete Section 2 and Section 3 from this Proposal.

Floor Leader Tmau: In order to discuss the proposed amendment, I move to suspend Rule 62a.

Delegate Toribiong seconded, and the motion carried to suspend Rule 62a.

Delegate Ismael: If I am in order, Mr. President, I would like to move for an amendment to the main motion to delete Section 2 and Section 3 of the supremacy proposal.

Delegate Toribiong seconded, and the motion carried to delete Section 2 and Section 3 of Committee Proposal No. 11, SD 1.

Floor Leader Tmau: For the information of the Delegates, now we have Committee Proposal No. 11, SD 1, CD 1.

Delegate Nimwes: Point of information, Mr. President. If this subject Proposal is adopted, does it mean that it has to go back to the Style and Arrangement Committee?

President Falcam: I believe, yes.

Delegate Nimwes: Thank you.

Delegate Ngiraked: Point of information. Will the Convention Secretary read the Committee Proposal, as amended?

The Chair requested that the Convention Secretary read Committee Proposal No. 11, as amended, as follows:

Committee Proposal No. 11, SD 1, CD 1

A Proposal relating to supremacy of the Constitution and the sovereignty of the Micronesian people and State.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SUPREMACY OF THE CONSTITUTION

SECTION _____. Constitution as Supreme law of the land. This Constitution is the supreme expression of the sovereignty of the Micronesian people and State and shall be the supreme law of Micronesia. All acts of government, regulations, laws, and agreements or treaties with other nations or international organizations shall be in conformance with this Constitution, and shall be invalid to the extent of any conflict.

Delegate Yoma: Mr. President, this Proposal on the supremacy of the Constitution is for final action and I would like to indicate that I object to making an amendment to a proposal coming up for final action without submitting such amendment in writing. I would prefer that we study this proposal carefully before voting on it, especially when it is up for final action. Thank you, Mr. President.

President Falcam: Thank you, Delegate Yoma.

Delegate Ismael: As I understand it, the recommendation of the Convention today relative to this Proposal, if adopted, is that it will go back to the Committee on Style and Arrangement before final action.

President Falcam: That is correct. I would like to make some observations before we vote on this measure. I would like to ask the indulgence of the Convention. I did not realize that I would be presiding this morning. I had prepared to make a brief remark about this Proposal before final action. If you will permit me, I would like to proceed at this time before we have the roll call vote.

Fellow Delegates:

Today, we are asked to decide the most important significant measure yet to confront this Constitutional Convention. The matter of supremacy is crucial to the Constitution itself, but it has even greater bearing on the issue of future political status. It could influence and possibly control Micronesia's relationship with the rest of the world. For this reason, we had better take a close look at this Proposal.

The supremacy measure presented by the General Provisions Committee proposes to do two jobs at one time. The first job is the matter of declaring that the Constitution will be the supreme law of Micronesia. The Proposal places the national Constitution above district and municipal, and also above all other legislation produced in Micronesia.

I have no objection to this. I have no problem with recognizing the supremacy of the Constitution within Micronesia. That is the kind of document we came here to write.

What makes me uncomfortable is that this particular measure has an impact outside of Micronesia. It repeatedly refers to Micronesia in a way that suggested we will definitely become an independent nation. Reading this Proposal, I find at least five references to Micronesian independence. It seems to me that if we pass this measure, we will be declaring Micronesia an independent nation. I may be wrong on this assumption.

For seven years a Congress of Micronesia group has been dealing with the question of our political status. This group has conducted numerous rounds of negotiations with the United States. We have had numerous reports and countless hearings about political status. Yet the issue of future political status has not been settled.

I don't think that this Convention with one proposal can be expected to complete the work that the Congress of Micronesia has not yet completed after seven years. We have more than enough work to do simply writing a Constitution which will be the supreme law of Micronesia. We hardly have the time to also function as a political status commission. Asking this Convention to now settle Micronesia's future status is perhaps unfair to us, to the Congress of Micronesia, to the people of Micronesia, and also to the representatives of the United States.

When we first came here, we knew that we would be writing a Constitution before the issue of Micronesia's political status was settled. Having been here for several months, I think we now realize that we don't have the time to settle the status issue.

So, there are two questions. Number one is what should we do with this supremacy proposal? Number two is what should we do about Micronesia's future political status, if anything? My first suggestion is that this supremacy proposal be returned to the General Provisions Committee with the request that while the Constitution should be recognized as the supreme law of Micronesia, it should not be drafted in a way that determines or forecloses Micronesia's future political status.

Beyond this, I would suggest that this Convention recommend that a new group be elected at large to complete the negotiations on Micronesia's future status. This group should be a full-time, freely-elected group with an unquestioned mandate from the people. It should enjoy the full support and confidence of the people. It should not be associated with this Constitutional Convention or with the Congress of Micronesia or with any other group. It should be a new group with a new mandate.

Again, fellow Delegates, I think our job here is to write a good, basic, supreme document for Micronesia. I don't think we should try to declare Micronesia independent, or freely associated, or anything else.

Thank you very much. (Applause)

Delegate Ismael: Point of information, Mr. President. Are we going to vote for this now or are we going to just vote on the amendment and refer it to the Style Committee?

Delegate Ngiraked: Mr. President, I am going to speak to the same subject, but before I do that I wish to try to respond to the inquiry that if you want to pass this as a part of our Constitution the time is here and now because if it goes to the Style Committee they will only work on the form and the style and I think it is time to discuss the relevancy of this to our political future. Mr. President, I wish to express my gratitude for the statements that you have made. That has been my concern and I have previously expressed my concern in the Convention that to adopt the measure at this point is like endorsing a blank check. I want to move that we defer action on this measure and recommit it to the Committee on General Provisions.

Delegate Fritz seconded the motion.

Delegate Nimwes: Point of information, Mr. President. What other action is required of General Provisions regarding this Proposal?

Delegate Ngiraked: I think there needs to be an intensive and considerable study on this measure as it relates to our future political status, and this is absent from the study and presentation of the Committee or this Convention.

Delegate Nimwes: May I hear from the Delegates as to whether or not we would like to have this Constitution as the supreme law of the land or not?

Delegate Weital: It has been recommended that the Proposal be sent back to the General Provisions Committee. Is it proper to send it back to the Provisions Committee or the Functions Committee? The Functions Committee recommended some amendment to Provisions and we agree with it and I think it should be sent to the Functions Committee to complete its work.

President Falcam: Let me clarify that the vote that we should take or we will take, should the Convention so desire, on this Proposal--Committee Proposal No. 11, SD 1, CD 1--will require a roll call vote and it will require two-thirds of the Delegates present. The question before the Convention now is a motion to defer action and recommit the Proposal to the Committee on General Provisions.

Delegate Nimwes: I wish to ask the Convention to please give us guidelines as to what specific areas they wish the General Provisions Committee to pursue in deliberating or discussing that this Proposal be recommitted to that committee.

Delegate Wiliander: Thank you, Mr. President. For the information of my fellow Delegates, the amendment which we just adopted in the Plenary Session does not change whatsoever the intent of the Proposal as it stands in Section 1. Therefore, Mr. President, I agree with Delegate Nimwes that should the Proposal be referred back to the Committee on General Provisions it should be with specific instructions, because as it stands now the Plenary Session has adopted Section 1 on First Reading and Second Reading. Thank you, Mr. President.

Delegate Ngiraked: I think the specific area that I wish the Committee to work on is the area of the language and the device in the provision so that we make sure that it does not foreclose or preempt the area of our future negotiations as it relates to the future status of Micronesia. Are we deciding it here and now with this provision?

Delegate Ismael: Thank you, Mr. President. I wish to say that General Provisions has brought up a very important provision here which is contained in Section 1 of this Proposal. I wish to say that in studying this Proposal we have two interpretations given to us by various legal advisors. One was that under the second sentence of Section 1, "All acts of government, regulations, laws, and agreements or treaties...", a free associated state of government could be incorporated. It does, however, indicate that because this Constitution is supreme there would be sovereignty in Micronesia, but that government of Micronesia could also delegate some authorities to a foreign government to operate on behalf of the government of Micronesia. I don't know how General Provisions could improve on this unless the Convention gives some guidelines to them so that they could work and come up with what you want.

Delegate Yoma: If I may respond to the question raised by Delegate Nimwes, I would like to point out one reason why I want further study to be made on this Proposal. You will notice that on page two...

Delegate Nimwes: Point of information, Mr. President.

Delegate Yoma: I yield, Mr. President.

Delegate Tun: Thank you, Mr. President. The objections which have been raised to the subject Proposal are well taken. However, the objections raised are not now valid because we have amended the Proposal by deleting the last two sections. We only have the first section of the Proposal, and I want to assure all the Delegates that according to the language of the first section of the Proposal that Micronesia is free to select whatever political status it wishes--free association, independence, whatever. The first section merely declares the supremacy of the Constitution and the sovereignty of the state and people of Micronesia. Thank you, Mr. President.

Delegate Nimwes: I wish to amend the motion to refer and recommit this Proposal to the Committee on Governmental Functions.

Delegate Tun seconded the motion.

Delegate Wiliander: Thank you, Mr. President. I wish to add a few things to what Delegate Tun has just said about the supremacy of the Constitution in that for the past two days--yesterday and today--we have made a point of reading the Preamble of this Constitution. The Preamble and this supremacy proposal are inseparable. So, Mr. President, if we are not going to adopt this Proposal, we might as well collect our books and leave. We are not being honest with ourselves and to the people of Micronesia. This is a personal observation, Mr. President.

Delegate Ngiraked: In favor of the motion made by the Delegate from Truk, I withdraw my motion.

Delegate Olter: Mr. President, thank you. I would like to support what my fellow Delegate from Truk just said. Are we kidding ourselves, to draft a Constitution and at the same time think of a draft compact? I refer to the Draft Compact by the Congress Delegation and the U.S. Delegation which negotiated on what they call "good faith" in coming up with a Draft, and that Draft says that nothing in a Constitution of Micronesia should be in conflict with that Draft Compact. Now the questions come down to the United States as a Constitution, as a country. If we are going to declare this place a country, we are going to also have a Constitution as the supreme guideline to be abided by every citizen, every policy and every move we make in the country. The United States cannot pray to its own Constitution as the supreme law of its land and country and turn around and tell us that our Constitution is going to be secondary to a Compact. This is gross, malicious, anything you want to call it. I do not feel that I, as a human being, should be treated by a different human being as a secondary human being. I think that if we are going to draft a Constitution, that is going to be supreme. Whatever comes must be subservient to that supremacy. I will not vote for whether it is delayed for one year or two. It is not going to convince me that a compact should be at the head. Once we make this decision it will be very easy for the delegation representing Micronesia to make the decision that this is it. Since there is no Constitution at present, in our negotiation with the U.S. we are sort of flapping left and right, not knowing whether to accept the Compact or the Constitution when there is no Constitution. I yield the floor, Mr. President.

President Falcam: Thank you, Delegate Olter. Let me remind the Convention that there is a motion on the floor to amend the main motion and the mover of the main motion has withdrawn in favor of the amendment. So the question before the Convention is to defer action and recommit this measure to the Committee on Governmental Functions.

Delegate Olikong: I move for a short recess, subject to the call of the Chair.

Floor Leader Tmaa seconded, and the motion carried. The Convention recessed, subject to the call of the Chair, at 1:20 p.m.

RECESS

The Convention was called to order at 1:25 p.m.

President Falcam: The question before us is the motion to defer and recommit the Proposal to the Committee on Governmental Functions.

Delegate John Heine: Point of privilege, Mr. President. If I am in order I would like to make just a brief remark to explain why I would not cast my vote to defer action on this measure.

President Falcam: Please state your point of privilege, Delegate Heine.

Delegate John Heine: Mr. President, I would like to express my strong feeling regarding Committee Proposal No. 11. First of all, I support my fellow Delegates Hans Williander and Bailey Olter. I did not come to Saipan to take part in semantic gymnastics, nor did I come here to play politics. My people did not elect me to come to Saipan just to sit around and then go home and say that I was not able to come up with a Constitution. I believe that Proposal No. 11 is very important and it needs some immediate action. I do not see any reason why this Proposal No. 11 would in any way block us from dealing with other nations if we should desire after we declare ourselves and our people as human beings equal to any other people in this world. With the deletion of Section 2 and Section 3 of the Proposal, I think the way is paved now for action on this particular measure, especially on Section No. 1. Therefore, Mr. President, I will not take any part in casting my vote to return this Proposal. I am ready to cast my vote on it in favor of passing it. Thank you, Mr. President.

President Falcam: The Chair will recognize two more Delegates and then we shall vote. Delegate Nimwes.

Delegate Nimwes: If I am not out of order, Mr. President, I wish to withdraw my motion.

Floor Leader Tmun: Thank you, Mr. President. Since all the subsidiary motions have been withdrawn, I move for the previous question.

Delegate Tun seconded the motion.

President Falcam: Everybody has heard the motion, and the motion was for the previous question. The previous question is for the adoption of Committee Proposal No. 11, SD 1, CD 1. This requires 36 affirmative votes of the Delegates present for passage.

Delegate Ngiraked: Point of information.

President Falcam: Please state your point of information.

Delegate Ngiraked: We all know that this is an important thing we are going to do. The question is what is the urgency of taking the action at this point?

Delegate Tun: There is a motion on the floor and that motion is not debatable.

President Falcam: Delegate Tun is correct. The question is for the previous question.

The motion carried in favor of the previous question.

Following the calling of the roll on Committee Proposal No. 11, SD 1, CD 1, the Convention Secretary reported 37 affirmative votes, two no votes and nine abstentions. Committee Proposal No. 11, SD 1, CD 1, passed Second and Final Reading.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 11, SD 1, CD 1, having passed Second Reading, was re-referred to the Committee on Style and Arrangement.)

INTRODUCTION OF DELEGATE PROPOSALS

Delegate Proposal No. 163, entitled "A Proposal relating to locating the capital in the Marshall Islands.", was introduced by Delegate Isaac Lanwi.

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: I wish to make a request of the Convention. We have just passed a bill of rights that will be part of our future Constitution that supports and advocates freedom of movement by our citizens. The man who has been responsible for this job of moving our citizens around Micronesia is in the gallery today and I wish this Convention to recognize him. He is Alex Tuzuma. (Applause)

Delegate Carl Heine: Thank you, Mr. President. I would like to move that Dr. Norman Meller's letter to the President, which has been distributed as Miscellaneous Communication No. 23, be inserted into the Journal of today.

Floor Leader Tman seconded and the motion carried to insert in the Journal Miscellaneous Communication No. 23, as follows:

"Miscellaneous Communication No. 23

October 13, 1975

Hon. Tosiwo Nakayama, President
Micronesian Constitutional Convention
Saipan, Mariana Islands 96950

Dear Mr. President:

We appreciate the bringing to our attention of all inadequacies of the staff of the Research and Drafting Section, whatever their nature, so that we can attempt to correct them and make sure that they do not reoccur. Miscellaneous Communication No. 22, dated October 10, 1975, was read in this spirit.

Before replying to you, as you requested, may I point out that communications with the two signers of the Miscellaneous Communication were through interpreters who have a degree of legal experience. Under the circumstances, legal staff may have assumed they had a familiarity with technical matters which permitted staff to communicate in a way which would not have been done with a total layman unknowledgeable of legal terminology and legal principles. As a consequence, inadvertently misunderstandings may have occurred in translating due to this assumption not being fully warranted.

With respect to the four items referred to:

(1) Inquiry was addressed to all legal staff with respect to drafting an amendment to Committee Proposal No. 1, in which the interpreters of the communication's authors were told it could not be done. None can recall the incident. We would welcome more specific details on this, for I am afraid this is an illustration of the form of misunderstanding referred to above.

(2) With respect to the eminent domain matter, similar enquiry of staff elicited no positive recollection, and on this we would welcome more specific details so as to guard against even the implication of this reoccurring. (The matter of typing for Delegates is discussed more fully subsequently.)

(3) On Delegate Proposal No. 140, I can comment personally as I drafted it. (It is fully discussed in the appendix attached.) It well illustrates the matter of interpretation referred to above. We shall make every effort to communicate our ideas at greater length, rather than relying upon the assumption that the interpreter's knowledge will assist his Delegate to understand the technical problem faced.

(4) The fourth item raised a very difficult problem. Language which is being used in the Constitution has meaning. The exact meaning will be determined by Micronesian courts after the Constitution goes into effect. Meanwhile, to assist the Delegates to understand both its possible scope and limitations, reference has been made to the practices of other countries. These are intended as illustrations. With regard to the Declaration of Rights portion of the Constitution, U.S. cases have been used as examples of interpretation. This is because the United States was a pioneer in the inclusion of a Bill of Rights in a national constitution and it is common for other countries to look to American experience. I hasten to add that this is not the same thing as saying the courts in those countries are, or in Micronesia, will be, bound by those American decisions. However, short of stopping external judicial decisions from ever being read in Micronesia, there is no way of preventing a judge in Micronesia from being cognizant of how judges in other areas have interpreted language which he is called upon to examine. If desired, staff will eliminate all references to judicial decisions in materials we prepare. Unfortunately, if called upon to answer questions on the possible legal meaning of phraseology, whether or not a case is referred to by name, the knowledge of how the courts have interpreted that language must be availed of by staff in responding, if their response is to be as accurate as they can make it.

All during the Convention, we have experienced the situation of Delegates sending materials in to be reproduced. If it is a simple matter of typing a non-technical matter, every effort has been made to do so within the limits of typing staff available. Should it be a legally technical matter, since some Delegate requests are in improper form, incomplete, ungrammatical, etc., it will come to R & D Section first. This is not because of any desire to delay or withhold services, but as part of a lawyer-client relationship, to protect the client. On the other hand, if it is clear that the Delegate does not wish this type of service, the materials will be reproduced verbatim. The difference is that in the latter case there has been no attempt to check on the legal adequacy and accuracy of the work performed; the R & D symbol followed by a number on the top right hand sheet of the first page is our way of indicating that such a check has been made. It is most likely that the delay referred to in item 2 was occasioned by failure to understand that the requestor desired only a reproduction of copy submitted. Further instructions have been given to ensure that when materials are submitted for typing in the exact form they are received, that these instructions are fully followed.

It is hoped that this letter provides you with the information you have requested we furnish you. The Research and Drafting Section endeavors to respond in a professional way to all requests for services received. We appreciate being informed when those services are not adequate, as we would like them to meet the complete satisfaction of all Delegates.

Sincerely,

/s/ Norman Meller

Norman Meller, Director
R & D

Appendix to Miscellaneous Communication No. 23

On August 20, 1975, a note was received for the preparation of a Delegate Proposal, reading as copied below. Opposite the two elements of the request are the sections prepared in the Proposal printed. During the course of the drafting, discussions were had with at least one of the interpreters of the requestors, and fuller explanation of intent was ascertained:

Note received	Draft prepared
1. Constitutional interpretation	
"The interpretation of this constitution shall not be made in the light of any other constitution known in Micronesia, immediately before the effective date of the constitution."	The provisions of this Constitution shall be interpreted so as to be compatible with the Constitution's Micronesian context, and not necessarily interpreted as having the same meaning as comparable provisions in other constitutions; nor shall they necessarily be interpreted so as to continue the law introduced into Micronesia by the various administering authorities prior to the effective date of this Constitution.
2. No continuation of past judicial precedents	
"Commencing with the effective date of this constitution, all common law, foreign to Micronesia, shall cease to exist. All legal interpretations shall henceforth be drawn from this Constitution."	The Courts of Micronesia shall decide cases in a manner compatible with this Constitution, laws enacted thereunder, Micronesian customs and traditions, and the total social and physical configuration of Micronesian life. Judicial decisions rendered prior to the effective date of this Constitution shall not constitute precedents which must be observed by the Courts of Micronesia.

Explanation on element No. 1: Supplementing the written instruction, orally communicated was the information that the requestors did not want the Micronesian courts to interpret the Micronesian Constitution in the same way as interpreted by the courts of another jurisdiction whose constitution contained identical or similar language. It was pointed out that literally this would mean if a judge in another country decided "X", a Micronesian judge would have no alternative but to decide "non-X", regardless of what "non-X" was. The instructions were then changed so that the Micronesian judges were to be free to interpret the Constitution's language within the Micronesian context and not to have to follow the interpretations made by courts in other countries. Similarly, they were to be free to use their judgement without being influenced by the fact that the law introduced into Micronesia might lead them to another conclusion, in the effort to continue that law. On the belief that we had now ascertained the requestors' intent, the portion of the Proposal on "constitutional interpretation" was prepared.

Explanation on element No. 2: Analyzing the written instructions, it should be noted at the outset that the reference to "common law, foreign to Micronesia" raises problems. Common law refers to those principles and rules of action which derive their authority from ancient usage or from judgements of the courts enforcing them and elaborating upon them. In actual practice, it is the "recognition" of those customs by the courts which gives them a legally operational role, constituting the common law.

Judge-declared law is foreign to Micronesia, for courts and judges are introduced institutions. Literally taken, all judicial decisions which purport to do anything other than enforce statutes according to statutory terms (that is all decisions which help build the common law) are to be nullified. As another factor, to draw "all legal interpretations" from the Constitution would be to ignore all those matters outside of the Constitution on which a Micronesian-oriented common law could ultimately be shaped.

Once again, after oral communication with at least one of the interpreters, it was ascertained that what was desired was that judges, after the Constitution becomes effective, should not have to follow the rule of law contained in decisions rendered before that time. Carefully the concepts of res adjudicata (the law of a case binds the parties to that case, after the time for appeal is past, even though the principle is subsequently overturned) and stare decisis (the principle of law decided by a case becomes a precedent binding other judges in the future when rendering decisions on the same subject with respect to other parties) were explained. The response from the interpreter was that it was desired to prevent pre-Constitution precedents having to be followed after the Constitution becomes effective. It was also ascertained that it was desired to build up a body of Micronesian common law, through court decisions based on Micronesian customs and traditions and the total social and physical configuration of Micronesian life. All these were included in the Delegate Proposal prepared."

Delegate Weilal: I wish to request that the statement I made regarding capital punishment (in the Committee of the Whole) be inserted in the Journal, and I so move. (See p. 341 following oral report of Committee of the Whole.)

Delegate Ngiraked seconded, and the motion carried to insert in the Journal the statement made by Delegate Daro Weilal, as follows:

"Mr. President and Fellow Delegates:

A section of the proposal bill of rights for the Micronesian Constitution states that there shall be no capital punishment in Micronesia and that no crime under the laws of Micronesia shall be punishable by death.

It is not my intent in these remarks to reiterate the arguments for or against capital punishment; however, I would like to express my personal views on this subject with the hope that other Delegates will keep them in mind when voting on this Proposal.

I support imposing capital punishment for certain major crimes like first degree murder. Capital punishment is more than a penalty on the convicted. It reflects the nation's view of how to treat persons who create social disruption in the community. Micronesians live on small islands. Major deviations in social behavior are unacceptable. I ask you, can the Micronesian culture tolerate the strain and tension which would result if a person convicted of murder walks free in our communities? All too frequently our legal system has failed to penalize the guilty person. Our court system has either failed to convict the accused or finds the person guilty but places him on parole or probation just a few years later. This is not demonstrative of a system which effectively punishes persons convicted of major crimes. The people of Micronesia are not satisfied with such a system. The family of the victim has not seen justice. When a person convicted of a major crime and given a long jail sentence is subsequently paroled, doubt is created in the minds of the people as to the effectiveness of our court system. Disrespect for the moral code is generated.

Fellow Delegates, if a person intentionally kills another human, he, too, should die. Our Constitution does not have to follow the philosophies espoused in any other country. We must find the answer in our own culture and in our hearts.

Thank you."

Delegate Cabrera: Thank you, Mr. President. With leave of the Convention, I would like to extend our gratitude and thanks on behalf of the Convention to the wonderful lady who provided the cookies during the recesses, Mrs. Norman Meller. (Applause)

Delegate Ismael: Thank you, Mr. President. I would like to insert in the record of our Journal that relative to the discussion yesterday which resulted in the deferment of action on Proposal No. 23 on account of substantial differences between Proposal No. 23 and Proposal No. 24 which was delegated to our legal advisors to study and come up with an analysis, it was found that there was no substantial conflict between these two papers except minor inconsistencies that were transmitted to members of the Committee on Governmental Functions and also to members of the Structure Committee. Thank you.

President Falcam: Thank you very much. With leave of the Convention, under Miscellaneous and Unfinished Business, I would like to inform those Delegates interested in the unofficial and incomplete results of the District Legislature election in Ponape District which came in late last night. Unofficial results indicated that out of 24 seats, 14 new members were elected and ten incumbents retained their seats. One interesting point that may be of interest to the rest of us is that a write-in candidate had 577 votes and he was one of the new legislators. Official returns and results will be announced as they are made available.

MISCELLANEOUS COMMUNICATIONS

No. 23. Letter from Norman Meller, Director of Research and Drafting, in response to Miscellaneous Communication No. 22.

ANNOUNCEMENTS

The Chair recognized Delegate Ismael.

Delegate Ismael: I would like to announce to the members of the Committee on Governmental Functions that there will be no meeting today.

Delegate Tun: Your Committee on General Provisions will have a short meeting at 3:30 p.m. this afternoon in Room No. 1.

Delegate Carl Heine: Thank you, Mr. President. I just want to remind the members of the Committee on Civil Liberties that it was agreed earlier that we would meet jointly with the traditional leaders and the Committee on Governmental Functions and the Committee on Governmental Structure this afternoon at 3:00 p.m.

Delegate Heinrich Iriarte: Thank you, Mr. President. I would like to remind the members of your Committee on Governmental Structure of our meeting with the other two committees and the traditional leaders at three o'clock this afternoon.

President Falcam: Thank you. If there are no other announcements, I have just been reminded to let all the Delegates know that as part of Ponape District's celebration or commemoration of the United Nations Day activities, which starts on the 24th of this month for four and a half days, the Ponape Delegation and the community of the Ponapean people in Saipan are hosting a reception for the Delegates on the 25th of this month here at the Convention

site. The invitations are along the way and we urge all of you to plan on being present. It has a lot of surprises, both good and bad.

Floor Leader Tmun: Thank you, Mr. President. Since I do not wish to make a motion for tomorrow, I yield the floor. Frankly, Mr. President, it seems that every time I make a motion to convene on Saturday we don't have a quorum, so I would rather leave that motion to somebody else.

Delegate Olter: I so move.

President Falcam: Would you please complete your motion.

Delegate Olter: I move that the Convention meet at 10:00 a.m. tomorrow in Plenary Session in this hall.

Delegate Nimwes seconded the motion.

Delegate Ianwi: I move that anyone who does not show up tomorrow for the meeting that he have capital punishment. (Laughter)

Delegate Wainit: Since the motion made by my good friend-colleague Bailey did not include recess, I so move to that effect.

There being no further discussion, the motion carried. The Convention recessed at 1:50 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

SEVENTY-SECOND DAY

Saturday, October 18, 1975

The Micronesian Constitutional Convention was called to order at 10:22 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

The Assistant Convention Secretary called the roll. There were 49 Delegates present. Delegates Andrike, Borja, Haruo, Kendall, Kijiner, Nifon and Nimwes were excused. A quorum was present. Iroij Lanii and Iroij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 71st Day be adopted. Delegate Falanruw seconded, and the motion carried. The Journal of the 71st Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Williander.

Delegate Williander: Mr. President, I move that the Convention accept Committee Report No. 39.

Floor Leader Tman seconded and the motion carried. Committee Report No. 39 from the Committee on Style and Arrangement on Committee Proposals No. 15, No. 16 and No. 19 was accepted by the Convention.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 14, "A Proposal relating to the Bill of Rights." (Section 4 -- Prohibition on Discrimination only).

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Thank you, Mr. President. In order to consider Section 4 of Committee Proposal No. 14, which was deferred yesterday, I move that the Convention resolve into the Committee of the Whole.

Delegate Tun seconded, and the motion carried. The Convention resolved into the Committee of the Whole at 10:30 a.m. The Chair requested Floor Leader Tman to preside.

The Convention reconvened in Plenary Session at 11:10 a.m.

President Nakayama: We will now receive a report from the Committee of the Whole. Delegate Tman.

Floor Leader Tman: Thank you, Mr. President. Your Committee of the Whole, which deliberated on Committee Proposal No. 14 yesterday and this morning, now begs leave to report as follows: As indicated in the oral report yesterday, all eleven Sections contained in Committee Proposal No. 14, except one which is Section 4, were adopted yesterday. This morning your Committee is pleased to report to you and the Plenary that Section 4 has been adopted

with an amendment to that Section. The Committee Proposal now should be labelled Committee Proposal No. 14, Committee of the Whole Draft 1. Your Committee now recommends that this pass the Plenary and be referred to the Committee on Style and Arrangement. I move for acceptance of the oral report.

Delegate Tacheliol seconded, and the motion carried. The oral report of the Committee of the Whole was accepted by the Convention.

Floor Leader Tman: Mr. President, I move that Committee Proposal No. 14, Committee of the Whole Draft 1 be referred to the Committee on Style and Arrangement.

Delegate Tun seconded.

Floor Leader Tman: Mr. President, point of privilege.

President Nakayama: State your point of privilege.

Floor Leader Tman: Thank you, Mr. President. I beg leave of this Convention to rise on a point of privilege to share some of my reservations with the traditional leaders and my fellow Delegates. I wish to ask for this privilege because I have been exempt from participation as the Chairman of the Committee of the Whole.

Mr. President, I wish to share my reservations and perhaps I will be safe enough to say the reservations of my Delegation. We are not opposed to the inclusion of the amendment which was adopted earlier in the Committee of the Whole. However, Mr. President, there seem to be two groups here, one which does not uphold and respect the traditional leaders and the others who do, and among those there is a difference in the approach to safeguard our traditions and customs. The amendment adopted earlier in the Committee of the Whole is an admission itself that many of us do not respect and honor our chiefs. The basic reservation is the inclusion of the provision in the Constitution to define the role and functions of the chiefs but fortunately in my district, we do not need to legislate to define the role and function of our chiefs because it is already defined and refined within the framework of our culture. In Section 4 we speak of equal protection of the law. The provision which was adopted this morning reminds me of George Orwell's book, Animal Farm. We are aware, of course, that among equals there are some who are better, higher and privileged. The proviso adopted earlier this morning is, in effect, a rider. It has no place in Section 4 which deals with equal protection of law. I would rather the Constitution be silent on the role of traditional leaders and let each district's culture and custom dictate and appreciate their roles. In Yap my chiefs do not have to be told by legislation what are their roles. They know and the people know. Thank you, Mr. President. [Applause]

Delegate Apis: Thank you, Mr. President. I just wish to request that the record reflect my one hundred percent support of the remarks just made by Delegate Tman.

Delegate John Heine: Mr. President, I would also like to have the Journal reflect my support of the remarks made by Delegate Luke Tman.

The motion carried and Committee Proposal No. 14, CWD 1, was referred to the Committee on Style and Arrangement, as follows:

Committee Proposal No. 14, CWD 1

"A Proposal relating to the Bill of Rights.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE_____

BILL OF RIGHTS

SECTION_____. Searches, Seizures, Privacy and Interception of Communications. The right of the people to be secure in their persons, houses, papers and other possessions against unreasonable search, seizure, invasion of privacy or interception of communication by any means shall not be violated. No warrant shall issue without probable cause, supported by affidavit particularly describing the place to be searched and the person or things to be seized.

SECTION_____. The Right to own Private Property. The right to own private property shall not be deprived without due process of law.

SECTION_____. Due Process and Equal Protection. No person shall be deprived of life, liberty or property without due process of law nor be denied equal protection of the laws.

SECTION_____. Prohibition on Discrimination. The equal protection of the laws shall not be denied or abridged on account of sex, race, ancestry, national origin, language or social status by the state; PROVIDED, that nothing in this Constitution shall take away any role or function of traditional leaders as recognized by customs and traditions or prevent traditional leaders from being recognized, honored, and given formal or functional roles at any level of government as may be prescribed by this Constitution or any law.

SECTION_____. Self-Incrimination and Double Jeopardy. No person shall be compelled to give evidence which may be used against him in any criminal case nor be twice put in jeopardy for the same offense.

SECTION_____. Excessive Bail, Excessive Fines, Cruel and Unusual Punishment and Habeas Corpus. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. The privilege of the writ of habeas corpus shall not be suspended, unless, when in cases of rebellion or invasion, the public safety may require it.

SECTION_____. Freedom of Migration and Movement. The citizens of Micronesia shall be accorded freedom of migration and movement within Micronesia.

SECTION_____. Ex Post Facto Laws and Bills of Attainder. No bills of attainder or ex post facto laws shall be passed.

SECTION_____. Rights of Defendants in Criminal Proceeding. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

SECTION_____. Capital Punishment. There shall be no capital punishment. No crime under the laws of Micronesia shall be punishable by death.

SECTION_____. Prohibition of Slavery and Involuntary Servitude. Neither slavery nor involuntary servitude, except as punishment for crime, whereof the party shall have been duly convicted, shall exist in Micronesia."

SECOND READING CALENDAR - FINAL ACTION

Committee Proposal No. 15, SD1, "A Proposal relating to General and Special Funds."

Committee Proposal No. 16, SD1, "A Proposal relating to Existing Laws, Rights, and Proceedings."

Committee Proposal No. 19, SD1, "A Proposal relating to Suffrage."

The Chair recognized Delegate Williander.

Delegate Williander: Mr. President, I move for adoption on Second and Final Reading of Committee Proposal No. 15, Style Draft 1.

Floor Leader Tman seconded.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President, I am going to propose an amendment to the motion and the text of the amendment proposed, I believe, has been distributed to the Delegates, labelled Amendment No. 1 to Proposal No. 15. I move we adopt the amendment to the proposal.

Delegate Toribiong seconded.

At the direction of the Chair, the Assistant Convention Secretary read the amendment, as follows:

"Amendment No. 1:

Strike all of the words after the period following the words 'Foreign Assistance Fund' on line 11 and strike all of the words on lines 12 and 13 of Committee Proposal 15, Style Draft 1, and insert the following:

'Except where a particular distribution is required by the terms or special nature of the assistance, each state shall receive a share equal to the share of the Federal government and to the share of every other state.'"

Floor Leader Tman moved for a short recess. Delegate Tacheliol seconded, and the motion carried. The Convention recessed, subject to the call of the Chair at 11:20 a.m.

RECESS

The Convention was called to order at 11:50 a.m.

President Nakayama: Before the Convention is the proposed amendment, Amendment No. 1 to Committee Proposal No. 15.

Delegate Ngiraked: Mr. President, the subject has again come before this Convention, the question of how to divide and distribute financial grants from outside of Micronesia. The people of Palau and the Palau Delegation have offered to this Convention several months ago a proposal in this area contained in Delegate Proposal No. 100. Consistently this matter has come before this Convention with discussion excluding comprehensive consideration of the offer made in the pertinent section of Proposal No. 100. The way this proposal has been resolved in this Convention will have a serious effect on the validity of any decision that the Palau Delegation is going to make here in the Convention, and we had hoped that the lapse of time, although too long, would have afforded the Convention some time to try to

reconcile the difference between the proposal before the Convention and that one offered in Proposal No. 100. Before we came to this Convention and offered in Proposal No. 100, we took three alternatives into consideration. Mr. President, we are mindful of the desire of some of the people that the funds be divided on the basis of population. We took that into consideration but if we are to divide money simply on the basis of population count, we see the danger of having money allotted in a district where it is not particularly needed. We also took into consideration a possible alternative of dividing money with respect to need, as is the expressed desire of some of the Delegates to the Convention. If we do that, we will have a situation sometime where the district that will scream the loudest will get the attention and will get more money. We have felt that equal distribution is the most equitable solution and compromise. Mr. President and fellow Delegates, the responsibility, the basic responsibility to set our own standards of government services and functions in Micronesia, and to meet those standards, lies with the Micronesian people in their own districts. We should not build our nation based on the charity of another nation. Why should we break or wreck our unity over the question as to how we should divide charity from outside Micronesia? Mr. President, if we develop a smattering of work, as we have done in the past and this morning, I am afraid that Proposal No. 100 is going to be this boat and this boat is going to sail without a lot of people. I urge this Convention to take into account the proposed amendment, and we beg you to cast your vote this morning for this measure with the total objectivity of the Convention in mind, the unity of Micronesia as our ultimate goal. Thank you, Mr. President.

Delegate Cabrera: Thank you, Mr. President. I will not take the time of the Convention to challenge some of the statements made by my good friend, Delegate Ngiraked. I do want to mention, however, Mr. President, that all arguments with respect to the section in the proposal which will have been amended if the Convention passes Amendment No. 1, have been brought to the attention of the Committee of the Whole when it passed on Second Reading. I just want to mention one thing, however, Mr. President, and that is I fear very much that should the Convention pass something like what Amendment No. 1 asks, that it precludes the chance of the national government of Micronesia to receive foreign financial assistance from democratic nations. I do think the legislative bodies of any foreign nations, especially those democratic in nature, will be conscious of how their money is going to be spent, and I do not think they will gladly give money if we have this in our Constitution. I think foreign countries are sympathetic to advancing money based on needs, and those needs are somewhat accompanied by population count and what have you. Mr. President, I do think that the amendment will not afford Micronesia the kind of expectations of the chances of receiving funds in the future. Thank you, Mr. President.

Delegate Toribiong: Thank you, Mr. President. I wish to say a few words on this amendment and on the comments that have been made on the floor. First of all, the original proposal, Committee Proposal No. 15, simply states that foreign assistance money shall be distributed by the national government on the basis of what's equitable. It leaves the whole question of equitable distribution to the legislature. In the amendment, we take a step further and decide once and for all what is equitable distribution, and that formula in this amendment was formed on the basis of our concepts of the composition of the Micronesian government. We believe that the future government of Micronesia should be a government which respects the integrity of each district and is premised upon the foundation of equal participation. Concerning the concern expressed as to the foreign assistance from other nations which may be discouraged simply because of this pattern of distribution, I wish to say that this amendment does not apply to foreign assistance money which is given for specific projects or programs; it applies only to those grants which are without specific conditions or limitations attached to them. Mr. President, this matter is very important to the Palau Delegation and to the people of Palau. It has a very — a direct effect on the outcome of the votes on the final draft Constitution. It seems to me that it is a cost worth paying to preserve the unity of Micronesia. Thank you, Mr. President.

Delegate Nakamura: I think, Mr. President, as a member of the Finance and Taxation Committee, I would like to, on behalf of those people who haven't attended the Committee's deliberations, make a short comment. During our deliberation, it was stated by some of our members that one example of such foreign aid is the one that is expressed in the Compact, and in the Compact it says that the Trust Territory of Micronesia Government will receive $35 million in the future, or in the transitional period. However, in the same Compact it is expressed that there are certain things that several districts have to contribute and, if I am not mistaken, we have heard from many Palau Delegates that Palau has compromised fifty-fifty. In the light of that context, I would like to urge every member of this Convention, to take this matter, especially this Amendment No. 1, to be a serious proposal. Thank you.

Delegate Sony: Mr. President, there is one thing about this amendment that bothers me very much. What would happen if a foreign nation gives Micronesia $30 million in order to carry out its expressly delegated responsibility? That $30 million is just enough for foreign affairs, communications, postal service, and what have you. How could the national government distribute equally among states if that $30 million is only enough to carry out its responsibilities? Thank you, Mr. President.

Delegate Toribiong: Mr. President, I wish to respond to the inquiry by saying that if that fund was given to Micronesia with a special intent or purpose of assisting Micronesia in the conduct of its international relations, then that falls into the category of grants with a special nature and would be exempted from this provision. That's all, Mr. President.

On a vote by show of hands, the motion was defeated. There were 14 yes votes and 16 no votes.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Thank you, Mr. President. Mr. President, I think complacency is a nice thing to have; harmony is desirable and comfortable. It is the distasteful responsibility of the Chairman of the Palau Delegation and the Palau Delegation and the people of Palau to remind this Convention that we do not think that this Convention realizes the full impact of rejecting our offer. We have come to the crossroad. We have to decide, as it has been said before, we are split between our commitment to our people and our love for Micronesia. Please be patient with us. We want to join Micronesia. So, I move, Mr. President, that before we take one further step on this item, we defer action on this matter until relevant issues come up for discussion, pertinent questions come up in other aspects of our Constitution. We have scheduled a Finance and Taxation Proposal for consideration by this Convention next Tuesday, October 21. I move that we defer action on this proposal until that time.

Delegate Olikong seconded, and the motion carried. Action on Committee Proposal No. 15 was deferred until October 21, 1975.

The Chair recognized Delegate Williander.

Delegate Williander: Thank you, Mr. President. I move for adoption on Second and Final Reading of Committee Proposal No. 16, Style Draft 1.

Floor Leader Tman seconded.

Delegate Cabrera asked the Chair to excuse him; the Chair did so, and Delegate Cabrera left the Convention Hall.

President Nakayama: The yes vote required to pass this will be 36. We will now vote by roll call.

The Secretary called the roll and reported that there had been 47 yes votes and no nay votes. Committee Proposal No. 16, SDJ, passed Second Reading.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 16, SDJ, having passed Second Reading, was re-referred to the Committee on Style and Arrangement.)

Committee Proposal No. 16, SD1

A Proposal relating to Existing Laws, Rights, and Proceedings.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE ____

SECTION ____. Existing Laws, Rights, and Proceedings. A statute of the Trust Territory of the Pacific Islands continues in effect except to the extent it is inconsistent with this Constitution, or is amended or repealed. A writ, action, suit, proceeding, civil or criminal liability, prosecution, judgement, [sic] sentence, order, decree, appeal, cause of action, defense, contract, claim, demand, title, or right continues unaffected except as modified in accordance with the provisions of this Constitution.

The Chair recognized Delegate Wiliander.

Delegate Wiliander: Mr. President, I move for adoption of Committee Proposal No. 19, Style Draft 1, on Second and Final Reading.

Floor Leader Tman seconded.

The Chair recognized Delegate Toribiong.

Delegate Toribiong: Mr. President, I wish at this time to offer an amendment to Committee Proposal No. 19 concerning suffrage. It pertains to the second disqualification which reads ". . . disqualification while under sentence of a Micronesian court for conviction of crime, . . ." This limits the legislature to deal with disqualification of voters who are under sentence of a Micronesian court. This is too limiting to be in the Constitution. The proposal then would seem to provide that the legislature may provide for disqualification of persons for conviction of crime; therefore, all the other limitations in the proposal can then be effected by legislation. Besides, I believe that the legislature in the future would be in a better position to deal with specific problems as they come; therefore, I now move that this Convention consider the amendment, or that Committee Proposal No. 19 be amended by my Amendment No. 1.

Delegate Falanruw seconded.

Floor Leader Tman: Mr. President, I am not quite clear as to the exact difference between the proposal as it has been written by the Style Committee and the proposed amendment. May I be enlightened?

Delegate Toribiong: In the Committee Proposal it says, ". . .disqualification while under sentence of a Micronesian court for conviction of crime, . . ." This limits disqualification to persons who are under current sentence of a Micronesian court. In the proposed amendment it leaves everything open. A good example may be a disqualification permanently for conviction of a felony such as homicide. Under the Committee Proposal that cannot be done. It applies only to someone under sentence.

Floor Leader Tman: Mr. President, it seems to me that when a person is convicted of a crime, a felony or a misdemeanor and he has served his sentence and is out of jail, it seems to me his civil rights ought to be restored to him. This disqualification provision would be much more suitable for the qualification for election to public office but not for general suffrage for people to vote. A person may have been convicted, served his term and is out of jail already; then I think his civil rights should be restored to enable him to participate in the election.

Delegate Toribiong: I speak perhaps once and for all about this. That is not the point in my amendment; the point is it should be left to the legislature to decide and I believe they can come up with proper legislation to deal with all the problems that come up in the future. I hate to close that door to the legislature at this time in our history.

The motion to adopt the amendment carried.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President, point of information. How would we handle the elections prior to the organization of the institution of our future legislature? Is that taken care of in our Constitution or is it necessary to provide for it in this section?

Delegate Toribiong: If my hearing was right, the question is, what laws will cover elections prior to the organization of our future government? I think Proposal No. 16 sufficiently explains that under Existing Laws, Rights, and Proceedings.

President Nakayama: I have a question to ask of you, whether we should take final action on this or entertain a motion to recommit it so that the Style and Arrangement Committee can look over the amended version before we take final action.

Delegate Ngiraked moved that Committee Proposal No. 19, SD1, CD1, be referred to the Committee on Style and Arrangement. Floor Leader Tman seconded, and the motion carried. Committee Proposal No. 19, SD1, CD1, was referred to the Committee on Style and Arrangement, as follows:

Committee Proposal No. 19, SD1, CD1

A Proposal relating to Suffrage.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE_____

SECTION_____. Suffrage. A citizen 18 years of age may vote in National elections. The legislature (Congress) shall prescribe a minimum period of local residence and provide for voter registration, disqualification for conviction of crime, and disqualification for mental incompetence or insanity.

SECOND READING CALENDAR - REFERRALS

Committee Proposal No. 11, SD1, CD1, entitled "A Proposal relating to supremacy of the Constitution and the sovereignty of the Micronesian people and State.", was re-referred to the Committee on Style and Arrangement.

Committee Proposal No. 20, CWD1, entitled "A Proposal relating to renegotiation of certain land leases.", was referred to the Committee on Style and Arrangement.

Committee Proposal No. 26, entitled "A Proposal relating to Taxation." was deferred from October 17 to October 21, 1975.

REFERRAL OF DELEGATE PROPOSALS

Delegate Proposal No. 163, entitled "A Proposal relating to locating the capital in the Marshall Islands.", was referred to the Committee on General Provisions.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Sigrah.

Delegate Sigrah: Thank you, Mr. President. I would like to ask the Convention to recognize the presence of Mrs. Hirosi Ismael, who is in the gallery this morning. [Applause]

President Nakayama: Not only Mrs. Ismael, but also the baby. Delegate Apis.

Delegate Apis: Thank you, Mr. President. I wish to request the Convention also to recognize two distinguished guests. I was requested to introduce a lady, Mrs. Boktuk Sandburger, who works at the Micronesian Legal Services in Majuro, which is the future seat of the Government of Micronesia. [Applause] The second distinguished guest, who is from Kolonia, is none other than Mr. Kozo Yamada, Chief of Lands and Survey Division, Trust Territory Government. [Applause]

Delegate Eperiam: Thank you, Mr. President. I beg the liberty and the privilege and honor to introduce to this Convention a very young gentleman from Ponape, and I proudly introduce Mr. Bob Nanpei. [Applause]

Delegate Tacheliol: Mr. President, I wish to request the Convention to recognize the presence of two important people from my district, Senator John Mangefel [Applause] and Mr. Stanley Filmed. [Applause]

Delegate Ismael: Thank you, Mr. President. Fellow Delegates, I would like to offer at this time to all Delegates two of the members of the Devil's Advocates, along with Maketo Robert and Iskia Sony.

President Nakayama: Are you making them official Devil's Advocates of the Convention? [Laughter]

ANNOUNCEMENTS

Delegate Falcam: Thank you very much, Mr. President. I would like to make sure that members of the Subcommittee on Administration review the Committee Report that has been passed out to them, and we will have a meeting after this review on Monday. Time and place will be announced at the Monday Plenary Session. Thank you.

Floor Leader Tman: Mr. President, if there are no further announcements, I move that the Convention recess until 10:00 a.m., Monday.

Delegate Toribiong seconded, and the motion carried. The Convention recessed at 12:30 p.m.

Respectfully submitted,

Asterid R. Takesy
Assistant Convention Secretary

SEVENTY-THIRD DAY

Monday, October 20, 1975

The Micronesian Constitutional Convention was called to order at 10:20 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

The Convention Secretary called the roll. There were 47 Delegates present. Delegates Andrike, Borja, Haruo, Namwarki Max Iriarte, Kendall, Mateak, Nifon, Nimwes and Sawaichi were excused. A quorum was present. Iroij Lanki and Iroij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 72nd Day be adopted. Delegate Falancruw seconded. The Chair recognized Delegate Toribiong.

Delegate Toribiong: Thank you, Mr. President. There is a technical correction to be made on page 362. The last word of the first paragraph should be changed from "district" to "history." It should read, ". . .at this time in our history."

President Nakayama: The Secretary will make the necessary correction to the Journal. Delegate Sony.

Delegate Sony: Mr. President, I would like to address myself to the unfinished and miscellaneous business part of the Journal of the 72nd Day. On the sixth paragraph, or the second paragraph from the bottom in that part, for the benefit of my children and Mr. Robert's children, and for somebody's children, and for the future historians, I would like to make the record straight as to what Delegate Ismael meant when he said we are "Devil's Advocates." That statement stands for certain sentiments of certain Delegates or a certain group of Delegates in this Convention. To me it means that the two of us, plus others, are strong advocates for equal protection, equal treatment under the law. We have been fighting to have this Constitution treat every citizen of Micronesia equally, but perhaps to some, they define that as a Devil's inspiration. So, I would like to make it clear that because of our actions, our strong beliefs in equal protection under the law, we have been called "Devil's Advocates." Thank you, Mr. President.

The motion carried and the Journal of the 72nd Day was adopted by the Convention.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 21, "A Proposal relating to the functions of government."

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Mr. President, I move that the Convention resolve into the Committee of the Whole to consider Committee Proposal No. 21, which was deferred from October 15th.

Delegate Toribiong seconded and the motion carried. The Convention resolved into the Committee of the Whole at 10:30 a.m.

The Convention reconvened in Plenary Session at 1:15 p.m.

President Nakayama: The Chair will recognize Delegate Tman to present his report.

Floor Leader Tman: Thank you, Mr. President. Your Committee of the Whole which considered Committee Proposal No. 21 begs leave to report as follows:

All the sections contained in the proposal, except Section 6, were adopted by your Committee of the Whole. On Section 5 the Committee of the Whole adopted an amendment which appears on page 4 between lines 12 and 13. With respect to Section 6, the Committee recommends that action on it be deferred until Wednesday in order to allow time for the Functions Committee and others to work out an amendment to satisfy the various views expressed during the Committee of the Whole.

I move for acceptance of the oral Committee Report.

Delegate Tachetiol seconded and the motion carried. The oral report of the Committee of the Whole was accepted by the Convention.

Floor Leader Tman: Mr. President, pursuant to the recommendation of your Committee of the Whole, I move that Committee Proposal No. 21, Committee of the Whole Draft 1, be deferred until October 22nd.

Delegate Falcam seconded and the motion carried. Committee Proposal No. 21 was deferred until October 22, 1975.

SECOND READING CALENDAR - REFERRALS

Committee Proposal No. 14, CWD1, entitled "A Proposal relating to the Bill of Rights.", was referred to the Committee on Style and Arrangement.

Committee Proposal No. 16, SD1, entitled "A Proposal relating to Existing Laws, Rights, and Proceedings.", was re-referred to the Committee on Style and Arrangement.

Committee Proposal No. 19, SD1, CD1, entitled "A Proposal relating to Suffrage.", was recommitted to the Committee on Style and Arrangement.

Committee Proposal No. 15, SD1, entitled "A Proposal relating to General and Special Funds.", was deferred until October 21, 1975.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Cabrera.

Delegate Cabrera: Mr. President, I would like to yield the floor to Delegate Mwety, who raised his hand.

Delegate Mwety: Mr. President, I have a few remarks which my interpreter will relay for me.

Mr. President, we have just adopted Committee Proposal No. 21. At final reading I believe this Convention will make a major policy decision. That major policy decision, Mr. President, is whether we should have a strong national government and weaker state governments, or vice versa. In my opinion, Resolution No. 1, Resolution No. 6, Committee Proposal No. 24, along with Committee Proposal No. 21, all are relevant to this major policy decision. I cannot see how it would be possible to create in this Constitution equal levels of government at the national level and at the state level without creating possible areas of major troubles between these two levels of government.

I would like to request that before final reading, two organization charts, one based on Committee Proposal No. 24, and another based on Committee Proposal No. 21, be provided this Convention so that clear-cut comparisons can be made intelligently in light of the importance of these two proposals.

With respect to the question of which level of government should be stronger, I believe the theme of unity calls for a strong central government.

Thank you, Mr. President. [Applause]

President Nakayama: Thank you.

ANNOUNCEMENTS

Delegate Cabrera: Mr. President, I have been asked by the President of the Saipan Chamber of Commerce and the Chairman of the appropriate committee charged with the responsibility of putting together a lavish party for the Convention to commit everyone, Delegates, spouses, staff, on November 1, 1975 at 7:00 p.m. Of course, your official invitations will be forthcoming. Thank you, Mr. President.

Delegate Ngiraked: Thank you, Mr. President. I wish to make this announcement. We have twenty more days left, twenty more calendar days left in this Convention. We have seventeen workdays left. Mr. President, if this Convention began to provide the Delegates a place to play with words, then the time has passed. If this Convention provided Delegates an opportunity to express their personal convictions and intent and wishes and aspirations, that time has passed. If this Convention began to afford the Committees to express their wishes, to carry out their intentions, that day has passed. If this Convention began to provide this Convention as a body to make declarations as to its purposes, I think the day has about passed. If we have anything left for us in this Convention in the remaining days, Mr. President, I think it is to accommodate the wishes and aspirations of the districts involved here, and there are six districts. So, I beg all the Delegates to take action and to conduct themselves in the days ahead in our deliberations with the fate of our nation in mind to achieve the objective which has become the most important thing, unity, Mr. President, that we have to decide. Thank you, Mr. President. [Applause]

Delegate Ismael: Thank you, Mr. President. Mr. President, fellow Delegates, I would like to convey, on behalf of the Committee on Governmental Functions, our thanks to the Delegates for the lengthy deliberations on Committee Proposal No. 21. I would like to request Delegate Ngiraked to work with us to come up with a formula that will be acceptable to the Convention on Wednesday relative to emergency powers. I would like to ask that the Committee on Governmental Functions meet with John Ngiraked tomorrow at two o'clock to resolve these differences. Thank you.

Delegate Olter: Thank you, Mr. President. I would like to ask the members of your Committee on Finance, and also Delegate Toribiong to join the Committee in Room No. 3 at three this afternoon and we will iron out differences on Committee Proposal No. 15, which will be up for final action tomorrow. Thank you.

Delegate Williander: Thank you, Mr. President. Mr. President, I wish to announce to the members of your Committee on Style and Arrangement that there will be a meeting today at 2:30 p.m. in Room No. 1, and I also wish to invite the Chairman of the Committee on Civil Liberties and his staff attorney to come and work with us. Thank you.

Delegate Falcam: Thank you, Mr. President. I wonder if the Chairman of the Committee on Style and Arrangement realizes it is now 1:30 and our meeting is one hour away from now. I wonder if 3 o'clock might be more reasonable.

Also, Mr. President, I have two announcements to make, if I may. One, all Delegates will note that the Delegation from Ponape has passed out one of the surprises indicated in my announcement a few days ago, the invitation for the reception. More will come at a later date.

Announcement No. 2, I would like to have the members of the Subcommittee on Administration get together tomorrow morning at nine o'clock in this chamber for a brief meeting. Thank you.

Delegate Willander: Thank you, Mr. President. To accommodate the request by my fellow Delegate, Leo Falcam, and, I am sure, the others, the time of the meeting shall move from 2:30 to 3:00.

Delegate Heinrich Iriarte: Thank you very much, Mr. President. Your Committee on Governmental Structure will not meet today but will announce any meetings later.

Delegate John Heine: Mr. President, I would like to thank the Delegation from Ponape for extending an invitation to me and my family, but I have a curious question in mind. Does this coconut tree in the center represent Kusaie District?

Delegate Falcam: Mr. President, for the information of my friend from the Marshalls and the rest of the Delegates, there is no Kusaie District yet. [laughter]

Floor Leader Tmau: Mr. President, there being no further announcements and no further business, I move the Convention recess and reconvene at ten o'clock tomorrow.

Delegate Toribiong seconded and the motion carried. The Convention recessed at 1:35 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

SEVENTY-FOURTH DAY

Tuesday, October 21, 1975

The Micronesian Constitutional Convention was called to order at 10:05 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

The Assistant Convention Secretary called the roll. There were 50 Delegates present. Delegates Andrike, Borja, Haruo, Kendall, Kijiner and Nifon were excused. A quorum was present. Iroij Lanki and Iroij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 73rd Day be adopted. Delegate Salii seconded, and the motion carried. The Journal of the 73rd Day was adopted by the Convention.

SECOND READING OF COMMITTEE PROPOSALS

Delegate Fritz raised a point of privilege and was recognized by the President.

Delegate Fritz: Mr. President and fellow Delegates:

I think all of us sense that this Convention is entering its most critical period. From here on, every day will be of the utmost importance. Every decision we make will affect the future of our Constitution and the fate of our nation.

Today, certainly, is no exception. This morning, we are confronted with a major report from the Committee on Governmental Structure. As a member of that Committee, I hope that the discussion will be as lively and productive as possible. Members of the Committee welcome questions, comments, criticism and observation from other Delegates. This is all part of our work. This is all part of the process we go through in writing a Constitution. Before we begin this important discussion, let me risk making one recommendation. I recommend that we all owe it to ourselves, and to our people, to remain calm in this discussion. I think we should remain in control of our emotions. Listening to some debates which have already occurred here, I have noticed that there has been unnecessary tension between Delegates. Some of this tension has been between districts. Some has been between young and old, or between traditional and elected Delegates. Some has been within individual Delegations, between people with different points of view.

I think everybody deserves to be heard. Everyone's point of view will be listened to and respected. Just as we respect our own point of view, we should listen to the views of others. While listening, let us keep emotion, tempers, personal rivalries in the background. All I am saying, Mr. President, is that as we near the end of this Convention, let us not forget what we decided at the beginning: to solve our problems in a Micronesian way.

Thank you. (Applause)

Floor Leader Tman: Mr. President, I move that the Convention resolve into the Committee of the Whole in order to consider Committee Proposal No. 24 and Committee Proposal No. 26.

Delegate Galii seconded, and motion carried to resolve into the Committee of the Whole.

Delegate Heinrich Iriarte: Point of privilege, Mr. President. We have a new proposed amendment before us on Committee Proposal No. 24. I would like to ask for a short recess before we begin the Committee of the Whole.

President Nakayama: We will delay the convening of the Committee so that there will be ample time to review the proposed amendments. Delegate Tman will preside over the Committee of the Whole.

The Convention resolved into the Committee of the Whole at 10:17 a.m.

The Convention reconvened in Plenary Session at 11:00 a.m.

President Nakayama: The Chair will now recognize Floor Leader Tman to present the oral report of the Committee of the Whole.

Floor Leader Tman: Mr. President, your Committee of the Whole, which considered Committee Proposal No. 24 and Committee Proposal No. 26, begs leave to report as follows:

Your Committee of the Whole recommends that Committee Proposal No. 24, along with proposed amendments which were offered by Delegate Wainit, be deferred until Thursday, October 23, 1975, in order for the Committee on Governmental Structure and other interested Delegates to thoroughly review the proposed amendments offered which appear to be quite substantial in nature.

In regard to Committee Proposal No. 26 relating to taxation, your Committee of the Whole adopted the Proposal without debate.

Mr. President, I move for the acceptance of the oral report.

Delegate Falanruw seconded, and motion carried to adopt the oral report of the Committee of the Whole.

Delegate Tman: Mr. President, as per the recommendation of your Committee of the Whole, I move that Committee Proposal No. 24, along with the proposed amendments offered by Delegate Wainit, be deferred until Thursday, October 23, 1975.

Delegate Falanruw seconded, and motion carried to defer action on Committee Proposal No. 24, together with action on the proposed amendments offered by Delegate Wainit, until Thursday, October 23, 1975.

Floor Leader Tman: Mr. President, pursuant to the Committee of the Whole's recommendation and adoption, I move that Committee Proposal No. 26 be referred to the Committee on Style & Arrangement.

Delegate Tachelial seconded, and motion carried to refer Committee Proposal No. 26 to the Committee on Style & Arrangement. Committee Proposal No. 26 is as follows:

Committee Proposal No. 26

A Proposal relating to Taxation.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. The National Legislature shall have the exclusive power to impose and provide for the collection of (1) taxes, duties and tariffs based on imports, and (2) taxes based on income, both personal

and business; PROVIDED, HOWEVER, that all such taxes shall be applied uniformly throughout the nation and not less than 50% of the revenues collected pursuant to this section shall be paid into the government treasury of the state wherein such revenues were collected.

SECTION _____. All taxing powers not granted to the National Legislature in this Article are reserved to the states; PROVIDED, HOWEVER, that no state government, nor the government of any political subdivision within a state, shall impose or collect any tax, duty or tariff which restricts interstate commerce.

SECTION _____. No export tax, duty or tariff shall be imposed or collected by any level of government of the nation.

SECOND READING CALENDAR - FINAL ACTION

Committee Proposal No. 15 (SD 1), entitled "A Proposal relating to General and Special Funds."

Delegate Wiliander: Mr. President, I move for the passage of Committee Proposal No. 15, Style Draft No. 1, on Second and Final Reading.

Delegate Olikong seconded.

Delegate Nakamura: Mr. President, at this time I would like, on behalf of a minority group in your Committee on Finance and Taxation, to offer an amendment number 2 composed of Amendment A and Amendment B. I move that such amendments be adopted to Committee Proposal No. 15.

Delegate Ngiraked seconded the motion.

Delegate Nakamura: Mr. President, before we vote on these amendments I would like to make a few short remarks. As you know, this particular Proposal has been discussed many times in the past and just a few days ago it was deferred. However, I feel that many Delegates misunderstood the intention behind the amendment offered by Delegate Toribiong; and my Amendment B was not introduced at the same time. Therefore, I wish to ask the Convention to carefully read these two amendments and decide on them before we vote. You can see that Amendment B gives the national government to power to levy whatever they need to supplement the functions of the national government. As I stated in my previous speech the other day, one of the intentions of this Amendment A is to limit the power of central government to levy taxes and withhold certain funds that are not necessary. I urge every Delegate to this Convention to consider these amendments and at the same time think about Proposal No. 26 just passed on Second Reading a few minutes ago. It gives substantial funds to the national government since it calls for fifty percent retention by the national legislature.

Delegation Fatcam: I would like to request that the Convention Secretary please read the amendments as now proposed.

Assistant Convention Secretary: Amendment to Committee Proposal No. 15 (SD 1). Amendment No. 2.

Amendment A: Strike all of the words after the period following the words "Foreign Assistance Fund" on line 11 and strike all of the words on lines 12 and 13 of Committee Proposal 15, Style Draft 1, and insert the following:

"Except where a particular distribution is required by the terms or special nature of the assistance, each state shall receive a share equal to the share of the National Government and to the share of every other state."

Amendment B: Add a new section after line 13 to read as follows:

"Section _____. The National Government may impose levies on the states in amounts equal as to each state, for funds required for the essential functions of the National Government."

Delegate Falcam: As the Convention is aware, this is a very important amendment; a very substantial amendment in intent as well as the impact on other matters. I would like, with the indulgence of the Convention, to move for a brief recess.

Delegate Ngiraked seconded the motion.

President Nakayama: The Chair will call a short recess, subject to the call of the Chair.

Delegate Ngiraked: Mr. President, during the recess I would like to meet with the Chairmen of all Delegations and all interested Chairmen of the Standing Committees. The Palau Delegation would like to meet with them in Room 1.

A short recess was called at 11:17 a.m. and the Convention reconvened in Plenary Session at 12:15 p.m.

President Nakayama: We have before us Committee Proposal No. 15. Is there further discussion?

Delegate Ngiraked: Mr. President, during the recess the Palau Delegation met with the leadership of the Convention and the Chairmen of the Standing Committees. It is the consensus of that gathering that it would be appropriate to make a motion to defer action on Committee Proposal No. 15 and the proposed amendments A and B until Tuesday, October 28, 1975. I so move.

Delegate Nakamura seconded, and motion carried to defer action on Committee Proposal No. 15 (SD 1) and the proposed amendments A and B thereto, until Tuesday, October 28, 1975.

INTRODUCTION OF DELEGATE PROPOSALS

None

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Weital: Time is shorter and shorter for the Convention to tackle all of the Proposals and the business of the Convention. Mr. President, I see the needs of this Convention to start considering meetings each day. In other words, I would like to request the President and Administration Committee to please consider two sessions per day. Because, as you know, we have been deferring Proposals from day to day. I am afraid that many of these Proposals will not be completed and I so urge, Mr. President, that the Administration Committee consider this seriously.

Delegate Cabrera: In line with the recommendation by Delegate Weital, I wish to register my concern, Mr. President, of the fact that we don't have much time before us. The beauty of our Rules of Procedure is that they provide us a Conference Committee to compromise on proposals, resolutions, what have you. I think the Convention has ignored this particular Committee. I urge strongly that, beginning today, any action which might be deferred because of conflicts be referred, instead, to the Special Conference Committee. Thank you, Mr. President.

Floor Leader Tman: I hear that this morning we had delicious donuts, courtesy of Rev. and Mrs. Williams. On behalf of the Delegates, staff and guests, I wish to thank them very much.

Delegate Falcam: Thank you, Mr. President, I am sorry to have to repeat myself but I think I need to do it. This is the second time I have expressed some concern regarding the summary minutes of the Committee of the Whole. I have before me the Committee of the Whole discussion for yesterday. I fail to see any substantive issues recorded except several motions and seconds. I feel that we are missing a lot of substantive matters brought up in our Committee of the Whole discussion. It will be very sad if there are no other records kept; and I trust there are other records kept that will indicate other substantive matters that each Delegate brings up during a discussion. The Committee of the Whole summary does not reflect that and I am assuming, and I hope, that there are more detailed records somewhere else for the Convention to review or to benefit by later on and for the future. Thank you.

Floor Leader Tman: Mr. President, the reason why our summary minutes are not as comprehensive as other people may wish is that our rules merely require a concise summary. The tape that records everything that we say is available, in case of reference, for the Journal Clerks to refer to them; or any Delegate that may wish can certainly do so.

Delegate Salii: Mr. President, on that point: I wonder if during the remaining part of the Convention, since the discussions are beginning to touch upon important issues and most of the discussion takes place in the Committee of the Whole, we could ask the stenos if they can have verbatim records of the Committee of the Whole. I know our rules merely require a concise summary, but if it would not be too much on the staff. Thank you.

Delegate Falcam: I am looking at the Committee of the Whole Summary Minutes. This merely summarizes the motions and the seconds. It does not summarize the discussion. So, I wish that something was done about this.

ANNOUNCEMENTS

Delegate Cabrera: Mr. President, we have with us today a U.S. History class from Mt. Carmel, instructed by Mr. Kenneth Kassen. I would like this Convention to recognize the presence of Mr. Kassen and his students who are as follows: Cindy Siren, Peter Torres, Frank Tomokane, Wence Aquino, Daniel Franz, Bill Sizemore, Margarita Tenorio, Teresa Manalili, Margaret Sizemore, Mercedes Yurow, Antonia Reyes, Mary MacKenzie and Jovita Cruz. (Applause)

President Nakayama: You are very welcome to the Convention and we are happy to see you here.

Delegate Cabrera: I have been trying since the beginning of the Convention to introduce the Con Con Coordinator for the Marianas and he has never been present when the right time arrived. Now that he is, I wish to introduce him, Mr. President. Will the Convention please recognize the presence of Mr. David Maratita, who is also the District Public Affairs Officer. (Applause)

Delegate Carl Heine: I would like to announce that in our effort to reach some mutual understanding of some of the basic problems that are dividing this Convention, the Marshalls Delegation would invite the Palau Delegation to join them for a little cocktail hour at the Marianas Hotel this evening from 6:30 to 7:30 p.m. Thank you, Mr. President.

Delegate Ismael: I would like to remind the members of your Committee on Governmental Functions to meet this afternoon not at two o'clock, but at three o'clock. I would like, also, to ask Delegate Ngiraked to join us to iron out the differences in our emergency power proposal discussed yesterday.

Delegate Tun: Mr. President, your Committee on General Provisions will meet this afternoon at two o'clock to consider the Proposal relating to the effective date of the Constitution.

Delegate Willander: Mr. President, your Committee on Style & Arrangement will meet at 3:45 p.m. today in this Chamber.

Delegate Olter: There being no further work assigned to your Committee on Finance & Taxation, Mr. President, there will be no meetings until further notice.

President Nakayama: I wish to request the members of the Administration Committee to have a short meeting tomorrow morning at nine o'clock in Room number 1. We have several items to discuss so I would like us to meet just before the Convention starts, at nine o'clock.

Floor Leader Tmaa: If there are no further announcements, Mr. President, I move that the Convention recess until ten o'clock tomorrow morning.

Delegate Tun seconded, and the Convention recessed at 12:30 p.m.

Respectfully submitted,

Asterio R. Takesy
Assistant Convention Secretary

SEVENTY-FIFTH DAY

Wednesday, October 22, 1975

The Micronesian Constitutional Convention was called to order at 10:20 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

The Convention Secretary called the roll. There were 49 Delegates present. Delegates Andrike, Borja, Haruo, Kendall, Kijiner, Ngiraked and Nifon were excused. A quorum was present. Iroij Lanki and Iroij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 74th Day be adopted. Delegate Falanruw seconded, and the motion carried. The Journal of the 74th Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

Delegate Tun: There should be a Minority Report appended to Committee Report No. 40. I therefore move that action on this report be deferred until tomorrow.

Delegate Sawaichi seconded, and the motion carried to defer action on Committee Report No. 40 until Thursday, October 23, 1975.

Delegate Williander: Mr. President, I move for the acceptance of Committee Report No. 41.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 41, from the Committee on Style and Arrangement, submitting Committee Proposal No. 19 (SDI, CDI), entitled "A Proposal relating to Suffrage.", was accepted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 27, "A Proposal relating to secession and admission of new States."

Delegate Tun: Thank you, Mr. President. I move that action on Committee Proposal No. 27 be deferred until tomorrow.

Floor Leader Tman seconded, and the motion carried to defer action on Committee Proposal No. 27 until Thursday, October 23, 1975.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 21 (CWDI), "A Proposal relating to the functions of government.", Section 6, "Emergency Power".

Delegate Ismael: Thank you, Mr. President. I move for the adoption of Section 6, entitled "Emergency Power", of Committee Proposal No. 21.

Floor Leader Tman seconded the motion.

Floor Leader Tman: Point of information, Mr. President. I raise the point of information because the other day we deferred action on that particular section in order for the various Delegates to agree to the text of the proposed amendment. If that proposed amendment is agreed upon by the sponsors, then we can consider this in the Plenary Session. Will the Chairman of the Functions Committee respond?

Delegate Ismael: Mr. President, after a very lengthy and intense discussion on the issue relative to Emergency Power, the Committee on Governmental Functions and those Delegates who wished to bring up some amendment to this particular section came up with an acceptable amendment between them. From a consensus of both the Committee as well as those Delegates who offered their amendment, it was intended that, in the interest of expediency and efficiency of the national government in the event of threats of war, insurrection, civil disturbances, natural disasters or calamities, what have you, a proviso be inserted in the section. This proviso is to be inserted on page six of the Committee Proposal after the word "function" on line nine. This would mean that although the Supreme Court would still be able to judge the validity of such emergency power, that, in the interest of help that the national government should give to the people when there is such a calamity, no judicial interference by the Judiciary would be allowed before the end of the first 30 days. Mr. President, I would like to move for acceptance of the oral report.

Delegate Nakamura seconded and the motion carried to accept the oral report relative to Section 6 of Committee Proposal No. 21.

President Nakayama: Delegate Ismael?

Delegate Ismael: I would like to yield the floor to the Floor Leader.

Floor Leader Tman: I move for the adoption of the proposed amendment as offered by the Chairman of the Committee on Governmental Functions.

Delegate Olikong seconded the motion.

The President declared a recess, subject to the call of the Chair, at 10:32 a.m.

RECESS

The Convention was called to order at 10:34 a.m.

President Nakayama: Before the Convention is the adoption of the proposed amendment offered by Delegate Ismael.

The Chair requested that the Convention Secretary read the proposed amendment, as follows:

> On page 6, line 9, following the word "function" delete the period and insert the following provision: "; PROVIDED, however, that decrees and proclamations shall be free from judicial interference during the first thirty days of an emergency."

Delegate Yoma: This will be my first and last time to speak on this subject of emergency power, especially the exercise of such power in the event of a national emergency. If you recall, I spoke earlier on this same subject, both in the Committee of the Whole and also during Committee hearings before the Committee on Functions. What I was trying to do was try to generate interest on the part of the Delegates to scrutinize this particular provision very carefully before its final adoption by this Convention. What I was leading up to, Mr. President, was simply to say that in this Convention we have tried to develop a Bill of Rights in the entire Constitution, if and when it is adopted. It is this particular provision--so-called emergency

power--in this Constitution where the rights of the people--the civil liberties of the people--will be suspended in the name of "emergency." We took pains to try to put in this right to protect the people from their own government. This clause is the only clause in the Constitution where those rights can be suspended in the name of "emergency." That's why, Mr. President, I tried to get us to focus our attention on this before final adoption. Thank you, Mr. President.

Delegate Cabrera: This is just a point of clarification. I do not have any problem with respect to understanding the advantages and disadvantages of including a phrase in the section concerned. I just want to get some clarification from the Chairman of Governmental Functions as to whether or not extensive care or interest was solicited from the attorney who advised the Committee with respect to clashes of powers. I would appreciate a clarification before I vote.

Delegate Ismael: Mr. President, on line 7 it says: "No emergency decree or proclamation shall be valid which impairs the power of the national judiciary or its ability to function." Also, on line 9 down to the last line--line 13--it indicates that during an emergency the national legislature must meet within thirty days in order to weigh the judgment of the chief executive relative to the validity of the emergency and that a proviso is indicated on line 11 where it says that either the chief executive or the presiding officers will call the national legislature to convene. This would make it such that if the emergency is genuine there is no problem about it because the legislature will meet within thirty days and consider it--whether to extend it beyond the thirty days or not. Line 7 down to line 9, relative to the judiciary, makes it quite clear that the judiciary's function will not be impaired so that they could judge such validity in case of abuses of the emergency state that would be made by the chief executive.

Delegate Tadeliol: A point of information. With regard to page five, starting with the last two words on line 20, "...if unavoidable suspend the civil rights of citizens", do I take it that all the civil rights of citizens will be suspended?

Delegate Ismael: No, it was not the intention to suspend all civil rights. An example is that if there is a typhoon and that in one certain island the only area that could house these people will be the homes of certain people, it was the intention that such people would be requested by the government to offer housing and help to the destitute. Not every single civil right is considered by your Committee to be suspended. However, there would be some very important civil rights that may be required to be suspended.

Delegate Toribiong: That intention is made very clear on lines 1 and 2. It reads: "...in such a manner and to such a degree as may be essential to cope with the emergency." That qualifies the extent of the suspension of civil rights.

Delegate Tadeliol: Mr. President, on lines 1 and 2 it says: "...in such a manner and to such a degree as may be essential to cope with the emergency." I would take it a "degree" of all the civil rights since it did not come out here and say "certain civil rights" will be suspended, but it says "the civil rights". That's my concern. Do I take it to mean all the civil rights to a certain degree, not one particular civil right?

President Nakayama: Can we touch on that kind of discussion when we try to act on that section? The question before the Convention right now is the proposed amendment.

Delegate Tun: Mr. President, I move for the previous question.

Floor Leader Tman seconded and the motion carried to stop debate.

President Nakayama: We will now vote on the proposed amendment.

By voice vote, the motion carried to adopt the amendment to Committee Proposal No. 21 (CWDI).

Floor Leader Tman: Just for clarification, now we have before us Committee Proposal No. 21 (CWDI, CDI).

Delegate Tacheliol: My concern here is, as pointed out earlier, with lines 1 and 2. The particular phrase I am concerned about is the civil rights of citizens. Do I take it then that since there is no one particular civil right, as pointed out here, that all the civil rights of citizens will be suspended?

Delegate Ismael: Mr. President, when the Committee considered this they were thinking in terms of typhoons or riots, and what have you. If there is a typhoon, all the civil rights that are necessary in order for the chief executive to cope with the emergency will be suspended. If in one particular state or district where the district executive requests the help of the national executive to cope with the situation, it was the intent of the Committee that such civil rights that are essential to be suspended to cope with the emergency are those civil rights. The Committee did not think it appropriate to sit down and list all examples and the types of civil rights that would be involved.

Floor Leader Tman: Mr. President, let me venture to speak in behalf of the Committee. I do not feel that the Committee intended to suspend all civil rights including the deprivation of life without due process.

Delegate Toribiong: It is very clear on that line in the phrase before the suspension of civil rights. It reads: "if unavoidable". The last concluding phrase reads: "...in such a manner and to such a degree..." To me that means that the chief executive may suspend all civil rights if those civil rights are in the way of his coping with the emergency, but he need not. There are very few instances where he has to suspend the civil rights because in most instances the citizens will cooperate for their own sake.

Delegate Salii: I am happy with the explanation that the Committee did not intend that the suspension of rights will include that right to life in Proposal No. 14. But, regardless of the intention of the Committee, I wonder if the wording does prohibit that or whether it will be included as seems to be the problem that Delegate Tacheliol has, and I have the same problem. I know the intention of the Committee but is that clear in the wording of this provision?

Delegate Ismael: Yes, we included these provisos in the Committee Report. The national legislature will be the sole judge of the validity of suspension of any civil rights during the thirty days, but after the thirty days, then the judiciary may move into the area to judge whether or not such emergency is valid.

Delegate Salii: That's fine and I am happy with the explanation from the Chairman of the Committee, but if life has been deprived during that thirty-day period, even if the judiciary or the courts declare that it has been unconstitutional it is too late for the person who has died.

Delegate Carl Heine: I am not very comfortable with the wording of that very same section which concerns civil rights. I wonder if we should not ask for a short recess so that maybe we can work up some kind of an amendment to this particular section. I so move.

Delegate Toribiong seconded, and the motion carried. The Convention recessed, subject to the call of the Chair, at 10:50 a.m.

RECESS

The Convention was called to order at 11:15 a.m.

President Nakayama: Is there any further discussion on the proposal?

Delegate Ismael: Thank you, Mr. President. During the recess several of the Delegates who were concerned about the civil rights and members of your Committee on Governmental Functions met to iron out these differences. For this reason, Mr. President, I would like to move that we suspend Rule 62a in order to offer yet another amendment to the section.

Delegate Sawaichi seconded, and the motion carried to suspend Rule 62a.

Delegate Ismael: I move that we adopt the following amendment to page six, line 1: delete the words "suspend the" and in lieu thereof insert the words "limit the exercise of certain". These are the five words that we would like to insert so that the line will read "limit the exercise of certain civil rights of citizens in such a manner and to such a degree as may be essential to cope with the emergency."

Floor Leader Tman seconded, and the motion carried to adopt the oral amendment.

Delegate Sony: Thank you, Mr. President. Point of information. This proposal states that the national legislature shall convene within thirty days. What will happen if two or three days after the proclamation was issued and the national legislature by resolution declared that the proclamation is not valid or not good and there is a clash between the executive and the legislative as to their opinion on the validity of such? Who will judge the validity of the proclamation, knowing that the judicial branch will not come in until after thirty days? Am I wrong on this assumption, Mr. President?

Delegate Toribiong: The legislature may always revoke any proclamation of emergency, meaning that the legislative act is superior to the executive act. It supersedes the executive act.

There being no further discussion, the motion carried to adopt Section 6 of Committee Proposal No. 21.

Floor Leader Tman: I now move that Committee Proposal No. 21 (CWD1, CD1, CD2) be referred to the Committee on Style and Arrangement.

Delegate Falanruw seconded and the motion carried to refer Committee Proposal No. 21 (CWD1, CD1, CD2) to the Committee on Style and Arrangement, as follows:

Committee Proposal No. 21, CWD1, CD1, CD2

A Proposal relating to the functions of government.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Powers of the State Government. The powers of the state governments of the Federated States of Micronesia shall be all those powers not exclusively delegated to the national government and not prohibited to the states.

SECTION _____. Powers of the National Government. The powers of the national government of the Federated States of Micronesia shall be all powers expressly delegated to the national government

and all powers necessary to deal with matters of such an indisputably national character as to be beyond the ability of a single state to control.

SECTION _____. Exclusive Powers of the National Legislature. The national legislature of the Federated States of Micronesia shall have the following exclusive powers:

To provide for the national defense; to ratify treaties by approval of not less than a two-thirds majority of the entire membership; PROVIDED, that a treaty which delegates major powers of the government of Micronesia to another sovereign government shall, in addition, require the majority approval of two-thirds of the state legislatures; and to regulate immigration, emigration, naturalization and citizenship;

To issue and regulate currency; to regulate banking, foreign and interstate trade and commerce, insurance, the issuance and use of commercial paper and securities, bankruptcy and insolvency, patents and copyrights, and navigation and shipping except within lagoons, lakes and rivers; to establish usury limits on major loans; and to provide for the establishment of a national postal system;

To acquire and govern new territory; to govern the area set aside as the national capital; and to regulate the ownership, exploration, and exploitation of natural resources within the marine space of Micronesia beyond the territorial sea; PROVIDED, that the net revenue derived from seabed and continental shelf mineral resources shall be divided on an equal basis between the national government and the appropriate state government;

To establish and regulate a national public service system;

To impeach and remove the chief executive(s), members of the national legislature and justices of the Supreme Court by not less than a two-thirds vote of the entire membership, for treason, bribery, or conduct involving corruption in office; PROVIDED, that impeachment and removal of members of the executive and legislative branches shall be reviewable by the Supreme Court, and impeachment and removal of Supreme Court justices shall be reviewable by a special tribunal composed of one state court judge from each state appointed by the state chief executive which tribunal shall meet at the call of the national chief executive;

To define major crimes and prescribe penalties therefor, having due regard for local customs and traditions;

To override an executive veto of national legislation by not less than a two-thirds majority of the entire membership.

SECTION _____. Concurrent Powers of the National Legislature. The national legislature of the Federated States of Micronesia shall have the following additional powers, which powers may be exercised concurrently by the state governments:

To appropriate public funds; and to borrow money on the public credit;

To promote education and health care and establish standards therefor and to establish and operate institutions of higher learning;

To establish systems of social security and public welfare.

SECTION _____. Powers of the National Executive. The chief executive of the national government of the Federated States of Micronesia shall have the following powers:

To faithfully execute and implement the provisions of this Constitution and administer all national laws and programs;

To conduct the national defense, negotiate and conclude treaties, recognize foreign governments and conduct foreign affairs in accordance with this Constitution and national law;

To approve or disapprove national legislation; PROVIDED, that disapproval must be express and be communicated within ten days after presentation to the chief executive if the national legislature has more than ten days remaining in its current session or the term of the session is indefinite, or within thirty days if the national legislature has ten days or less remaining in its current session or presentation occurs subsequent to adjournment of the session; PROVIDED FURTHER, that inaction beyond the time limits established above shall be construed as approval;

To grant pardons and reprieves; PROVIDED, that the chief executive of each state shall have a concurrent power to grant pardons and reprieves to persons convicted pursuant to state law;

To appoint and remove ambassadors and the principal officer of each of the executive departments of the national government, subject to the advice and consent of the national legislature.

ARTICLE _____

EMERGENCY POWER

SECTION _____. Emergency Power. In the event of threat of war or insurrection; or civil disturbance, natural disaster, or calamity of a momentous and catastrophic nature, the chief executive of the national government may declare a state of emergency, issue decrees and proclamations, and, if unavoidable, limit the exercise of certain civil rights of citizens in such a manner and to such a degree as may be essential to cope with the emergency. The emergency decrees and proclamations shall remain valid and in force until declared unconstitutional, revoked by the national legislature, expiration by their own terms or the elapse of thirty days after the effective date without extension by the national legislature. No emergency decree or proclamation shall be valid which impairs the power of the national judiciary or its ability to function; PROVIDED, however, that decrees and proclamations shall be free from judicial interference during the first thirty days of an emergency. The national legislature shall convene within thirty days after the declaration of emergency at the call of the chief executive or presiding officers of the legislature to consider revocation or amendment of the emergency decrees and proclamations.

SECTION _____. Implementation. The provisions of this article shall be further implemented by national law.

SECOND READING CALENDAR - FINAL ACTION

Committee Proposal No. 19 (SDL, CDI), entitled "A Proposal relating to Suffrage."

Delegate Williander: Mr. President, I move for the adoption on Second and Final Reading of Committee Proposal No. 19 (SD1, CD1).

President Nakayama: It will take 37 or more votes to pass this proposal. We will now vote by roll call.

Following roll call vote, the Convention Secretary reported that Committee Proposal No. 19, SD1, CD1, had been adopted by the Convention. There were 45 yes votes and one no vote.

Committee Proposal No. 19, SD1, CD1

A Proposal relating to Suffrage.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Suffrage. A citizen 18 years of age may vote in National elections. The Legislature (Congress) shall prescribe a minimum period of local residence and provide for voter registration, disqualification for conviction of crime, and disqualification for mental incompetence or insanity.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 19, SD1, CD1, having passed Second and Final Reading, was re-referred to the Committee on Style and Arrangement.)

SECOND READING CALENDAR - REFERRALS

Committee Proposal No. 26, entitled "A Proposal relating to Taxation.", was referred to the Committee on Style and Arrangement.

Committee Proposal No. 15 (SD1), entitled "A Proposal relating to General and Special Funds.", and proposed amendments were deferred until October 28, 1975.

Committee Proposal No. 24, entitled "A Proposal relating to a structure for the government of the Federated States of Micronesia.", and proposed amendments were deferred until October 23, 1975.

INTRODUCTION OF DELEGATE PROPOSALS

None

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Falanruw.

Delegate Falanruw: Thank you, Mr. President. I would like to request the Convention to recognize the presence of the wife of a long-time friend. He is also a Delegate to this Convention. Fellow Delegates, please meet Mrs. Merly D. Apis. (Applause)

ANNOUNCEMENTS

The Chair recognized Delegate Williander.

Delegate Willander: Mr. President, I wish to announce to the members of your Committee on Style and Arrangement that we will meet today in this Convention chamber at two o'clock.

Delegate Heinrich Iriarte: Thank you, Mr. President. I would like to announce that your Committee on Governmental Structure will meet at 3:30 this afternoon in Room No. 4.

Delegate Samuel: Thank you, Mr. President. I would like to ask the members of your Committee on Governmental Functions to meet at two o'clock in Room No. 3. The subject matter will be Judiciary.

Floor Leader Tman: There being no further announcements, I move that the Convention recess until 10:00 a.m. tomorrow.

Delegate Tun seconded and the motion carried. The Convention recessed at 11:33 a.m.

Respectfully submitted,

Victorio Uberbelau
Convention Secretary

SEVENTY-SIXTH DAY

Thursday, October 23, 1975

The Micronesian Constitutional Convention was called to order at 10:14 a.m.

The Honorable Lorenzo LG. Cabrera, Vice President, presided.

A moment of silent prayer was observed.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

The Assistant Convention Secretary called the roll. There were 48 Delegates present. Delegates Andrike, Borja, Haruo, Kendall, Kijiner, Nakayama, Nifon, and Rasa were excused. A quorum was present. Iroij Lanki and Iroij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tmau moved that the Journal of the 75th Day be adopted. Delegate Falanruw seconded, and the motion carried. The Journal of the 75th Day was adopted by the Convention.

REPORTS OF SPECIAL COMMITTEES

The Chair recognized Delegate Falcam.

Delegate Falcam: Mr. President, the report of the Subcommittee on Administration is before the Convention and I would like to move for its acceptance.

Floor Leader Tmau seconded, and the motion carried. Special Committee Report No. 7, originating from the Subcommittee of the Administration Committee, submitting a progress report on the status of Delegate Proposals Nos. 29, 100 and 120, was accepted by the Convention.

REPORTS OF STANDING COMMITTEES

Delegate Tun: Mr. President, I move for the acceptance of Committee Report No. 40.

Floor Leader Tmau seconded, and the motion carried. Committee Report No. 40, originating from the Committee on General Provisions, submitting Committee Proposal No. 27, entitled "A Proposal relating to secession and admission of new States.", was accepted by the Convention.

Delegate Tun: Mr. President, before I make any motion to accept the next Committee Report, Committee Report No. 42, I would like to offer an amendment to the Report, an amendment which should have been included in the Report which was proposed and adopted by your Committee on General Provisions but because of an oversight on the part of the staff, it was omitted from the Report.

President Cabrera: Do you wish to make that into a motion, Delegate Tun?

Delegate Tun: Mr. President, I move for the acceptance of Committee Report No. 42.

Floor Leader Tmau seconded the motion.

Delegate Tun: Mr. President, the proposed amendment is to insert, after the word "section", the following: "and local traditional land tenure system". These words are to be inserted between the word "section" and the period

following that so that the sentence which begins on page 1 will read "Should such a person die without citizen heirs, the estate will be required to dispose of the property in a manner consistent with this section and local traditional land tenure system."

President Cabrera: Has everybody noted the change in the Report?

Delegate Tun: Mr. President, I move for the adoption of the amendment.

Floor Leader Tman seconded the motion.

President Cabrera: As I understand it, this is on Committee Report No. 42.

Delegate Nakamura: Mr. President, point of privilege. There seems to be some confusion as to the existence of Minority Report No. 40A, and, therefore, I would like to ask the Convention to recognize the Minority Report. Before I state the motion for acceptance, I would like to make a few brief remarks.

President Cabrera: Can we dispose of the motion before the Convention before we get back to that? I noted the oversight. Can we go back to that?

Delegate Nakamura: Yes, Mr. President.

President Cabrera: Thank you. Is there further discussion on the motion to amend Committee Report No. 42?

Delegate Nimwes: Point of information, Mr. President. This is regarding the proposed amendment. What effect would there be without such proposed amendment?

Delegate Tun: The purpose of the amendment is to insure that in disposing of land previously owned by non-Micronesian citizens, this section will be taken into consideration, as well as the traditional land tenure system. That is the intent of the proposed amendment.

President Cabrera: Is the answer satisfactory, Delegate Nimwes?

Delegate Nimwes: Not quite.

President Cabrera: But will you accept it?

Delegate Nimwes: Yes, Mr. President.

Delegate Ngiraked: Mr. President, I have a point of information. I would like to have the maker of the motion restate the motion so that I can straighten out my papers.

Delegate Tun: Mr. President, on page 2, line 2, between the words "section" and the period, insert the words "and local traditional land tenure system".

Floor Leader Tman: Mr. President, I think the amendment is merely to insert a phrase on page 2, line 2, after the word "section", take off the period and insert "and local traditional land tenure system."

There being no further discussion, the motion carried. The amendment to Committee Report No. 42 was adopted by the Convention.

President Cabrera: As you will note, there is a Minority Report on Report No. 40, and at this time the Chair wishes to recognize Delegate Nakamura.

Floor Leader Tman: Mr. President, we have not disposed of the main motion to accept the Report, as amended.

President Cabrera: The point has been raised by the Floor Leader that we have not yet disposed of the main motion to accept Committee Report No. 42, as amended.

Delegate Salii: Mr. President, thank you. If the Rules permit this, I wonder if it would not be more useful to the Delegates to hear what Delegate Nakamura is going to say on the Minority Report on the perhaps unlikely possibility that after the Delegates hear what he has to say in support of the Minority Report, it may have some effect on the vote, but keeping in mind that after that we go back to the motion to accept the Minority Report.

Floor Leader Tman: Mr. President, I do not wish to be misunderstood. We were discussing Committee Report No. 42, as amended. We adopted the amendment, so the main motion now is to accept Committee Report No. 42, as amended. The point Delegate Nakamura wishes to address himself to is the Minority Report to Committee Report No. 40.

President Cabrera: Yes. The Chair recognized that, and upon disposing of Committee Report No. 42 we shall extend the privilege to Delegate Nakamura. The main motion on the floor right now is the acceptance of Committee Report No. 42, as amended.

There being no further discussion, the motion carried. Committee Report No. 42, as amended, originating from the Committee on General Provisions, submitting Committee Proposal No. 28, entitled "A Proposal relating to ownership of land by citizens of the Federated States of Micronesia.", was accepted by the Convention.

The Chair recognized Delegate Nakamura.

Delegate Nakamura: Mr. President, although the Order of Business indicates that there is the existence of a Minority Report, it doesn't show what the number of the Minority Report is. Therefore, I would like to state that it is No. 40a and that it is included in Proposal No. 27.

Mr. President and fellow Delegates, I feel that it is important to say a few words in support of the position advanced in the Minority Report. I do not believe that the position taken in the Minority Proposal is solely a Palauan concern but rather it represents also the concerns expressed in the other proposals with regard to the issue of secession. The issue involved is future political status which should be a major concern of all Delegates to this Convention, regardless of which district they represent. Two important facts must be taken into account before casting a vote on the issue of secession.

First, the people of Micronesia have not yet decided what future political status they desire. The ambiguous ballot and incomplete instructions provided in the recent Referendum make it extremely difficult to make a reliable statement concerning the wishes of the people of Micronesia. If they show anything, the results of the Referendum indicate a great deal of disagreement among the districts. The Marshalls and Palau supported the "present status", although there was also acceptance among the people of Palau for the idea of "free association." The people of Truk and Ponape supported "independence", a status not finding wide support in the other districts. Yapese voters seemed to prefer "free association", although "present status" and "statehood" also received substantial support. It is clear that at this time there is no conclusive agreement among the districts on the issue of future political status.

The second important factor for consideration is that the Congress of Micronesia has yet to produce a status agreement acceptable to both Micronesia and the United States. The Micronesian people have not yet had an opportunity to cast their vote on any Draft Compact. In fact, the negotiations have broken down.

I ask all of you, is now the time for any district to make an irrevocable commitment to a government which may ratify a determination of political status unacceptable to the people of the district? How many times in the past have Micronesians been forced to live with an unacceptable political status which they did not choose and which they did not agree with? This is a concern which has no district boundaries. It concerns all of our districts and all of our people.

The Majority Proposal seemingly is based on the presumptuous belief that the Palau Delegation is only interested in protecting future economic advantages, advantages which are only speculation. We came to this Convention in good faith, recognizing the benefits which all districts may gain through a unified Micronesia.

The point I wish to make, in the strongest possible terms, is that Palau will not support any Proposal, or any Constitution which will take the final determination of our future political status from us.

Political status is a decision which must be made by the people of each and every district. If the National Government completes a future status agreement acceptable to the people of Palau, we will stay with the Federated States. However, if an agreement is concluded which we do not support or accept, we wish the right to walk away, free to determine our own destiny. To do so is an inherent right of a free people. This right cannot be given away.

Fellow Delegates, I urge you to examine the Majority Committee Proposal. I urge you to recognize its defects and dangers. Finally, I urge you to join with me to vote down this Proposal which may deprive a district of the final determination of its own political future.

I recognize that some Delegates are uneasy about allowing secession. However, at a time when we do not agree on what future status we wish, we have no choice but to allow secession in this Constitution.

Therefore, I ask each and every one of you to support the Minority Proposal which will insure to the people of every district the right to determine their own future political status.

Thank you very much.

President Cabrera: Do you wish to make a motion?

Delegate Nakamura: I move for the acceptance of the Minority Report, No. 40a.

Delegate Ngiraked seconded the motion.

The Chair recognized Delegate Weital.

Delegate Weital: Point of privilege, Mr. President. We will be voting on the Minority Report. Let's say the Convention approves the Minority Report, would this then be a Proposal before the Convention for the Convention to consider?

President Cabrera: As the Chair understands it, it is just an acknowledgement that such a report exists and has been accepted for consideration, if and when the Convention decides to consider it.

Delegate Ngiraked moved for a short recess; Delegate Falanruw seconded, and the motion carried.

The Chair declared the Convention in recess at 10:40 a.m.

RECESS

The Convention was called to order at 10:50 a.m.

President Cabrera: The motion on the floor is to accept Minority Report No. 40a.

The motion carried. Minority Report No. 40A was accepted by the Convention.

The Chair recognized Delegate Tun.

Delegate Tun: Thank you, Mr. President. I move for the acceptance of Committee Report No. 43.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 43, originating from the Committee on General Provisions, submitting Committee Proposal No. 29, entitled "A Proposal relating to the effective date of the Constitution.", was accepted by the Convention.

Delegate Wiliander: Mr. President, I wish to call the attention of the Delegates to a few things. First, Committee Report No. 44 covers Committee Proposals Nos. 1, 2, 4, and 14. Furthermore, I wish to announce that Committee Proposal No. 9 should be part of Committee Proposal No. 14, but it is still under examination by the Committee on Style and Arrangement. So, Mr. President, I move for the acceptance of Committee Report No. 44.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 44, originating from the Committee on Style and Arrangement, submitting Committee Proposals No. 1 and 2, CWD1, SD1, entitled "A Proposal relating to freedom of expression, assembly, association, and petition.", Committee Proposal No. 4, CWD1, SD1, entitled "A Proposal relating to the protection of tradition.", and Committee Proposal No. 14, CWD1, SD1, entitled "A Proposal relating to the bill of rights.", was accepted by the Convention.

Delegate Wiliander: Mr. President, I move for the acceptance of Committee Report No. 45.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 45, originating from the Committee on Style and Arrangement, submitting Committee Proposal No. 18, SD1, entitled "A Proposal relating to assumption of rights, obligations, liabilities, and contracts of the Government of the Trust Territory of the Pacific Islands.", was accepted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 27, "A Proposal relating to secession and admission of new States."

Committee Proposal No. 28, "A Proposal relating to ownership of land by citizens of the Federated States of Micronesia."

Committee Proposal No. 29, "A Proposal relating to the effective date of the Constitution."

The Chair recognized Delegate Tun.

Delegate Tun: Mr. President, I move for the passage on First Reading of Committee Proposal No. 27.

Floor Leader Tman seconded, and the motion carried. Committee Proposal No. 27 passed First Reading.

Delegate Tun: Mr. President, I move for the passage on First Reading of Committee Proposal No. 28.

Floor Leader Tman seconded, and the motion carried. Committee Proposal No. 28 passed First Reading.

Delegate Tun: Mr. President, I move for the passage on First Reading of Committee Proposal No. 29.

Floor Leader Tman seconded, and the motion carried. Committee Proposal No. 29 passed First Reading.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 24, "A Proposal relating to a structure for the government of the Federated States of Micronesia."

The Chair recognized Delegate Heinrich Iriarte.

Delegate Heinrich Iriarte: Point of privilege, Mr. President. Before we go into the Committee of the Whole, I would like to make a few remarks.

President Cabrera: Please proceed.

Delegate Heinrich Iriarte: Thank you, Mr. President.

Mr. President, your Committee on Governmental Structure has recommended a plural executive structure with a Council of Ministers. It was the feeling of the Committee and it is my feeling that this system best reflects the culture and the needs of Micronesia.

After considering all of the unique characteristics of Micronesia, your Committee felt that it should not blindly follow the system found in the United States or in any other country. The United States has a form of government which has worked admirably; however, before rushing to copy the United States system, let us remember that today the United States has a government for over two hundred million people in a nation with a land area of over three million square miles. Micronesia has about 120,000 people with a very little land area. Your Committee decided to mold a governmental structure based upon Micronesian culture, Micronesian needs, and what is sometimes called the "Micronesian way".

A plural executive is the best form for Micronesia because it reflects the Micronesian culture, the Micronesian need, and the Micronesian way. This system reflects the custom in some districts of making important decisions collectively. A council form of government insures that decisions by the Executive are made in light of the customs, ways, and beliefs of all the diverse states and cultures in our nation. Such a system reflects our Micronesian way in a manner that a presidential system never can.

A principal objection to the Council of Ministers seems to be the expense of such a system. Fellow Delegates, we must not write our Constitution solely on the basis of expense and efficiency. I agree that expense and efficiency are factors to consider in establishing a government for Micronesia, but this Constitution is being written for human beings, not for accountants and computers. Expense is only one factor to consider. There are other factors to consider besides cost and efficiency. Cold efficiency must not blind us in our quest for good government. In many respects, a strong-man dictatorship is the most efficient form of government. However, I think we all agree that we do not necessarily want the most efficient government possible at the expense of democracy, our freedoms, and our Micronesian way of life.

Your Committee feels that the Council system will not be significantly more expensive than the present system, since all of the Council members will be working full time. When not sitting as Council members, which will be a part-time job, the Ministers will each be responsible for supervising one or more departments. As supervisors, they will be responsible for making all political decisions affecting their departments, as well as many other decisions. The day-to-day operation of the departments will probably be left up to appointed Department Directors, who will probably assume many duties presently performed by Deputy Department heads in today's Trust Territory Government. Since the Ministers will be assuming many of the functions now carried out by Department heads, there will be no appreciable increase in costs. Rather, the proposed Council system simply reallocates certain functions from the Department heads to the Ministers.

In many ways, the plural Executive proposed by your Committee is very similar to the Swiss Executive Structure. The Swiss system has a Federal Council consisting of seven members. Each member of the Federal Council is also responsible for the supervision of a governmental department in addition to his duties on the Council. As supervisors of the various departments, Council members directly oversee the functioning of the bureaucracy. This system has served Switzerland's diverse cultural groups very well.

Your Committee feels that electing supervisors to oversee the various governmental departments in Micronesia will make the government more responsible to the needs of the people, and perhaps prevent the establishment of an entrenched bureaucracy. It is felt that by having the Ministers also perform supervisory duties of the various departments, the Council will be more responsive to the needs of the government. Each department will have a champion in the Council of Ministers.

In closing, I feel that the Council of Ministers is uniquely suited to the conditions existing in Micronesia. Its composition should reflect most of the cultural groups in Micronesia. Members would be selected democratically by each State. The Council will meet together and collectively decide important issues in light of the needs, conditions, and customs of each of the States. The Council is small enough to be workable and to allow a meaningful exchange of opinions and ideas between the members. In supervising various departments, the Ministers will be performing functions which must be performed by someone; thus the additional cost for a Council will be minimal. Appointed Department Directors will make day-to-day operating decisions, taking over many of the functions now performed by their Deputies. In turn, many of the duties now performed by department heads in the areas of policy and important decisions will be made by the Ministers.

The Council of Ministers represents a workable and relevant form of executive structure for Micronesia; much more so than a presidential or parliamentary system. It will not be overly expensive, and it is a system which I think will work admirably for Micronesia. We must remember that the most efficient form of government is not always the best form of government. To me, the most important consideration here today is to establish a government of Micronesians for Micronesians that works effectively for us. I submit that the Council system of government as proposed in Committee Proposal No. 24 does just that---establishes an executive structure that will work for Micronesians and reflect our unique Micronesian way.

Thank you. (Applause)

The Chair recognized Delegate Chief Joseph.

Delegate Chief Joseph: Thank you, Mr. President. I have a few remarks.

Mr. President, I wish to speak on Committee Proposal No. 24, but find myself in a very difficult position. As a representative of the traditional leaders of Micronesia, it is appropriate that I express to this honorable body my thoughts on the place of the traditional chiefs in the government of this new nation which we are building. As one of the chiefs of Truk, it is not proper for me to speak publicly on matters which may personally affect me. And, of course, the placing of traditional leaders within the structure of the new government of Micronesia will have relevance to my role as a chief.

Mr. President, I am resolving this dilemma by acting as a traditional chief in Truk is supposed to act. One of our most important roles is to bring our people together, to help resolve conflicts, to facilitate the arriving at a consensus to which all can agree. It is in that spirit that I am now speaking.

The government which we are setting up will have meaning both to the people within Micronesia and to the people outside. For Micronesians, that government must be compatible with Micronesian ways. It cannot be something

foreign which is incompatible with the way we make decisions and resolve our differences. It cannot ignore the important role which traditional leaders still play in their respective islands in helping to make these basic decisions. And in all of the districts where there are traditional leaders, they are given a community position which is a recognition of the respect with which they are held and the honor and dignity which is appropriate to their titles. This cannot be ignored in the government which we are creating, for to do so would be to build a government without real meaning to Micronesians.

To the people outside of Micronesia, two things distinguish us--one is that we still have strong Micronesian traditions, including leaders who are accorded traditional honor and respect, and the other is that we arrive at community decisions through talking until a consensus is reached--what is known as "the Micronesian way." Just as we are recognized as being different, so must the government we build reflect those differences. To the extent those differences are included in our new government, it will help to distinguish the Federated States of Micronesia from all other nations of the world.

The Committee on Structure has made four recommendations which are designed to support traditions and customs, and facilitate "the Micronesian way." Two relate to government at the State level, and two to governmental structure at the National level.

One at the State level will set up Land Courts in each State. This will permit land and traditional matters to be brought before judges more knowledgeable and compatible with Micronesian customs and traditions. The other recommendation at the State level calls for each State Constitution to make provisions for the inclusion of traditional leaders.

At the National level of government, the Committee on Structure has proposed the innovation of a Council of Ministers, which will choose the Prime Minister. This Council will assure representation from each of the States, and will encourage plural decision-making by all Ministers taking part. Heading the executive branch with a council, rather than a single man, is wholly compatible with "the Micronesian way." The fourth recommendation of the Committee on Structure is for establishing a Chamber of Chiefs to safeguard Micronesian traditions and aid in preserving Micronesian unity. This Chamber is but a logical expansion of the roles performed by traditional leaders within their respective islands.

Mr. President, in this Convention there are both young men and old men--Delegates who speak with the knowledge gained from tradition, and others who speak from the knowledge acquired through education about successful governments functioning abroad. To the outsider, it might seem that there is a conflict between the two, that the younger men are disputing the traditional leaders and denying their roles as chiefs.

Mr. President, there is no conflict in this Convention over the role of traditional leaders in the Micronesian way of life. All Delegates--both young and old, well educated, and those who have not had the good fortune of receiving much education--fully understand the importance of the traditional leaders in maintaining Micronesian customs and traditions. We are not discussing that at all. What we are debating is whether there should be an extension of that traditional role into the new structure of government.

Mr. President, only if the Constitution were to deny traditional leaders any ability to take part in government would this be an indication of conflict between the new and the old. For my part, I believe it would be perfectly satisfactory if the Constitution were to so read that its provisions are compatible with any legislation that the National legislature or the State legislatures might pass which provides for traditional leaders to participate. Beyond that, the form which the structure of government might take is a matter over which persons might differ. The Committee on Structure's

recommendations contain four different examples of how this might be done. I am sure there must be others. I am quite willing to allow this to be decided upon later through legislation, just so long as the Constitution does not prevent the inclusion of the traditional leaders at the National and the State levels of government, if desired.

Mr. President, I commenced my remarks by referring to the somewhat embarrassing position I find myself in, because I am talking as a chief on a matter which may, even though indirectly, affect me. I hope that my remarks have shown how a traditional leader properly plays his role, in aiding the arriving at a consensus, for that has been my aim.

I thank you, Mr. President. [Applause]

Floor Leader Tman moved that the Convention resolve itself into the Committee of the Whole to discuss Committee Proposal No. 28. Delegate Tun seconded, and the motion carried. The Chair requested that Floor Leader Tman preside.

The Convention resolved into the Committee of the Whole at 11:13 a.m.

The Convention reconvened in Plenary Session at 2:47 p.m.

President Cabrera: We will now take up Second and Final Reading. Delegate Williander.

Delegate Williander: Thank you, Mr. President. Mr. President, I move for passage of Committee Proposals No. 1 and No. 2 on Second and Final Reading.

Delegate Toribiong seconded.

Delegate Nimwes moved for a short recess. Floor Leader Tman seconded, and the motion carried. The Chair declared the Convention in recess at 2:50 p.m.

RECESS

The Convention reconvened at 2:51 p.m.

President Cabrera: I very humbly apologize for skipping a very important point in the Order of the Day. Before the Chair makes the amendments, I should like to ask Delegate Williander to withdraw his motion.

Delegate Williander: Mr. President, I also apologize for overlooking the proper procedure, so I withdraw the motion to pass Committee Proposals No. 1 and No. 2 on Final Reading.

President Cabrera: Thank you kindly. The Convention will now receive the report from the Committee of the Whole. Delegate Tman.

Floor Leader Tman: Thank you, Mr. President. Your Committee of the Whole, which considered Committee Proposal No. 24 along with several amendments, begs leave to report as follows:

Your Committee was unable to reach a consensus for the adoption of the proposal although it was able to dispose of one amendment which was offered by Delegate Wainit. Your Committee of the Whole recommends that the subject proposal, along with all the amendments relating thereto, be deferred until tomorrow's calendar. I move for acceptance of the oral report.

Delegate Tun seconded, and the motion carried. The oral report was accepted by the Convention.

Floor Leader Tman: Mr. President, I move that Committee Proposal No. 24 and the proposed amendments thereto be placed on tomorrow's calendar for consideration.

Delegate Toribiong seconded, and the motion carried. Committee Proposal No. 24 and the proposed amendments relating thereto were deferred until October 24, 1975.

SECOND READING CALENDAR - FINAL ACTION

Committee Proposal No. 1 and No. 2, CWD1, SD1, "A Proposal relating to freedom of expression, assembly, association, and petition."

Committee Proposal No. 4, CWD1, SD1, "A Proposal relating to the protection of tradition."

Committee Proposal No. 14, CWD1, SD1, "A Proposal relating to the bill of rights."

Committee Proposal No. 18, SD1, "A Proposal relating to assumption of rights, obligations, liabilities, and contracts of the Government of the Trust Territory of the Pacific Islands."

Delegate Williander: Mr. President, this is a minor matter on Committee Proposals No. 1 and No. 2. It is pointed out to me by our consultant that it may be preferable to just refer to this proposal as Proposal No. 1. Therefore, before I move for Second Reading, I would like to move that the Plenary Session treat this proposal as Committee Proposal No. 1.

Delegate Toribiong seconded, and the motion carried. Committee Proposals No. 1 and No. 2 are to be treated as Committee Proposal No. 1.

Delegate Williander: Mr. President, I move for the passage of Committee Proposal No. 1 on Second and Final Reading.

Delegate Falanruw seconded the motion.

President Cabrera: Is there any discussion? If not, I should like to remind everybody that we need 38 votes before we can pass this on Second and Final Reading.

Following roll call vote, the Convention Secretary reported that Committee Proposal No. 1, CWD1, SD1, passed Second and Final Reading. There were 46 affirmative votes and 1 negative vote.

Committee Proposal No. 1, CWD1, SD1

A Proposal relating to freedom of expression, assembly, association, and petition.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION 1. Freedom of Expression, Assembly, Association, and Petition. No law may deny or impair freedom of expression, peaceable assembly, association, or petition.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 1, CWD1, SD1, having passed Second and Final Reading, was re-referred to the Committee on Style and Arrangement.)

Delegate Williander: Mr. President, I move for the passage on Second and Final Reading of Committee Proposal No. 4, CWD1, SD1.

Delegate Toribiong seconded the motion.

Delegate Isaac Ludwi: Off the record, please. Mr. President, I think this proposal is one of the best and I urge the Convention to pass this. It is very good; it will not only take care of the customs and culture and traditional laws, but it is a human right to be protected , so I am all for it.

Delegate Ngiraked: Mr. President, I would just like to rise to a point of information. What is the particular need for having this phrase in the last line: "...warranting such governmental action."? Why should we need protection of our traditions only in governmental action?

Delegate Toribiong: I think the last sentence is intended to place legislation which protects customs above certain provisions of the Constitution with respect to matters which have compelling social purposes--meaning that for essential social purposes the legislation may somehow subordinate certain provisions of the Constitution.

Delegate Tacheliol: I have a point of information. This tradition here, what does it mean? Is this including customs? What is tradition really?

President Cabrera: The Delegate has raised a point of information regarding the definition of "tradition:, as used in the proposal. Does anyone wish to define the word "tradition"?

Delegate Ngiraked: Mr. President, I don't claim to be an authority on the English language. I refer the requestor to Mr. Webster.

President Cabrera: Mr. who?

Delegate Ngiraked: Mr. Webster.

Delegate Tacheliol: Mr. President, I just want to make sure that customs and cultures and all this are covered under tradition. I don't really know what they mean with just tradition alone, as it is in this proposal.

Delegate Sony: Mr. President, I would like to ask my good colleague from Yap to refer to the Micronesian Webster.

Delegate Williander: I think in this context, Mr. President, tradition would include customs and cultures.

President Cabrera: Thank you. I would like to inform everybody that the requirement for passage has changed from 38 to 36. Two people must have stepped out.

Following roll call vote, the Convention Secretary reported that Committee Proposal No. 4, CWD1, SD1, had passed Second and Final Reading. There were 42 affirmative votes, 4 abstentions and no negative votes.

Committee Proposal No. 4, CWD1, SD1

A Proposal relating to the protection of tradition.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION 12. Protection of Tradition. The traditions of the Micronesian people may be protected by legislation. If challenged as violative of this Article, protection of Micronesian tradition shall be considered a compelling social purpose warranting such governmental action.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 4, CWD1, SD1, having passed Second and Final Reading, was re-referred to the Committee on Style and Arrangement.)

The Chair recognized Floor Leader Tmau.

Floor Leader Tmau: Mr. President, I rise on a point of privilege to explain the reason for my abstention.

President Cabrera: Please state your point, Delegate Tmau.

Floor Leader Tmau: Thank you, Mr. President. I respect my traditions, my customs and my culture so much that I am not convinced yet that it is necessary to legislate. Thank you.

Delegate Olter: Mr. President, to extend this same line of reasoning with my colleague from Yap, I feel that the national legislature will not have enough time nor the knowledge encompassing all the different aspects of traditions throughout the Territory and, therefore, enactment of the same will be impossible. Therefore, the passage of this, while it protects some, at the same time it will kill the others which are not enacted into law which will be interpreted as not compelling reasons for enactment. Thank you.

Delegate Ngiraked: Point of privilege, Mr. President. What was the result of the voting?

President Cabrera: The result of the voting was 42 ayes, 4 abstentions. The ayes have it. Delegate Williander.

Delegate Williander: Thank you, Mr. President. Mr. President, I move for passage on Second and Final Reading of Committee Proposal No. 14, Committee of the Whole Draft 1, Style Draft 1.

Delegate Tun seconded.

Floor Leader Tmau: Mr. President, thank you. Although this is not going to expedite consideration of Committee Proposal No. 14, Mr. President, I move for a division of the question, that is, to vote section by section.

Delegate Tun seconded, and the motion carried.

Delegate Ngiraked moved for passage on Second and Final Reading of Section 2 of Committee Proposal No. 14, CWD1, SD1. Delegate Olikong seconded.

The Chair recognized Delegate Nimwes.

Delegate Nimwes: Point of information, Mr. President. There was a motion at first to adopt this proposal as a whole. Now there is a motion to adopt this proposal, section by section. Which shall take precedence?

President Cabrera: The motion to adopt section by section, which was passed.

Delegate Ngiraked: Mr. President, we have here ten sections. Are we going through the act of taking ten roll calls? I would like to know why we have to go through such a cumbersome procedure. I would like to ask the maker of the motion what specific reason he has for requesting such a cumbersome procedure.

Floor Leader Tmau: Mr. President, although the question is not in order since the motion has already passed the Convention for division of the question, I will explain. These are various parts of the bill of rights and they can be divided so that we can vote section by section. I know some of us oppose capital punishment. The other day I expressed my reservations with respect to Section 11 of Committee Proposal No. 14, as submitted by the Style Committee. I would like to record my vote on Section 11.

President Cabrera: Delegate Falcam, do you wish to be recognized?

Delegate Falcam: Thank you, Mr. President. I think the Floor Leader has clarified what I wanted to say.

Delegate Williander: Mr. President, I wish at this point to make a motion that we vote by raising our hands on a section by section basis.

Floor Leader Tman: Point of order, Mr. President. The right motion to make is to suspend the roll call in accordance with Rule No. 70, which requires two-thirds.

Delegate Williander: Mr. President, I move to suspend such appropriate rules as listed by the Floor Leader.

Delegate Nimwes seconded, and the motion carried.

President Cabrera: I should like to remind everyone that even though we suspend the rule, the required passage is still 36 affirmative votes, so please raise your hands or abstain.

The vote resulted in 47 affirmative votes, no negative votes. Section 2 of Committee Proposal No. 14, CWD1, SD1, was passed on Second and Final Reading.

Delegate Ngiraked moved for passage on Second and Final Reading of Section 3 of Committee Proposal No. 14, CWD1, SD1. Delegate Olikong seconded.

The Chair recognized Delegate Eperiam.

Delegate Eperiam: Mr. President, thank you. I would like to say that I may be wrong but there seems to be some contradiction between Section 3 and Section 9. In Section 9 capital punishment is prohibited. Line 8 and 9 in Section 3 says, "A person may not be deprived of life. . ." Does this mean he may be deprived of life if the law so decides?

Delegate Toribiong: Mr. President, the provision on prohibition of capital punishment further qualifies that; therefore, no law can be passed authorizing capital punishment.

The vote resulted in 47 affirmative votes, no negative votes. The motion carried. Section 3 of Committee Proposal No. 14, CWD1, SD1, passed Second and Final Reading.

Delegate Nimwes: Point of information, Mr. President. This raising of hands is a punishment?

President Cabrera: You are ruled out of order.

Delegate Yoma: Will you announce the outcome of the vote cast, Mr. President?

President Cabrera: The vote was 47 yes hands on Section 3.

Delegate Ngiraked moved for passage of Section 4. Delegate Tun seconded.

The vote resulted in 47 affirmative votes, no negative votes. Section 4 passed Second and Final Reading.

Delegate Ngiraked moved for passage of Section 5. Delegate Tun seconded.

The vote resulted in 44 affirmative votes and 3 abstentions. The motion carried and Section 5 passed Second and Final Reading.

Delegate Ngiraked moved for passage of Section 6 on Final Reading. Delegate Tun seconded.

The vote resulted in 43 affirmative votes, 1 negative vote , and 3 abstentions. Section 6 passed Second and Final Reading.

Delegate Ngiraked moved for passage of Section 7. Delegate Tun seconded.

The result of the vote was 44 affirmative votes and 3 abstentions. Section 7 passed Second and Final Reading.

Delegate Ngiraked moved for passage of Section 8 on Final Reading. Delegate Tun seconded. The Chair recognized Delegate Weilal.

Delegate Weilal: Point of information, Mr. President. What is the number of the section dealing with capital punishment? is it 8 or 9?

President Cabrera: That is Section 9.

The result of the vote was 45 affirmative votes and 2 abstentions. Section 8 passed Second and Final Reading.

Delegate Ngiraked moved for passage of Section 9 on Final Reading. Delegate Tun seconded. The Chair recognized Delegate Ninmwes.

Delegate Ninmwes: Mr. President, I suggest that we stand on Section 9 when we vote on it.

President Cabrera: Out of order.

The result of the voting was 40 affirmative votes and 2 negative votes. Section 9 passed Second and Final Reading.

Delegate Ngiraked moved for passage of Section 10 on Final Reading. Delegate Tun seconded.

The result of the vote was 47 affirmative votes. Section 10 passed Second and Final Reading.

The Chair recognized Delegate Salii.

Delegate Salii: Mr. Chairman, I just want the record to indicate that I am opposed to slavery even for punishment of crime.

Delegate Williander moved for adoption of Section 11 on Final Reading. Delegate Tun seconded. The Chair recognized Delegate Apis.

Delegate Apis: Thank you, Mr. President. I wish to reiterate my reservations on line 18 of the same section, especially the words "at any level". I want to state that I am not against the traditions, customs and cultures, or what have you, but I would like to state that I don't like to see my traditional leaders to be placed at the national level. My reason is very clear and I would like to state it. With the indulgence of my chiefs, I would like to use one example. There is a word in Ponape which is "sopeidi" meaning facing down toward people. In this Constitutional Convention our traditional leaders are facing up. I wish not to see that happen. The word "sopeidi" also is a name referring to the traditional leaders. That is why I am against the words "at any level". Thank you very much, Mr. President.

Delegate Robert: Thank you, Mr. President. For the last time this august body will be dealing with this very delicate and essential provision in our

bill of rights. However, I am still uncomfortable with the present phraseology. Therefore, I would like to offer an amendment to this Proposal No. 14, Section 11, to delete two controversial words from the inherently suspect criteria, the words ancestry and national origin. The amendment, I would also like to venture, would delete the last sentence having to do with the chiefs and insert therein a provision leaving the whole question of the chiefs' role to each State. In my opinion, leaving the question of what role the chiefs should play to the States is appropriate for the following reasons: First, it is each State of Micronesia that has chiefs. The customary roles can best be recognized and respected in each State because they are understood best in the States.

Secondly, thus the chiefs can be most effective in the respective States than at the national level. The equal protection of the law does not mean to destroy or enhance one's status. Under equal protection, the government is not required to take positive action, but when the government takes action, equal protection requires that the government's action must treat everyone in the same class, equal, unless there is good reason to discriminate. The traditional chiefs in each State have an important role to play. That is why this amendment leaves it to the States to prescribe their role in the State government. This is a form of discrimination, but a classification based on good reasons and therefore it is valid. To accept the recognition of the chiefs given under Section 11, may be degrading to our chiefs. It may be that the exception given under this section will allow the chiefs not to pay taxes imposed on everyone because they are chiefs and this, my fellow Delegates, is belittling our respectable chiefs.

If the government must stay away from the domain of the chiefs, the chiefs, in order for them to remain an instrumental class, must not demand from the government that they should be treated specially. With this thought in mind, I move the Convention adopt Amendment No. 1 to Section 11 of Committee Proposal No. 14, and if I am in order, I also move that we vote by secret ballot.

President Cabrera: I regret to inform you that your motion is not entertained because it is out of order.

Floor Leader Tman: Mr. President, I move for suspension of Rule 62A in order to allow Delegate Robert's motion for discussion.

Delegate Falanruw seconded. The Chair recognized Delegate Falcam.

Delegate Falcam: Thank you, Mr. President. Fellow Delegates, I sit here and hear Delegates praise our chiefs; we respect them; we love them; we want to put them in their proper places; we don't want to destroy our customs and our cultures and our traditions. All these niceties, all these words, but I want to vote against the protection of our chiefs and our traditions. I don't understand what we are trying to do. All these niceties — but I will vote against protection of the chiefs and their role. Mr. President, let's think very carefully. Thank you very much.

Floor Leader Tman: I must apologize, Mr. President. I didn't realize the amendment had been distributed. I withdraw my motion to suspend the rule.

President Cabrera: The motion made by Delegate Robert is to adopt the amendment which has been distributed and it is in order. It has been seconded. Is there any discussion?

Delegate Ngiraked: Mr. President, this measure has come onto this floor for discussion about five times and I think we have just about exhausted anything that needs to be said about this measure. I don't offer any pretense that I know what is good for the chiefs and what is not good for them. They are older than most of us; they have been around longer than most of us, and if this is what they want, I vote for it. Thank you.

Delegate Tmetuchl: Mr. President, point of information. I understand that in addition to the proposed amendment by Delegate Robert, he also requested a secret ballot. Is this out of order? He also asked for a secret ballot and the Floor Leader withdrew his motion to suspend the rules and, therefore, this amendment is on the floor and is in order but what about the request for a secret ballot.

President Cabrera: As far as I am concerned, the motion is in order and there were not two separate motions, only one motion.

Delegate Isaac Ienwi: Thank you, Mr. President. Off the record, please. This issue is very delicate and I only ask for a point of privilege, so, Mr. President, will you please let me get out because talking about somebody is not good in my custom. If we are talking about the Iroij of the Rektai, or Rumwarkis, I am sure they must be out while we common people talk about them. It is very embarrassing for them to listen to what we have to say and it will lead us into temptation, so as a point of privilege, let the chiefs step out like they used to do a few weeks ago when they had their own secret meeting and now it is for us common people to meet about them and I don't think it is fair to have them among us and talk about them. I will ask your permission to let me step out from the discussion right now as a point of privilege.

President Cabrera: You are excused.

Delegate Heinrich Iriarte: Thank you very much, Mr. President. I know that all of us are born on this earth and we are the same. However, some of us are born to rule and some of us are born to serve. Mr. President, among us there are some people who were appointed by God by virtue of our birth and tradition. They have had their role ever since. Today we have come into this new system of government where we apply the democratic system. I am one who believes that our traditional system and this democracy system being combined is a good idea. If we had to place our traditional leaders in a role in the national government, that doesn't mean that they have stolen something from us, and it also doesn't mean that we will attain the form of government with this minority. I am trying to say that we are to adopt this new form of government along with what we have. Mr. President, I see certain advantages that the traditional role of the traditional chiefs will do for us. Number 1, by giving them the role that will bring unity in Micronesia. There is no group in Micronesia that is qualified to hold unity among Micronesians. They will also preserve our customs and traditions so they will not be forgotten and not be preyed upon. I think if we give them the role, they will know and they will eliminate what is not good for our society. Mr. President, I don't think it is fair that we take away the role of our traditional leaders and we try to put ourselves in that role. Thank you very much, Mr. President. I would like us to remember to build our own Constitution for our own lifestyle. Thank you.

Delegate Apis: Thank you, Mr. President. I would like for the last time to address myself to the same line at any level. Let me reiterate that I am not against the role of the traditional leaders, but not in the central government. As I said a while ago, it is not a custom of Ponape for a traditional leader facing up to somebody facing down to him. I would like to see that it is practiced at the State level. I would like to say for the last time that I wish to support the amendment because it does guarantee a Council of Traditional Chiefs in the districts but not at the national level of government.

Delegate Ngiraked: Point of information, Mr. President. I have listened to a lot of people discussing the role or the question of whether or not we should have our traditional leaders participate in the national level of government. I don't think it is an issue here because it doesn't say the chiefs are going to participate at the level of national government. This

simply says any level of government and that affords the Convention to deal with this question in other parts of the Constitution. This is not an issue here. Furthermore, I fail to see the need when we are making a decision as important as this for some of us to try to hide their votes. What are they hiding their votes from--from themselves, from their voters, from their fellow Delegates?

President Cabrera: I should like to ask the Delegates to confine their remarks to the question before the Convention, and that is Amendment No. 1. I will recognize Delegate John Heine, Delegate Wainit and Delegate Mwety, in that order.

Delegate John Heine: Thank you, Mr. President. I guess my fear has been again confirmed today--the fear of not wanting to take any role away from my chiefs or giving them any role because repeatedly today I heard that we would like to give them a role in the national government, but I am so low I cannot dictate or even legislate to my chiefs in the Marshall Islands and give them a role in the community because their role has been designated before I was born and I know and I practice them. I heard in a speech that we should give them a role to play in the national government. Who am I to give a role to my chiefs? He can come if he wishes to and that is where my fear lies. As far as a God-given right to rule, I do not question either yes or no on that, but I simply follow what is my tradition. Even today, when I crack one coconut to make copra to sell, my chief has a share in that and it was not dictated by law, but we, the workers, decided he deserved to have a share in the products of our land and he receives it even though he doesn't see the face of the person who labors, but every time we weigh a sack of copra, he has a share of that. We work for him, and why should I turn around and give him a role? I am too low for that. I cannot speak for the other districts. I am speaking on behalf of my chief in the Marshall Islands intead of embarrassing them by voting yes, I give them a role. They already have a role in our district. Thank you very much.

Delegate Ngiraked: Point of information, Mr. President. Let's clarify one point. I want to ask my fellow Delegate from the Marshalls where in this particular section a role is being given. Nothing here gives the traditional leaders a role. I don't know if the discussion here is deliberately being misleading.

Delegate Wainit: Mr. President, I yield to Delegate Mwety.

Delegate Mwety: Mr. President, I would like to offer an amendment to the amendment, and I move that we vote by roll call.

Delegate Sawaichi seconded, and the motion carried.

Delegate Chief Bossy: Mr. President, before we cast our votes on this proposed amendment, on behalf of the chiefs here and those at home, I, with great pain, humbly beseech this Convention to show whatever little respect we still have for our chiefs by defeating this proposed amendment and adopting the proviso, which we passed on Second Reading, which simply protects whatever roles our chiefs have now, plus whatever roles our people, now and in the future, through the democratic process, may give them.

Delegate Philippo: Thank you, Mr. President. Before I cast my vote on this, I would like to put in the record that my chiefs are not here at the Convention. Therefore, I have to make a decision on this and before I make the decision, I have to know what it is all about. I learned and I heard a lot of good comments from all the Delegates. These are all intelligent discussions and I am grateful for them. However, before I cast my vote, I want to say that this is a very, very easy decision to make. It is not hard. Even though my chiefs are not here I think I can vote for what I think is right and is in order. The section we are discussing now is something to protect our chiefs and I am going to support this. There is nothing wrong with it, but it is something to protect our traditional leaders and, therefore, I am right to support Section 11 and not the amendment. Thank you, Mr. President.

Delegate Willander: Mr. President, point of privilege. If I am in order, I wish to amend the motion by inserting the words "to vote by show of hands on the proposed amendment".

President Cabrera: Since there is no second, we shall proceed by voting by roll call.

The vote resulted in 16 affirmative votes, 22 negative votes and 8 abstentions.

The amendment to Section 11 was defeated.

Floor Leader Tmau moved for the previous question. Delegate Tun seconded.

President Cabrera: There is a motion on the floor for the final passage of Section 11. There has been a motion by Floor Leader Tmau to close debate. We shall now vote on that motion.

The motion to close debate carried.

The roll call vote on passage on Second and Final Reading of Section 11 resulted in 25 affirmative votes, 9 negative votes and 12 abstentions.

Section 11 failed to meet the three-fourths vote required and, therefore, did not pass Second and Final Reading.

The Chair recognized Delegate Yoma.

Delegate Yoma: Thank you, Mr. President. I yield to Delegate Leo Falcam.

Delegate Falcam: Mr. President, I would like to make one observation here, that the ratification of this Constitution is probably hanging on the vote we have just cast this afternoon so that those who voted no, let us get together and work hard to sell the Constitution to the people of Micronesia. Thank you very much, Mr. President.

Delegate Ngiraked: Mr. President, I wish also to go on record as expressing my concern on the result of the vote on this measure. Mr. President, we have spent more than 70 days trying to tear down the partitions of districts that divide six districts. This afternoon, in turning down the request offered in this proposal by the traditional leadership, Mr. President, we have erected partitions right here inside this Convention between us Delegates and our traditional leaders. Thank you very much.

Delegate Olter moved for reconsideration of Section 11 of Committee Proposal No. 14, CWDL, SDI. Delegate Ngiraked seconded.

Floor Leader Tmau moved for a recess. Delegate Toribiong seconded and the motion carried. The Convention recessed at 4:20 p.m.

RECESS

The Convention was called to order at 4:25 p.m.

President Cabrera: Under Final Action we have Committee Proposal No. 18. Delegate Falcam.

Delegate Falcam: Mr. President, I understand there was a motion on the floor before we recessed. Was that in order or not? The motion was to reconsider the pertinent section of the bill of rights.

Floor Leader Tmau: The motion is in order because it was made by Delegate Olter who voted on the prevailing side.

President Cabrera: There is a motion on the floor for reconsideration of Section 11 of Committee Proposal No. 14. Delegate Falcam.

Delegate Falcam: Thank you very much, Mr. President. I would like this Convention to realize one very important fact, and this fact is the fact of life in Micronesia. I indicated after the defeat of that section that the ratification of this Constitution is probably going to be determined by this one provision. The approval by this Convention of this Constitution is also probably going to be determined by the defeat of that section. Another observation I would like to make here is that if this is the way we are going to accommodate the new with our own tradition, I think many of us are missing the boat. We are not here to import a Constitution. We are here to draft one. This is the only chance we have to draft a Constitution for Micronesia that will be functional, practical and based on our tradition. I have never seen a Constitution in the world that based its principles on the tradition of somebody else or another word. So, I urge that we reconsider this issue favorably.

President Cabrera: The motion to reconsider is not debatable.

Delegate Ngiraked: It is proper for us to discuss our action before we take the vote on this motion because it is very important. I am beginning to worry about whether or not we are going to have a Constitution. We have enough problems so that we don't need to throw another monkey wrench into the relations among the Delegates. I urge all the Delegates to vote in favor of this motion because if you don't, some of the chiefs will disappear from this Convention starting tomorrow.

President Cabrera: The motion is to reconsider Section 11.

By voice vote, the motion carried to reconsider Section 11 of Committee Proposal No. 14.

Floor Leader Tmetuchl: Mr. President, I move for the adoption of Section 11 of Committee Proposal No. 14.

Delegate Tun seconded the motion.

Floor Leader Tmetuchl moved for the previous question; Delegate Toribiong seconded, and the motion carried to close debate.

Following a roll call vote, the Assistant Convention Secretary reported that there were 28 affirmative votes, 8 negative votes and 11 abstentions.

President Cabrera: The motion to adopt is defeated. Any further motion to reconsider will be out of order.

Delegate Willander: I move that Sections 2, 3, 4, 5, 6, 7, 8, 9, and 10 of Committee Proposal No. 14, CWD1, SD1, be re-referred to your Committee on Style and Arrangement.

Delegate Olikong seconded, and the motion carried. Sections 2, 3, 4, 5, 6, 7, 8, 9, and 10 of Committee Proposal No. 14, CWD1, SD1, were re-referred to the Committee on Style and Arrangement, as follows:

Committee Proposal No. 14, CWD1, SD1

A Proposal relating to the bill of rights.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION 2 - Privacy, Search and Seizure. The right of the people to be secure in their persons, houses, papers, and other possessions against unreasonable search, seizure, or invasion of privacy, may not

be violated. A warrant may not issue except on probable cause, supported by affidavit particularly describing the place to be searched and the persons or things to be seized.

SECTION 3 - Due Process and Equal Protection. A person may not be deprived of life, liberty, or property, without due process of law, or be denied the equal protection of the laws.

SECTION 4 - Self-Incrimination and Double Jeopardy. A person may not be compelled to give evidence that may be used against him in a criminal case, or be twice put in jeopardy for the same offense.

SECTION 5 - Excessive Bails, Fines, etc. Excessive bail may not be required, excessive fines imposed, or cruel and unusual punishments inflicted. The writ of habeas corpus may not be suspended unless required for public safety in cases of rebellion or invasion.

SECTION 6 - Freedom to Travel. A Micronesian citizen may travel and migrate within Micronesia.

SECTION 7 - Bills of Attainder. A bill of attainder or ex post facto law may not be passed.

SECTION 8 - Rights of Defendants. The defendant in a criminal case has a right to a speedy public trial, to be informed of the nature of the accusation, to have counsel for his defense, to be confronted with the witnesses against him, and to compel attendance of witnesses in his behalf.

SECTION 9 - Capital Punishment. Capital punishment is prohibited.

SECTION 10 - Slavery. Slavery and involuntary servitude are prohibited except to punish crime.

Delegate Willander: Mr. President, I move for the passage on Second and Final Reading of Committee Proposal No. 18, SD1.

Floor leader Tman seconded. The Chair requested the Assistant Convention Secretary to read the text of Committee Proposal No. 18, SD1, and the Assistant Secretary read the following:

Committee Proposal No. 18, SD1

A Proposal relating to assumption of rights, obligations, liabilities, and contracts of the Government of the Trust Territory of the Pacific Islands.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE_____

SECTION_____. Assumption of Rights, Obligations, etc. A right, obligation, liability, or contract of the Government of the Trust Territory of the Pacific Islands is assumed by the Government of the Federated States of Micronesia except to the extent it directly affects or benefits a government of a district not ratifying this Constitution.

There was no discussion and a roll call vote was taken which resulted in 32 affirmative votes, five negative votes and ten abstentions.

President Cabrera: The motion to adopt Committee Proposal No. 18, SD1, failed to pass by four votes.

Delegate Willander: Mr. President, I move that Committee Proposal No. 18, SD1, be put on the October 29th Calendar of the Convention for reconsideration.

Delegate Toribiong seconded the motion.

A voice vote was taken, and division of the Convention was called for. The motion carried by a show of hands. Committee Proposal No. 18, SD1, will be placed on the Calendar for October 29, 1975.

INTRODUCTION OF DELEGATE PROPOSALS

None

INTRODUCTION OF RESOLUTIONS

Resolution No. 32, entitled "Resolution relating to the traditional leaders of Micronesia.", was introduced by Delegates Nimwes, Bossy and Heldart.

MISCELLANEOUS AND UNFINISHED BUSINESS

The following introductions were made during the morning portion of the Plenary Session:

Delegate Falcam: Point of privilege, Mr. President. I would like the Convention to recognize the presence of some very special guests this morning. The Convention is honored and privileged to have Mrs. Nora Coleman, wife of the Deputy High Commissioner, and with her is Mrs. Yoder, the wife of the new Director of Territorial Affairs from Washington, D.C. They are present this morning in the gallery. [Applause]

Mr. President, the second group we have in the gallery is a group of students from Mt. Carmel. They are students in United States History at Mt. Carmel, with their instructor, Mr. Kenneth Kassen. They are Virginia Sablan, Bertha Chong, Joan Barber, Kathy Choo, Julie Iriarte, Magdalena Sablan, Elaine Guerrero, Lucinda Roberto, Rose Mangefel, Patricia Mangefel, Lucia Blanco, Ana Nakamura, Floria Yangilmau, Rebecca Wiseman, Maria Waathan, Janice Aichi, Lucy Sablan, Olinka Cabrera, Suwanne Newell, Judy Gapey, Elizabeth Mutty, Tony Wilson, Raymond Snodgrass, Vicente Cruz, Frank Rabauliman, Regis Akitaya, and Diego Benavente. [Applause]

Delegate Eperiam: Point of privilege, Mr. President, I would like to request the Convention to recognize the presence of an important constituent of mine from Kitti, Ponape. This gentleman is Vice Speaker of the Ponape District Legislature and is also with the Ponape Development Fisheries, Mr. Kasian Joseph. [Applause]

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Thank you, Mr. President. On behalf of the two traditional leaders of Palau, I wish to extend an invitation for all traditional leaders, or those who consider themselves to be traditional leaders in the Convention, to meet in Room 1 right after the Plenary Session.

Delegate Apis: Mr. President, I just wish the record to reflect my "no" vote which I understand that nothing in the Constitution takes away the right of the district or state to practice or institute anything about the traditions. Thank you very much.

ANNOUNCEMENTS

Delegate Falcam: I should like to remind the Convention of the reception scheduled for Saturday evening here at the White Sands Hotel. I encourage everyone to keep that in mind.

Delegate Philippo: Point of information, Mr. President. Five years from tomorrow will be the close or the termination of the Trusteeship Agreement. I understand it is a rule of our Con Con to go ahead and have a session, and I am just wondering about tomorrow because it is UN Day.

Delegate Nimwes: Point of information, Mr. President. Was the previous statement recorded? That five years from tomorrow the Trusteeship Agreement will be terminated?

President Cabrera: A Delegate is entitled to his own opinion.

Delegate Nimwes: I just wanted to know if it was on the record.

President Cabrera: Yes, it is on the record. I should like to ask Delegate Falcam on the question of his announcement, is that going to be tomorrow or Saturday?

Delegate Falcam: I am sorry, Mr. President. Did I say tomorrow? I stand corrected. It is Saturday. It cannot be tomorrow because tomorrow is a holiday and we don't work on holidays. [laughter]

Floor Leader Tman: On behalf of the staff, I venture this motion, that the Convention recess until 2:00 p.m. tomorrow.

Delegate Faluuruw seconded and the motion carried. The Convention recessed at 4:50 p.m.

Respectfully submitted,

for Asterio R. Takesy
Assistant Convention Secretary

SEVENTY-SEVENTH DAY

Friday, October 24, 1975

The Micronesian Constitutional Convention was called to order at 2:45 p.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

The Convention Secretary called the roll. There were 39 Delegates present. Delegates Andrike, Borja, Bossy, Cabrera, Gibbons, Hauro, Hathey, Heinrich Iriarte, Max Iriarte, Kendall, Kijiner, Mateak, Nifon, Rasa, Salii, Stephen and Termeteet were excused. A quorum was present. Iroij Lanki was also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 76th Day be adopted. Delegate Falanruw seconded the motion.

Delegate Falcam: Mr. President, I have a minor correction to be made to page 401, the second paragraph, third to last sentence. The word "each" should be "its", and "principle" should be in the plural.

Delegate Apis: The fifth paragraph of the first page shows Delegate Yoma to be excused, but I know he has comments in the Journal. I wish to correct the records to show that he was present.

Delegate Toribiong: Mr. President, on page 393, paragraph 4, second to the last line, it should read "meaning that for essential social purposes". The word "for" should be inserted between "that" and "essential" and the comma at the end of "purposes" should be eliminated.

Delegate Robert: On page 397 the third paragraph, second sentence, should read "instrumental class" rather than "instrument of class".

Delegate Yoma: My copy of the Journal has page 394 upside down. (Laughter)

Delegate John Heine: On page 399, paragraph 3, the sentence is not "Who am I go give..", but rather "Who am I to give...". And then the sixth line below that, it should be "though he doesn't see the face of the person who labors," and "who labors" is not included. I wish that would be corrected.

Motion to adopt the corrected Journal of the 76th Day carried.

President Nakayama: I would like to interupt our order of business to introduce to this Convention a very important visitor in the gallery. We are very happy and honored by the visit of the Director of the Office of Territories, Department of the Interior, Mr. Fred Zeder, accompanied by his wife. (Applause) With them is our own Attorney General, Mr. Richard Miyamoto. (Applause)

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 24, entitled "A Proposal relating to a structure for the government of the Federated States of Micronesia."

Committee Proposal No. 25, entitled "A Proposal relating to the capital of Micronesia and jurisdiction and control over property of the national government."

Committee Proposal No. 27, entitled "A Proposal relating to secession and admission of new States."

Committee Proposal No. 28, entitled "A Proposal relating to ownership of land by citizens of the Federated States of Micronesia."

Committee Proposal No. 29, entitled "A Proposal relating to effective date of the Constitution."

Floor Leader Tman: Mr. President, I beg the Convention and move that we resolve into the Committee of the Whole to consider Committee Proposals No. 24, No. 25, No. 27, No. 28 and No. 29.

Delegate Toribiong seconded the motion. Motion carried and the Convention resolved itself into the Committee of the Whole at 2:55 p.m. The Chair requested that Floor Leader Tman preside.

The Convention reconvened in Plenary Session at 5:50 p.m.

The Chair called for the oral report of the Committee of the Whole.

Floor Leader Tman: Your Committee of the Whole, which deliberated on Committee Proposals Nos. 24, 25, 27, 28 and 29, begs leave to report as follows:

Mr. President, your Committee of the Whole consumed a lot of time and used a lot of steno pads, but the prevailing mood in your Committee of the Whole was to defer action on many Proposals. Consequently, Mr. President, Committee Proposal No. 24 was considered and your Committee recommends that action on it be deferred until October 27. Also, on Committee Proposal No. 25, your Committee of the Whole recommends its deferral until November 8; and on Committee Proposal No. 27, your Committee of the Whole also recommends its deferral until Friday, October 31. On Committee Proposal No. 28, CWD 1, your Committee recommends that it be recommitted to the Committee on General Provisions with the instructions to come up with an acceptable draft that will incorporate some of the concerns expressed by the Marianas Delegation.

I am pleased, Mr. President, to report that Committee Proposal No. 29 was adopted by your Committee of the Whole and your Committee recommends its referral to the Committee on Style and Arrangement.

Mr. President, I move for the acceptance of the oral report.

Delegate Tun seconded the motion. Motion carried to accept the oral report of the Committee of the Whole.

Floor Leader Tman: Mr. President, I move that Committee Proposal No. 24 be deferred until October 27.

Delegate Falanruw seconded, and motion carried to defer action on Committee Proposal No. 24 until October 27.

Floor Leader Tman: I move that action on Committee Proposal No. 25 be deferred until November 8.

Delegate Toribiong seconded. Motion carried to defer action on Committee Proposal No. 25 until November 8.

Floor Leader Tman: I move that Committee Proposal No. 27 be deferred until Friday, October 31.

Delegate Falanruw seconded. Motion carried to defer action on Committee Proposal No. 27 until Friday, October 31.

Floor Leader Tman: Mr. President, I move that Committee Proposal No. 28 (CWD1) be recommitted to your Committee on General Provisions with the instructions as stated in the oral report. This proposal was amended in the Committee of the Whole.

Delegate Tun seconded. Motion carried to recommit Committee Proposal No. 28 (CWD1) to the Committee on General Provisions with special instructions.

Floor Leader Tman: Mr. President, I move that Committee Proposal No. 29 be referred to the Committee on Style & Arrangement.

Delegate Toribiong seconded and motion carried to refer Committee Proposal No. 29 to the Committee on Style & Arrangement.

Committee Proposal No. 29, as referred to the Committee on Style & Arrangement, is as follows:

Committee Proposal No. 29

A Proposal relating to effective date of the Constitution.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

GENERAL PROVISIONS

SECTION _____. Effective Date. This Constitution shall go into effect after ratification on a date to be specified by the Congress of Micronesia by Joint Resolution, which date shall not be later than one year after ratification. In the event that any provision should be found to be in fundamental conflict with the United Nations Charter or the Trusteeship Agreement for the former Japanese Mandated Islands between the United States of America and the United Nations, such provision shall not be effective until the date of termination of the Trusteeship Agreement.

INTRODUCTION OF DELEGATE PROPOSALS

None

INTRODUCTION OF RESOLUTIONS

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Mr. President, Resolution No. 32 was introduced during yesterday's Plenary Session. I wish at this time, Mr. President, to move that Resolution No. 32 be made a special order of business.

Delegate Tacheliol seconded and motion carried to make Resolution No. 32 a special order of business.

Delegate Nimwes: Mr. President, I move for the adoption of Resolution No. 32.

Floor Leader Tman seconded the motion.

Delegate Falcam: What are we trying to do here? What is the Convention trying to do here as far as the subject is concerned? I would like to be told at this time, please.

Delegate Ngiraked: Mr. President, I think that by this Resolution we are delivering a message in a tone of reconciliation to our traditional leaders in Micronesia,and particularly to those who are participating in the Constitutional Convention. I would vote for this Resolution in the spirit that we will put something in our Constitution to this effect so that it will be part of our Constitution and not only part of our dialogue.

Delegate Toribiong: I would like to say that I fully support the intent and the spirit behind this Resolution, however, I feel that after this Convention has rejected the proposed amendment to the equal protection, this

Resolution may be construed to be a subtle way of relegating the Chiefs to the basement of this Convention.

Delegate Falcam: I view this Resolution as saying to the traditional leaders, "We will recognize you, but are not willing to allow you to participate in the operation and running and the implementation of the Constitution." I would like to know if by this Resolution we would delete and stop considering the traditional leaders to be included in the structure of our government. If this is the intent, I am going to vote against it. If it is not, I would rather see this Resolution examined together with the traditional chiefs before we take action. Thank you, Mr. President.

Floor Leader Tman: Mr. President, I am inclined to support this Resolution for one basic reason. I have always upheld the concept that I am a servant of the people and I now subjugate myself to the proposition that there are some people that are born to rule. I am one of those who was born to serve.

Delegate Ngiraked: Mr. President, allow me to speak for the last time. We are about to take an action to deliver a condolence to our chiefs, our traditional leaders, that they are necessary evils of our society. I am going to vote in support of this Resolution, but I will do so in comfort with all of our chiefs with us. I am sure that they will have something to say and I think we should afford them a chance in case they would like to say something about this action. So, I move to defer action on this important Resolution until Monday, October 27.

Delegate Falcam seconded the motion.

Delegate Olter: Point of information, Mr. President. I see many of our chiefs are not in the hall today. I am wondering whether they will be in the hall on Monday to participate in the discussion and voting. Thank you, Mr. President.

Motion to defer action on Resolution No. 32 until Monday, October 27, was defeated after vote by show of hands.

Motion to adopt Resolution No. 32 carried. Resolution No. 32 is as follows:

Resolution No. 32

Resolution relating to the traditional leaders of Micronesia.

WHEREAS, in establishing the government for the new Federated States of Micronesia, and making provision for the governing of the various States, the question has arisen over whether this affects the traditional leaders of Micronesia. It is not the intention of the Delegates to the Micronesian Constitutional Convention to affect adversely any of the relationships which prevail between traditional leaders and the people of Micronesia, nor to diminish in any way the full honor and respect to which they are entitled; now, therefore,

BE IT RESOLVED by the Micronesian Constitutional Convention of 1975 that it is the consensus of this Convention that all due honor and respect continue to be accorded the traditional leaders of Micronesia, and nothing in the Constitution of the Federated States of Micronesia is intended in any way to detract from the role and function of traditional leaders in Micronesia or to deny them the full honor and respect which is rightfully theirs; and

BE IT FURTHER RESOLVED that upon the signing of the Constitution, this Resolution be included with all duplications of the Constitution so that the intent of the Delegates may be evident to all who read the Constitution of the Federated States of Micronesia.

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Apis: I just wish to say that I share the concern of the time limit that this Convention has and would reiterate the concern expressed by Delegate Weital previously—that the Convention consider having Plenary Sessions both in the morning and in the afternoon.

Delegate Eperiam: Mr. President, in light of what Delegate Ngiraked said about Resolution No. 7, I beg leave of all non-traditional leader Delegates to this Convention, including myself, to make a request. On behalf of all the non-traditional leader Delegates to this Convention, I would like to request the President of this Convention to write a letter to all the traditional leader Delegates to this Constitutional Convention to come and join with us again beginning on Tuesday of next week.

President Nakayama: Is that a motion?

Delegate Eperiam: I so move.

Delegate Toribiong seconded the motion.

Delegate Williander: Although I agree with the intent of my fellow Delegate from Ponape, I do not think that is a Micronesian way. I am sure that every one of us is aware of the status of the traditional chiefs and their problem—and our problem—so I would like to leave it up to the leadership of the Convention to do it in a Micronesian way rather than doing it in a foreign way, which is writing a letter and addressing it. This is my concern, Mr. President.

President Nakayama: May I say something? There are ways to approach your leader, especially your traditional leader, and the Trukese way is not the way that is practiced in Ponape, and the Ponapean way is different. I would, therefore, be in an odd position to write a letter to the chiefs. I would prefer, rather, that each Delegation approach their chiefs in the manner appropriate with their custom, instead of having the presiding officer write a letter.

Delegate Weital: Thank you, Mr. President. I agree with you and I wish to say that the Ponape Delegation cannot invite our chiefs back to the Convention without sakau. This is the custom, Mr. President. If you are a Ponapean wishing your chief to come back, you have to present sakau. There is no sakau here. I do not see a problem here, Mr. President. I am sure that the chiefs were, oh, tired because we had a long session yesterday. That is why they did not come today. I cannot blame this Convention for the absence of these chiefs. They are not here merely because they are tired; they are old; they are chiefs. If they want to come, they come. If they don't want to come, they don't. So I will not accept the fact that we write a letter to my chief because we don't do it and that is not the Ponapean way.

Delegate Olikong: I would like to know if the officials of this Convention or any Delegate received any information or telephone call from any chiefs that they are not coming next week.

President Nakayama: I have received no communication from any of the chiefs.

Delegate Olikong: Mr. President, I think I go along with what Delegate Weital said. The chiefs just got tired, maybe, and maybe they will show up tomorrow. If not tomorrow, maybe Monday.

Delegate Sawaichi: Mr. President, it seems to me that there is something wrong and that is why they are not here. I think it is a serious thing and we should consider it now. I think they are not tired, but there must be something wrong.

Delegate Toribiong: Mr. President, point of information. Is it the intent of the motion to have the letters drafted in English or in their respective languages?

President Nakayama: That is another problem, because I don't speak all the nine languages.

Delegate Falcam: Mr. President, it seems to me it's an irony that we want to do things in a Micronesian way and yet we don't want to write our Constitution including our Micronesian ways. It's kind of funny. I just leave this thought for the Delegates to think about. Thank you.

Delegate Apis: I just wish to say that I share the concern with Delegate Weital and to say that nobody can say anything to the chiefs. They are chiefs, so what can you tell them? Thank you.

Delegate Eperiam: Thank you, Mr. President. I will try to answer several questions here if I can remember them all. First of all, the question on language: if those chiefs have been able to attend this Convention for so long, why can't they understand a short letter maybe containing less than ten sentences? Secondly, the question about the Ponapean way of presenting sakau to our chiefs: we have coconuts here. We use coconuts, also. Thirdly, I would like to reiterate what my fellow Delegate Bawaichi mentioned. It is kind of funny that all of them, or almost all of them, got tired at the same time. Maybe something is wrong.

Delegate Ngiraked: Mr. President, there is time to joke; there is time to clown; and there is time to be serious. I think the matter at hand is serious. Delegate Eperiam hit the very core of the problem. It is strange that most of the chiefs got tired at the same time. I think we should do something about it if we want to have a Constitution that is pertinent to Micronesia.

Delegate Tun: I move for the previous question.

Delegate Falanruw seconded. Motion carried to close debate.

Motion to have the President of the Micronesian Constitutional Convention write letters to the Delegate chiefs inviting them to rejoin the Convention during their session on Tuesday, October 28, was defeated.

Delegate Olikong: Mr. President, since the motion has been defeated, I suggest that the President appoint a special committee to see the chiefs and request them to come back to the Convention.

President Nakayama: Is that a motion?

Delegate Olikong: I so move, Mr. President.

Delegate Ngiraked seconded the motion.

Delegate Mwety: Mr. President, I must be very frank and honest to this Convention that I am very much troubled by the undertakings of this Convention. Mr. President, I wonder why we just cannot give the airfares to the leaders to go back to their homes.

Motion for the President to appoint a special committee to correct the situation at hand was defeated.

Delegate Olikong: Mr. President, I move for a three-minute recess.

Delegate Ngiraked seconded the motion.

President Nakayama: We will take a short recess, subject to the call of the Chair.

The Convention was declared in recess at 6:15 p.m.

RECESS

The Convention was called to order at 6:18 p.m.

The Chair recognized Delegate Nimwes.

Delegate Nimwes: Thank you, Mr. President. I would like to suggest, if I may, that certain Delegates in this hall be appointed to meet with those traditional chiefs who are not here with us today. Including our two chiefs who are here with us today; I suggest, further, that Delegate John Ngiraked, Delegate Leo Falcam, Chief Luktun and Chief Joseph, including one of the Iroij, meet with those traditional chiefs and invite them to the Convention. I so move.

Delegate Ngiraked seconded the motion.

Delegate Olter: I move that the Convention recess until tomorrow at eleven o'clock.

Floor Leader Tmetuchl seconded, and motion carried. The Convention recessed at 6:20 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

SEVENTY-EIGHTH DAY

Saturday, October 25, 1975

The Micronesian Constitutional Convention was called to order at 12:55 p.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

The Assistant Convention Secretary called the roll. There were 39 Delegates present. Delegates Andrike, Bossy, Cabrera, Gibbons, Haruo, Heinrich Iriarte, Max Iriarte, Kendall, Kijiner, Isaac Lanwi, Mary Lanwi, Nifon, Rasa, Salii, Sound, Stephen and Termeteet were excused. A quorum was present. Ifoij Banki and Ifoij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tmau moved that the Journal of the 77th Day be adopted. Delegate Fulanruw seconded, and the motion carried. The Journal of the 77th Day was adopted by the Convention.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President and fellow Delegates, I am going to deliver a message. The reason that I choose to do it--or ask to do it--at this point is that I want to end this message to help memorialize an important decision and measure that we adopted in yesterday's proceedings. Mr. President, having failed in our efforts to organize and invite representatives representing this Constitutional Convention to call on the absent traditional leaders, I chose to appoint myself to do the job. I called upon the two Palau traditional leaders here on Saipan with us to convey the condolences that this Con Con expressed on the chiefs in Resolution No. 32. I told them about the remarks made by some Delegates in passing this Resolution No. 32, but the problem is that some Micronesians are so low that they are stuck down there. Well, we talked to one of the chiefs to "go and ask those guys what they are doing down there". The other chief joined in the discussion and he said this: "Since the effect of Resolution No. 32 is to send the chiefs to the basement, as some Delegates stated, go and tell those guys to check in upstairs". The message, gentlemen, is: "Get up and climb up---you have no business down there". Thank you. (Applause)

REPORTS OF STANDING COMMITTEES

Delegate Williander: Mr. President, I move for the acceptance of Committee Report No. 46.

Floor Leader Tmau seconded, and the motion carried. Committee Report No. 46, from the Committee on Style and Arrangement, submitting Committee Proposal No. 17, entitled "A Proposal relating to existing District and Municipal Governments.", was accepted by the Convention.

Delegate Williander: Mr. President, I also move for the acceptance of Committee Report No. 47.

Floor Leader Tmau seconded, and the motion carried. Committee Report No. 47, from the Committee on Style and Arrangement, submitting Committee Proposal No. 20 (CWD1, SD1), entitled "A Proposal relating to the renegotiation of certain land leases.", was accepted by the Convention.

Delegate Williander: Mr. President, I move for the acceptance of Committee Report No. 48.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 48, from the Committee on Style and Arrangement, submitting Committee Proposal No. 22 (SD1), entitled "A Proposal relating to judicial guidance.", and Committee Proposal No. 23 (CWD1, CWD2, SD1), entitled "A Proposal relating to transfer of property.", was accepted by the Convention.

Delegate Ismael: Mr. President, thank you. I would like to amend the order of the day, Item No. 9, Reports of Standing Committees, to insert Committee Report No. 49. I so move.

Delegate Falanruw seconded, and the motion carried to amend Item No. 9 of the Order of Business to include Committee Report No. 49.

Delegate Ismael: I move for the acceptance of Committee Report No. 49.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 49, from the Committee on Governmental Functions, submitting Committee Proposal No. 30, entitled "A Proposal relating to the Judiciary.", was accepted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 30, "A Proposal relating to the Judiciary."

Delegate Ismael: I move for passage on First Reading of Committee Proposal No. 30.

Floor Leader Tman seconded, and the motion carried to pass on First Reading Committee Proposal No. 30.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 28 (CWD1), "A Proposal relating to ownership of land by citizens of the Federated States of Micronesia."

Floor Leader Tman: I move that the Convention resolve into the Committee of the Whole to consider Committee Proposal No. 28 (CWD1).

Delegate Tun seconded, and the motion carried. The Chair requested that Floor Leader Tman preside.

The Convention resolved into the Committee of the Whole at 1:05 p.m.

The Convention reconvened in Plenary Session at 1:16 p.m.

President Nakayama: The Chair will now recognize Floor Leader Tman to give his oral report of the Committee of the Whole.

Floor Leader Tman: Mr. President, your Committee of the Whole, which considered Committee Proposal No. 28 (CWD1), begs leave to report as follows:

The subject proposal was amended in the Committee of the Whole during yesterday's session and it was the recommendation of the Committee of the Whole that it be recommitted to the Committee on General Provisions to further review the proposal in light of the concerns advanced by the Marianas Delegation with respect to ownership of land. Your Committee on General Provisions has reported its findings, and a statement made by the Chairman of the Committee on General Provisions should be a part of this oral report and I request that we include it in the Journal.

Statement made by the Chairman of the Committee on General Provisions during the Committee of the Whole:

"In yesterday's session the Convention referred Committee Proposal No. 28 back to the Committee on General Provisions following a remark made by the Delegate from the Mariana Islands District that this Convention carefully weigh what action it takes with respect to land owned by citizens of the Northern Mariana Islands in other parts of Micronesia.

"This question was given careful consideration by your Committee on General Provisions. Committee Proposal No. 28 provides that only citizens and corporations wholly owned by citizens of the Federated States of Micronesia shall have the right to acquire title to lands in Micronesia. The importance of the word acquire was pointed out in Committee Report No. 42, attached to the proposal. It states that any person who is now a Trust Territory citizen may retain title to real property located anywhere in Micronesia, even if that person does not become a citizen of the Federated States of Micronesia. However, it was explained that a subsequent transfer of ownership must be made in accordance with the provision.

"It should also be pointed out that the Covenant for the Northern Marianas has a similar provision. The agreement states that the Government of the Northern Mariana Islands may regulate the alienation of real property so that ownership and other long-term interests are restricted to persons of the Northern Marianas.

"I would like at this time to quote the pertinent part of the Covenant. Section 805 states, in part:

> '...the Government of the Northern Mariana Islands, in view of the importance of the ownership of land for the culture and traditions of the people of the Northern Mariana Islands...will...regulate the alienation of permanent and long-term interests in real property so as to restrict the acquisition of such interests to persons of Northern Mariana Islands descent...'

"The provisions of the Covenant are more restrictive on other citizens of Micronesia than is Committee Proposal No. 28. Even long-term interests are covered under the Covenant.

"The warning or veiled threat issued by the Delegate from the Marianas that the Marianas Constitutional Convention will keep this Proposal in mind when drafting a similar provision in their Constitution is without merit. The Covenant agreement has already preempted the Marianas Constitution by providing restrictions on alienation. The Covenant agreement has already done to the rest of Micronesia what the concerned Delegate warns against in Committee Proposal No. 28."

I believe that the oral report made by the Chairman of the Committee on General Provisions adequately reflected their findings and, also, the concern of the Marianas position has been adequately answered. Mr. President, I move for the acceptance of the oral report.

Delegate Falanruw seconded, and the motion carried to accept the oral report of the Committee of the Whole.

Floor Leader Tman: I move that Committee Proposal No. 28 (CWD1) be referred to the Committee on Style and Arrangement.

Delegate Tun seconded, and the motion carried to refer Committee Proposal No. 28 (CWD1) to the Committee on Style and Arrangement, as follows:

Committee Proposal No. 28, CWD1

A Proposal relating to ownership of land by citizens of the Federated States of Micronesia.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

GENERAL PROVISIONS

SECTION _____. Ownership of Land. Only citizens and corporations wholly owned by citizens of the Federated States of Micronesia shall have the right to acquire title to lands and waters located within the Federated States of Micronesia.

SECOND READING CALENDAR - FINAL ACTION

Committee Proposal No. 17, "A Proposal relating to existing District and Municipal Governments."

Committee Proposal No. 20 (CWD1, SD1), "A Proposal relating to the renegotiation of certain land leases."

Committee Proposal No. 22 (SD1), "A Proposal relating to judicial guidance."

Committee Proposal No. 23 (CWD1, CWD2, SD1), "A Proposal relating to transfer of property."

The Chair recognized Delegate Wiliander.

Delegate Wiliander: Thank you, Mr. President. Before the Plenary Session is Committee Proposal No. 17, which is up for Second and Final Reading. I wish to call the attention of the Delegates to Committee Report No. 46 which deals with Committee Proposal No. 17. When your Committee on Style and Arrangement discussed this Proposal, we invited Delegate Tun, who is the Chairman of the Committee on General Provisions, and Dana Smith, who is the attorney to that Committee. During our deliberations, Mr. President, it was determined that the language proposed in Committee Proposal No. 17 did not reflect the intent of that Committee so it was agreed that an amendment be proposed on the floor. Therefore, Mr. President, I now move for the passage on Second and Final Reading of Committee Proposal No. 17.

Floor Leader Tman seconded the motion.

The Chair requested that the Assistant Convention Secretary read Committee Proposal No. 17, as follows:

Committee Proposal No. 17

A Proposal relating to existing District and Municipal Governments.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

SECTION _____. Local Government. After the effective date of this Constitution, district and municipal governments, including agencies thereof, district legislatures and municipal councils, shall continue to exist and to function to the extent that their charters or operations are consistent with this Constitution and laws hereunder.

Delegate Tmetuchl: In view of the concern expressed by the Chairman of the Committee on Style and Arrangement, your Committee on General Provisions has come up with an amendment to the Proposal. I believe all the Delegates have copies of the amendment. I move for the adoption of that amendment.

Floor Leader Tmetuchl seconded the motion.

The Chair requested the Assistant Convention Secretary to read the amendment, and he so complied.

There being no discussion, the motion carried to accept the amendment offered by the Chairman of the Committee on General Provisions to Committee Proposal No. 17.

President Nakayama: Is there any further discussion on the Proposal, as amended? Are you ready for the question? We will now vote. In order to pass this on Final Reading, it will require a minimum of 30 affirmative votes. We will now vote by roll call.

Following roll call vote, the Assistant Convention Secretary reported that Committee Proposal No. 17, CD1, had been adopted by the Convention. There were 39 affirmative votes.

Committee Proposal No. 17, CD1

A Proposal relating to existing District and Municipal Governments.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

GENERAL PROVISIONS

SECTION _____. Local Government. A local government and its agencies may continue to exist and to function even though its charter or powers are inconsistent with this Constitution. To promote an orderly transition to the provisions of this Constitution, and until State Governments are established, the Legislature (Congress) shall provide for the resolution of inconsistencies between local government charters and powers, and this Constitution. This provision shall cease to be effective five years after the effective date of this Constitution.

Delegate Williander: Thank you, Mr. President. I move for the passage on Second and Final Reading of Committee Proposal No. 20 (CWD1, SD1).

Floor Leader Tmetuchl seconded the motion.

The Chair requested the Assistant Convention Secretary to read Committee Proposal No. 20 (CWD1, SD1), who so complied with the request.

Delegate Ngiraked: Mr. President, I am concerned with one phrase included in this Proposal. The phrase says that within five years after the effective date (of the Constitution) the lease shall be renegotiated. Is this a mandatory clause that we are putting in there? Do we intend to force people to renegotiate even if they don't want to?

Delegate Williander: Mr. President, this particular Proposal is a way of dealing with indefinite term leases which the Trust Territory Government concluded with some of the Micronesians. I believe it was felt by the Committee on General Provisions that in Micronesia there should be no lease with an indefinite term, and it was also felt that those leases with indefinite terms should be renegotiated. So, in a way, it is some kind of a command, either to the government and to the people, both.

Delegate Ngiraked: If that is the intent of the Committee, I think it is enough to declare all indefinite leases void, but to say that any agreement shall be concluded, I do not see how that Committee can include this device in the Proposal. I think I need to talk to the Chairman of the Committee concerned. I move for a short recess.

Delegate Falanruw seconded, and the motion carried. The Convention recessed, subject to the call of the Chair, at 1:30 p.m.

RECESS

The Convention was called to order at 1:45 p.m.

Delegate Ngiraked: I think what we want to do is make a policy decision here to regulate future transactions. I do not think that we intend to pass this provision with a retroactive effect on legal obligations and laws that already exist. We have already passed somewhere in the Constitution a provision that upholds the legal obligations—the effect of law—in existence at this time, but in this provision we are going back to try to regulate people's rights and obligations. I do not understand that retroactive effect having already adopted a provision that upholds and protects people's rights as they exist today under law.

Delegate Nimwes: Although the points raised by Delegate Ngiraked are quite true, the Proposal here was originated by people who are affected by such agreements. It is for that reason that the Delegates who represent those people requested this Convention through this Proposal to provide some remedy of the prevailing problems in those districts.

Delegate Sony: I would like to raise a point of information. I notice here that the Proposal prohibits an indefinite term. What about a 1,999-year term? Is that prohibited?

Delegate Toribiong: The response to Delegate Sony's question is that that's a definite term and, therefore, it is not prohibited.

Delegate Sony: My second point of inquiry has to do with the five-year time limit. What will happen if no agreement is reached within that period?

Delegate Ngiraked: That's exactly my concern, Mr. President. Under the present language of this Proposal, somebody will have violated the Constitution. This is an unreasonable limitation on the freedom of enterprise.

Delegate Williander: I would answer that question raised by Delegate Sony by saying that when the five-year period has arrived and there is no agreement reached between the two parties, the aggrieved party will then take the case to court, I would imagine and I would think so.

Delegate Ngiraked: Point of information. I would like to ask the question, who would be the aggrieved party? It depends on who sues—the viewpoint that you take. A lease agreement is concluded between two people. When you talk about an aggrieved party, who are you talking about?

Delegate Williander: In this case I think that the aggrieved party would be the party which has the unfavorable part of the existing agreement. That would be the aggrieved party.

President Nakayama: Is there any further discussion? Delegate Williander?

Delegate Williander: Thank you, Mr. President. It has been brought to my attention that on the second line the words "lease agreement", especially the word "lease", would be legally inconsistent with the words "indefinite term". The words "use agreement" would be consistent with the words "indefinite term". Therefore, Mr. President with the indulgence of the

Delegates, I move to suspend Rule 62a on amendments because I am going to offer an amendment.

Floor Leader Tman seconded, and the motion carried to suspend Rule 62a.

Delegate Williander: Mr. President, I move to amend Committee Proposal No. 20 (CWD1, SD1) by deleting the word "lease" on line 2 and inserting the word "use" in its stead.

Delegate Albert seconded, and the motion carried to accept the oral amendment to Committee Proposal No. 20, as amended.

Delegate Nimwes: I move for the previous question.

Delegate Tun seconded the motion.

President Nakayama: How many seconders? The rule says that you need at least ten seconds to the motion.

There followed a number of seconds, and the motion carried to close debate.

President Nakayama: We will now vote. It will take 30 affirmative votes to pass the proposal.

Following roll call vote, the Assistant Convention Secretary reported that Committee Proposal No. 20 (CWD1, SD1, CD1) had been adopted by the Convention on Second and Final Reading. There were 39 affirmative votes.

Committee Proposal No. 20, CWD1, SD1, CD1

A Proposal relating to the renegotiation of certain land leases.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Renegotiation of Leases. A land use agreement for an indefinite term is prohibited. An existing agreement becomes void 5 years after the effective date of this Constitution. Within that time, a new agreement shall be concluded between the parties. When the Government is a party, it shall initiate negotiations.

SECTION _____. Land Leased to the United States. The national Government of the Federated States of Micronesia shall seek renegotiation for any land leased to the Government of the United States of America.

Delegate Ngiraked: I rise to a point of information. Maybe it is not proper at this time, Mr. President, but I would like to go back to the action we have just taken. I want to know if there is any military agreement existing in Micronesia or a Trust Territory Government agreement existing in Micronesia that would be affected by the measure we have just passed.

President Nakayama: Could we go back to that question under Miscellaneous and Unfinished Business so we can dispose of the action under the Order of Business?

Delegate Williander: I move for the passage on Second and Final Reading of Committee Proposal No. 22 (SD1).

Floor Leader Tman seconded the motion.

The Chair requested the Assistant Convention Secretary to read Committee Proposal No. 22 (SDI), as follows

Committee Proposal No. 22 (SDI)

A Proposal relating to judicial guidance.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

SECTION _____. Judicial Guidance. Decisions of Micronesian Courts shall be consistent with this Constitution, Micronesian customs and traditions, and the social and geographical configuration of Micronesia. Decisions of the Trust Territory Courts, and the common law of other nations, are not binding precedents.

Delegate Toribiong: I wish at this time to offer an amendment to this Proposal. I believe the copy of my amendment was distributed to all the Delegates yesterday. It is labeled Amendment No. 1 and the practical effect of that amendment would be to delete the last sentence of the Proposal so that the Committee Proposal shall read without the provision concerning the Trust Territory Court decisions and common law of other nations. Mr. President, I believe that the effect of the last sentence may be adverse to our very interest. We cannot separate our experiences as they pertain to the application of rules of law from our total social experience for the last thirty years. I believe there are numerous decisions in the Trust Territory Courts which establish legal principles and doctrines which are not codified anywhere in the Trust Territory Code which cannot, for all practical purposes, be codified in the future by our legislature. It also appears to me that if you prohibit the courts from looking at the experiences of other nations, we are actually limiting the scope of their search for principles of justice and law. I believe judges are just as human as any of us and they need to be guided by some principles which have been tested through the experiences of other nations and time. Furthermore, I believe it is not necessary to state that the courts shall not be bound by the decisions of the previous Trust Territory Courts. The assumption is, we begin with a new page on the basis of the Constitution, so we need not say that. That's assumed. Furthermore, if you say that they are not binding it doesn't mean that the courts shall not look at those decisions. Again you reach the same conclusion by saying that they are not binding but they are persuasive. I believe also that if you eliminate the system of common law as practiced by other nations, especially the United States, you are limiting the courts, not only not to review the decisions but not to follow the approach of looking for laws whenever they are not incorporated by our legislation. Therefore, Mr. President, I move that Committee Proposal No. 22 (SDI) be amended by my amendment.

Delegate John Heine seconded the motion.

The Chair requested that the Assistant Convention Secretary read Amendment No. 1 to Committee Proposal No. 22 (SDI), and he complied with the request.

Delegate Falcam: I should like to see whether the Committee on General Provisions could give us the benefit of their thinking regarding such an amendment--the intent of the Committee--to the Proposal without the last sentence. Thank you.

Delegate Fritz: Before General Provisions explains or answers the question raised by Delegate Falcam, I also request that same Committee to explain a little bit more about the purpose of the Proposal so that we will understand before we vote on it.

President Nakayama: Does anyone from the Committee wish to respond to the inquiries? Any further discussion? Delegate Falcam.

Delegate Paleam: Thank you, Mr. President. This is a substantial amendment deleting the whole sentence and I am not against it. I just want to make sure that it doesn't change the intent of the Proposal as originally submitted and the Committee's intent as they discussed the Proposal. Perhaps it might help clarify the Delegates on how to vote on this measure. Thank you.

President Nakayama: Perhaps we can ask the sponsor of the amendment to explain how his amendment might affect the substance of the Committee Proposal. Delegate Toribiong?

Delegate Toribiong: Thank you, Mr. President. This is my own personal opinion. It seems to me that after we have adopted the proposal on the supremacy of the Constitution that necessarily mandates the courts of the future Micronesia to apply all rules of law and to reach all decisions in accordance with the spirit, intent and the letter of the Constitution. Furthermore, after we establish a new government, the new courts are not going to be bound as a practical consequence of having adopted the new Constitution by the previous decisions of courts. We need not say that. To say it means that we are overly concerned about something we should not be concerned about. I think the judges should have the privilege to look at anything they can to derive the most appropriate decision on the basis of the mistakes or the wise decisions of the previous courts, or any courts for that matter. I believe the mandate that the future courts of Micronesia shall arrive at their decisions, in light of the Micronesian customs, traditions, social and geographical configuration of Micronesia, is sufficient a mandate to set the course for our future courts. We did not say that after having established the positive trend, we need not worry about things which fall outside of that course.

Delegate Nimwes: In response to the queries made by Delegate Paleam and Delegate Fritz, in Committee Report No. 39, in the third paragraph, they may read the intent of the Committee for putting such a statement into the Proposal.

Delegate Ngiraked: Mr. President, there are basically three systems of law—or bases of law—which we call the Family of Jurisprudence. One is common law—what is known as common law—one is called the civil law, and one is called the canon law. I think we have limited our scope in dealing with the situation by singling out common law here, and I do not know whether or not that was the intent of the Committee to leave consideration of civil and canon law, which prevail in other jurisdictions, outside of the Anglo-American system. So, I think if the Convention adopts the proposed amendment by Delegate Toribiong, we will leave it open for the judges to look at any group of laws in arriving at their decision. I think it is a better disposal of the problem.

Delegate Willinder: I think the last sentence in Committee Proposal No. 22 only states that decisions of the Trust Territory Courts and common law may be utilized as guidance, but shall not be binding. The common law, I would think, means the body of law built up by judgments and decrees of courts which recognize common usage and customs. I wish to point out that in the past the Trust Territory Courts have copied to a great extent English common law which I sometimes think is not relevant here in Micronesia. So, therefore, Mr. President, I think that this last sentence, carrying that future Micronesian courts are not bound to follow previous Trust Territory Court decisions, as well as their reference to common law of other nations, should not be deleted.

Delegate Yoma: I support the amendment made by Delegate Toribiong. This was discussed in the Committee, and I think those members of the Committee from which this Proposal originated also agree with the suggested amendment by Johnson Toribiong. So, I think we should go ahead and vote. Thank you.

Delegate Wainit: I would like to offer an observation here regarding Committee Proposal No. 22. To me the second sentence beginning on line 5 to line 6 is a contradiction to the intent of the Proposal because here we are trying to take into consideration the decisions of our courts in the future based on tradition, and the social and geographical configuration of Micronesia, and yet we don't want to take the present decisions of the courts which may be based on these very principles today. That will prevent the court to take this very good and essential basis for decisions of the court in the future. Thank you.

Delegate Toribiong: I wish to address myself to the point raised by Delegate Williander. The last sentence, to me, is a product of unnecessary fear--that the courts are going to be bound by the previous decisions of the courts. Nothing in the Constitution provides for that nor implies that. You are talking about something that is dead by virtue of having adopted the supremacy of this Constitution. It only shows our sense of insecurity.

Delegate Carl Heine: I simply want to state for the record that I support the amendment offered by Johnson Toribiong.

There being no further discussion, the motion carried to adopt the amendment offered by Delegate Toribiong to Committee Proposal No. 22 (SD1).

President Nakayama: Is there any further discussion on the Committee Proposal as amended? We will now vote. It will take 30 yes votes to pass the proposal.

Following roll call vote, the Assistant Convention Secretary reported that Committee Proposal No. 22 (SD1, CD1) had been adopted by the Convention on Second and Final Reading. There were 38 affirmative votes and one abstention.

Committee Proposal No. 22, SD1, CD1

A Proposal relating to judicial guidance.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Judicial Guidance. Decisions of Micronesian Courts shall be consistent with this Constitution, Micronesian customs and traditions, and the social and geographical configuration of Micronesia.

Delegate Williander: I move for the passage on Second and Final Reading of Committee Proposal No. 23 (CWD1, CWD2, SD1).

Floor Leader Tman seconded the motion.

The Chair requested that the Assistant Convention Secretary read Committee Proposal No. 23 (CWD1, CWD2, SD1), who so complied with the request.

President Nakayama: Is there any discussion? Are you ready for the question? We will now vote. It will take 30 affirmative votes to pass the proposal.

Following roll call vote, the Assistant Convention Secretary reported that Committee Proposal No. 23 (CWD1, CWD2, SD1) had been adopted by the Convention on Second and Final Reading. There were 39 affirmative votes.

Committee Proposal No. 23, CWD1, CWD2, SD1

A Proposal relating to transfer of property.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Transfer of Property. An interest in property held by the Government of the Trust Territory of the Pacific Islands is transferred to the National Government of the Federated States of Micronesia for retention or distribution in accordance with this Constitution.

SECOND READING CALENDAR - REFERRALS

Committee Proposal No. 29, entitled "A Proposal relating to the effective date of the Constitution.", was referred to the Committee on Style and Arrangement.

Committee Proposal No. 24, entitled "A Proposal relating to a structure for the government of the Federated States of Micronesia." was deferred until October 27, 1975.

Committee Proposal No. 25, entitled "A Proposal relating to the capital of Micronesia and jurisdiction and control over property of the national government.", was deferred until November 8, 1975.

Committee Proposal No. 27, entitled "A Proposal relating to secession and admission of new States.", was deferred until October 31, 1975.

INTRODUCTION OF DELEGATE PROPOSALS

None

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Falanruw.

Delegate Falanruw: Thank you, Mr. President. I would like to request the leave of the Convention to introduce four guests and observers to this Convention who are from my home state--known as the state with rare currency. Mr. Simeon Gildefan, Mr. Henry Falan, Mr. Stan Filmed and Mr. Mathias Kuor. They are our constituents. (Applause)

Delegate Apis: We have been talking very much about our customs and traditions. If we are sincere about all of what we have said here, I wish to request the indulgence of this Convention to so recognize, with all due respect, the presence of one of us who is a Namwarki, who is no other than the Honorable Delegate Namwarki Apinel Mateak. If I may, I wish to request the indulgence of the Convention again to have the Convention Secretary reflect this request on his nameplate. Thank you very much, Mr. President. (Applause)

Delegate Wiliander: I am very happy, and I would like to ask the Convention to recognize our good and long-time friend Delegate Borja from the Marianas who is with us today. (Applause)

Delegate Fulcam: This is not Miscellaneous Business, but this is Unfinished Business. Having conditioned all Delegates, both physically and mentally, I would like to remind all Delegates of the reception tonight here at the White Sands. I am sure everybody is hungry and thirsty at 2:25 p.m. It is only a couple of hours away. Be patient. Eat later. Thank you.

Delegate Tacheliol: Thank you, Mr. President. I believe that my good colleague from Palau, Delegate John Ngiraked, would like to say something at this time concerning one of the proposals.

Delegate Ngiraked: Thank you for the very fine consideration. I intend to invite our attention back to Committee Proposal No. 20. It has to do with indefinite land use agreements. This will undoubtedly have an adverse effect on the United States or Trust Territory land use with United States or Trust Territory interests involved in some of the land use agreements. We have unilaterally acted to the detriment of our good, mutual relations, perhaps without intending to do so. I think our friends up at Saipan Capitol Hill, as well as those in Washington, D.C., have a lot to say about the action we have just taken. In the interest of being specific, let me put it more bluntly. Mr. President, our action on the Committee Proposal is a mistake--a mistake, the consequence of which we do not want to face. I think we should have consulted our friends whose interests are also involved.

The Chair recognized Delegate Wiliander.

Delegate Wiliander: Thank you, Mr. President. I decided not to speak. I yield the floor.

Delegate Philippo: Thank you, Mr. President. I would like to say a few words if I may. I would like to request this Convention, regarding the long discussion on Committee Proposal No. 14, Section 4, "Prohibition on Discrimination", to let me offer my personal concern over the absence of our traditional chiefs in this Convention. The great concern I have in this respect is that, if I may, Mr. President, I would like to see the faces again of our traditional chiefs in this Convention. Because of differences in personal opinion, the absence of our traditional chiefs has resulted. In order to iron out these differences and to protect the genuine interest of this Convention, Mr. President, I would like to see that this happening not be released to the newspaper or any news media from this Convention. May I ask that this be silent. Thank you, Mr. President.

ANNOUNCEMENTS

Delegate Olter: Mr. President, I would like to request the members of your Committee on Public Finance and Taxation to have a short meeting on Monday at nine o'clock in Room No. 3.

Delegate Wiliander: I wish to announce to members of your Committee on Style and Arrangement that there will be a meeting on October 27--that is Monday--at 9:30 a.m. in this chamber. Thank you.

Delegate Ngiraked: Mr. President, I just wish to pass on this announcement to the fellow Delegates that some of our friends outside of the Con Con and some in Washington have already expressed their concern over the way we decided on the effective date of our Constitution. It is rather imposing. That is the view they are taking.

Delegate Wiliander: Point of information, Mr. President. Who are our "friends" that my good Delegate John Ngiraked is referring to in Washington?

Delegate Ngiraked: I think it was part of the privilege of obtaining this information that I would not disclose their names.

Delegate Ismael: Thank you, Mr. President. Your Committee on Governmental Functions will not meet until 9:00 a.m., Monday morning, in conference committee with the Committee on Governmental Structure relating to Governmental Functions' Committee Proposal No. 30. Further announcements of meetings will be made on Monday.

Delegate Tachelol: Thank you, Mr. President. I would like to announce that the Committee on Governmental Structure's schedule for the meeting will be announced on Monday.

Floor Leader Tmun: At the request of the Chairman of the Committee on Governmental Functions, which Committee needs time on Monday morning to go into conference with the Structure Committee, I move that the Convention recess until 11:00 a.m., Monday morning.

Delegate Tun seconded and the motion carried. The Convention recessed at 2:40 p.m.

Respectfully submitted,

Asterio R. Takesy
Assistant Convention Secretary

SEVENTY-NINTH DAY

Monday, October 27, 1975

The Micronesian Constitutional Convention was called to order at 11:20 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

The Convention Secretary called the roll. There were 45 Delegates present. Delegates Andrike, Borja, Haruo, Heinrich Iriarte, Kendall, Kijiner, Lukkun, Nifon, Olikong, Rasa and Sound were excused. A quorum was present. Iroij Lanki and Iroij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tmau moved that the Journal of the 78th Day be adopted. Delegate Tun seconded the motion.

The Chair recognized Delegate Toribiong.

Delegate Toribiong: Thank you, Mr. President. I just wish to make technical corrections to a statement I made on page 419. In the second paragraph under my name on line 9, the first word should read: "application", not "obligation". Then on the tenth line from the bottom, the third to the last word should read: "need", not "did". On page 420, paragraph three, in the second to the last line after the comma, it should read: "we need not...". On the line above that, the word "that" should be inserted between the words "say" and "after". That's all, Mr. President. Thank you.

There being no further technical corrections, the motion carried. The Journal of the 78th Day was adopted by the Convention.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 24, "A Proposal relating to a structure for the government of the Federated States of Micronesia."

Committee Proposal No. 30, "A Proposal relating to the Judiciary."

Delegate Wainit: Point of privilege, Mr. President.

President Nakayama: Please state your point of privilege, Delegate Wainit.

Delegate Wainit: Thank you, Mr. President. With the indulgence of the Convention and before the Convention resolves itself into the Committee of the Whole, please allow me to say a few remarks regarding Amendment No. 6 which will be introduced in the Committee of the Whole.

I am sure we all read Amendment No. 6 and will agree that the essential difference between Amendment No. 6 and Amendment No. 1, which was defeated the other day, lies in Section 3 of Amendment No. 6, labeled "Rotation of Office". This is not to be found anywhere in Amendment No. 1. This section provides for a guarantee to each state in our future government, whether big or small, equal opportunities to hold the Presidency and Vice Presidency at some different times in the future. While Amendment No. 6 retains essentially all the features and important sections of Amendment No. 1, let me say that other important features and concepts in other proposals have been incorporated in this amendment. These important proposals are (Delegate) Proposals No. 120, No. 100, No. 29 and Committee Proposal No. 24. This makes

Amendment No. 6 the final product of reconciliation of the many important thoughts and ideas in the several important proposals introduced in this Convention. In some respect, we can say that Amendment No. 6 is really the ultimate result of our persistent search for a workable solution that can reconcile our many differences and accommodate the different stands or positions advanced by a number of Delegates in this Convention.

Although no one particular proposal can be that perfect in satisfying our many different human desires and aspirations, the proposal advanced in this amendment has logically been argued that it will not only be economical, conducive to a sense of national unity in Micronesia, but also, more important, will guarantee to each state, whether big or small, an equal chance for equal participation in our future government.

My good fellow Delegates, I ask that you vote favorably on this amendment. Thank you.

Floor Leader Tman: Mr. President, at the request of certain Delegates, especially the Chairman of the Functions Committee and the Vice Chairman of the Structure Committee, we are not resolving into the Committee of the Whole. We will have a debate on these two Proposals in the Plenary with the understanding that, after a short debate, they be deferred so that the two committees can continue their work in reconciling their differences.

Delegate Tacheliol: Thank you, Mr. President. I move for the adoption of Committee Proposal No. 24.

Floor Leader Tman seconded the motion.

Delegate Wainit: Before I make a motion for the adoption of Amendment No. 6, I would like to bring to the attention of the Convention one typographical error in Amendment No. 6 which needs to be corrected. If you have a copy of the amendment, on the last page, under Amendment B, where it says "renumber Section 16 to be Section 8", the section should be "Section 9", not "Section 8". Furthermore, inasmuch as one part of the amendment was unintentionally omitted, I would hereby move that Rule 62a be suspended in order to accommodate that part of the amendment.

Delegate Tacheliol seconded, and the motion carried to suspend Rule 62a.

Delegate Mwety: Point of privilege, Mr. President.

Obviously the Executive Structure, as advanced in Committee Proposal No. 24, is troublesome to this Convention, as we can see from the numerous amendments to the proposal. The basic problem, as I see it, is the principle of a plural executive versus the principle of a single executive. We have already defeated the idea of a single executive in Amendment No. 1 to Committee Proposal No. 24, only to come up with Amendments No. 5 and No. 6. Although we have some new goodies involved in the amendments, the principal difference between Committee Proposal No. 24 and Amendments No. 5 and No. 6 remains in the idea of a plural executive versus a single executive. Is the idea of a single executive still germane as an amendment to the idea of a plural executive after such was defeated in Amendment No. 1? Where do we end this hassle?

Mr. President, in view of all these, I believe we should leave the Executive Structure and proceed to the Legislative Structure. Therefore, I move that we proceed to consider the Legislative Structure first.

Delegate Eperiam seconded the motion.

President Nakayama: There is a motion on the floor that is to amend, and the Rule was properly suspended to accommodate the proposed amendment. I would rule that we dispose of that particular question first before we proceed to entertain any other motion.

Delegate Wainit: The new part of the amendment shall be labeled "Amendment C". Amendment C should read: "On page 6, lines 9 and 10, delete the words 'subject to the concurrence of two-thirds of the Council of Ministers, and'". I now move for its adoption.

Delegate Carl Heine seconded, and the motion carried to adopt Amendment C to proposed Amendment No. 6 of Committee Proposal No. 24.

Delegate Mwety: Mr. President, if it is now proper, I move that we consider the Legislative Structure first.

Delegate Eperiam seconded the motion.

Floor Leader Tmau: I move for a short recess.

The Chair declared the Convention in recess, subject to the call of the Chair, at 11:40 a.m.

RECESS

The Convention was called to order at 11:50 a.m.

President Nakayama: Is there any further discussion? I believe there was a motion to consider a certain portion of the proposal before taking up the entire measure. Was that in order? Delegate Tmau.

Floor Leader Tmau: The immediate question now on the floor is the adoption of Amendment No. 6, as amended. In order to accommodate the wishes of other Delegates, as suggested by Delegate Mwety and others, I move that consideration on the article of the Executive Branch, along with the proposed amendment, be deferred until later on today, in effect, after the consideration of Committee Proposal No. 30.

Delegate Ngiraked seconded the motion.

Delegate Falcam: Thank you, Mr. President. I did not hear the first part of the Floor Leader's explanation. Could we please hear that again?

Floor Leader Tmau: I said that in order to accommodate the wishes of a number of Delegates that consideration on the Executive Branch article, along with proposed Amendment No. 6, as amended, be deferred until after the discussion on Committee Proposal No. 30.

Delegate Ngiraked: Point of information. Mr. President, what happened to Amendment No. 5 to this proposal?

Floor Leader Tmau: I believe all the amendments and Committee Proposal No. 24 were deferred until today's calendar. Technically, all the other amendments are still floating with Committee Proposal No. 24.

Delegate Ngiraked: Will the action to defer also postpone, along with the main motion, Amendment No. 5 so that we are deferring action on the main proposal and Amendments No. 5 and No. 6. Is that correct?

Floor Leader Tmau: I did not quite get the question.

President Nakayama: The question was whether the appropriate portion of Amendment No. 5 would be deferred along with what you stated in the motion.

Floor Leader Tmau: I withdraw my original motion and make the following motion. I move that the article on the Executive Branch of Committee Proposal No. 24, along with proposed Amendment No. 6, as amended, and all other amendments relating to that article be deferred until after the discussion on Committee Proposal No. 30.

Delegate Tun seconded and the motion carried to defer action on the Executive Branch of Committee Proposal No. 29, and all amendments relating thereto, until after discussion on Committee Proposal No. 30.

Floor Leader Tmau: I move that the article on the legislative Branch be adopted.

Delegate Tun seconded the motion.

Delegate Ngiraked: Could the Secretary kindly read the article?

The Chair requested the Convention Secretary to read the article, as follows:

ARTICLE _____. CONGRESS OF MICRONESIA

SECTION 1. Legislative Power. The legislative power of Micronesia shall be vested in a Senate and a House of Representatives which shall be designated "The Congress of Micronesia."

Delegate Ngiraked: Point of information. Are we going to follow the method of consideration section by section?

President Nakayama: What is the wish of the Convention? For convenience sake, let us follow section by section, unless objected to. We will follow section by section. Is there any discussion on Section 1?

Delegate Tmetuchl: If we follow section by section, I would like to move for the adoption of Section 1, Congress of Micronesia, of Committee Proposal No. 29.

Floor Leader Tmau seconded the motion.

Delegate Toribiong: Perhaps at the end of our consideration of the full article we should then make a final adoption because I see problems arising if you adopt on a section-by-section basis.

Delegate Sony: I just want to raise a point of information regarding the name "Congress of Micronesia" as to whether it is consistent with the name "Federated States of Micronesia".

Delegate Faiom: As indicated by the Committee Report, all names and designations will be handled by the Style Committee at the end of the discussions and considerations to conform with the name that was adopted by the Convention.

Delegate Ngiraked: I just want to go on record to say that this concept of a bicameral legislature, if adopted, at this point will have the effect of rejecting the unicameral concept offered in (Delegate) Proposal No. 100. I support a unicameral legislature based on the reasons that I would like to reserve until a later time as we proceed to the structure of our legislature.

Delegate Williander: Mr. President, I wish to offer some of my observations. I think we should think about the realistic situation in Micronesia today in relation to the structure of our legislative branch of government. I, for one, maintain that we should have a small legislative body, a body which would be workable which our present and foreseeable future financial situation would be able to afford. Mr. President, I do not think that our future government will be able to finance a bicameral legislature. Take the Congress of Micronesia, for example. I do not have with me today information on the financial operation of the Congress of Micronesia, which has two houses, but I have requested that data in order to speak on that authoritatively. I, for one, do not think that a legislature of two bodies would be financially foreseeable for Micronesia, and I don't think it would work. I think we should think about a unicameral legislature, which would be small and which our future government would be able to finance. Thank you, Mr. President.

Delegate Salii: Mr. President, I object to this two-house legislature being proposed here. First, if we are to think of a bicameral legislature for Micronesia, I think it would be more realistic to the situation in Micronesia to consider a legislature composed of a House of Representatives representing the common people of Micronesia through the process of election and a House of Chiefs representing the two types of leadership now in Micronesia. I think this concept of a two-house legislature based on representation is totally alien to anything Micronesian. If you look at the two-house legislature from the point of view of the larger districts, it does not help the situation because whatever passes in the chamber that is based on representation will have the same effect when it goes to the other house, which is based on equal representation. What you do here is simply add to the legislature--add to the expense as to the number of delegates--without really protecting the idea of representation based on population. You kill that idea when you move to the Senate where representation is based on an equal number of Senators. Delegate Wiliander has pointed out a very severe, serious problem that this proposed legislature will face in the future. I think, based on the composition of this legislature alone, you run the danger of making it impossible to really operate a new government under this situation. From the point of view of the larger districts I think that their interest is still maintained if we have a single-house legislature. I don't think that the question of large vs. small districts is at play in this kind of situation. Thank you.

Delegate Tmetuchl: Mr. President, I am kind of confused. If we are to adopt this article section by section, we may be saying to ourselves that we will be adopting the two houses and not a single house. I don't know whether this is the position that would be arrived at in this Convention, Mr. President. I am also concerned about the fact that there doesn't seem to be a consensus on whether or not there should be a unicameral or bicameral legislature. If this is so, then we are wasting time deliberating on a section by section basis when we don't know whether we want unicameral or bicameral. Thank you.

Delegate Weital: We are discussing an important matter for the future government of Micronesia. At the same time, many of us are thinking about the financial situation which could or probably could not handle the operation of the legislative branch. Some of us are worried in that perhaps the future government will not be able to handle a big body of legislative branch. At the same time, Mr. President, I do believe that everyone here under the democratic system understands that people must be represented in the legislative branch. We send representatives to the legislative branch representing the people of the district, or, in our present term, state. If we think that the present Congress of Micronesia is big and that it will make the future government difficult--in other words, for the future government to handle--I still maintain that we should have two houses. Perhaps we can reduce the number of representatives or, shall I say, perhaps the representatives can be representing 6,000 people instead of the present system. What is the ratio today--1 to 4,000 or 1 to 2,000? My idea is to maintain two houses and have one represent more than he represents today in our Congress of Micronesia. That will reduce the number of representatives so makes the legislative branch a smaller body if we are concerned about the financial situation. I do not see how the future government would have a smaller body of legislative branch with each state sending equal representatives to the legislative branch. Are we sending these people representing the people of each state? That's the big question I have in mind, Mr. President, and I request that we think about this carefully before we decide what should be the legislative branch for the future government of Micronesia. Thank you, Mr. President.

Floor Leader Pmau: Some question has come up as to the operating expense of the Congress. If I recall correctly, it is roughly $1.5 million. That includes both houses, Social Security and the Revenue Division.

Delegate Nakamura: I am not trying to criticize this Committee on Structure. I think they did a very nice job; however, to me, the Committee failed to bring out the pros and cons as to why they selected the bicameral legislative body. So, if I could request I would like the Chairman of the Committee to give us some reasons why they chose a bicameral body. Thank you.

Delegate Tacheliol: I am just the Vice Chairman of that Committee. The Chairman of that Committee is not here at this time, but I would like to say that the report attached to this can explain better than I why we arrived at this. If that report is read I think it explains why we came to bicameral. However, we also have a section here where we recognize the unicameral and it is in this proposal. If it is going to be bicameral or unicameral, the other provisions will be covered.

Delegate Sony: Mr. President, I just want to express my concern here in regards to the legislative branch. I have no objection to having a unicameral legislature; however, having unicameral with equal representation from each district is contrary to the idea that a minority group should have equal power in the national legislature and that it will deprive a minority group in each district of their opportunity to elect a local boy to represent them in the national legislature, as they have been doing at the present time. I think that it is very clear that what is desired here is equal power. This can be accommodated by having an equal number of representatives from each district but that such number should be such that it would accommodate the minority area in each district in the national legislature. If that can be done, then I will buy the unicameral suggestion.

Delegate Toribiong: I just wish to say a few words concerning the reasons why I support the unicameral legislature. It would seem to me that in light of the proposal from the Functions Committee, which sets forth the functions of the future government of Micronesia, it appears that that government shall deal only in the area of foreign affairs, national defense, and in the areas of interstate commerce and such things as postal service and communications, leaving the subject matters of programs and projects in each state to the state governments. So, basically, we are not dealing with individual problems or local projects. The concern of the future Congress of Micronesia would be confined to the area of international relations and interstate commerce, trade, communications and transportation. It would seem to me to be logical to establish a new legislature that is inexpensive to operate that shall have representatives who are not primarily concerned about local interests--interests of special groups or special regions--but people who are concerned about the promotion of economic development throughout Micronesia in the area of interdistrict and foreign commerce areas, in the areas of promoting our economic and political ties with other nations. So, it would seem to me to be very logical to establish an inexpensive legislature which does not have an inclination to promote special regional or provincial interests but which shall be more concerned about what I call national interest--interest which affects two or more districts which affect Micronesia and other nations. The way we have set forth the functions of the future government of Micronesia would limit it to these areas. It won't be engaged, like it is now, with specific local projects and programs. These are some of the reasons why I support a smaller unicameral body. There may be other reasons which I reserve the right to express some time in the future.

Delegate Willander: I would just like to throw in pertinent facts in Micronesia today. All of the district legislatures are unicameral bodies--the Marshalls, Ponape, Truk, the Marianas, Palau and Yap. Why are we trying to sell this concept of two houses? Is it just because of the Congress of Micronesia? The unicameral body of the district legislatures operates very well. Pardon me, Mr. President, but I think we have seen the way the Congress of Micronesia is operating. I am not criticizing the Congress of Micronesia but I think we should consider the difficulty of passing bills from one house to the second house. There is a lot of work, a lot of papers. Let's have a simple and operable legislature. I would reserve the right to speak again, Mr. President, on this matter.

Delegate Ismael: Mr. President, accompanying this proposal, commencing on page 36 to page 45, it is quite silent on three major, important issues. It does not say whether the formula proposed here is based on equal partnership of the districts in different stages of Micronesia, or whether it was derived from the fact that the formula was derived from the number of representatives, the number of voters, or the number of people represented by one single representative, or whether this formula was arrived at from both delegated functions at the national level that the legislature will deal with. Unless it is between the lines, these important issues--pros and cons--are not apparent in this report. I do not know whether members of this committee would be able to enlighten this Convention, but unless it is so, we will be debating this issue for quite a long time, Mr. President. Thank you.

Delegate Sony: I just want to express my disagreement with the statements made by my good colleagues from Palau and from Truk. They said that our future legislators should think in terms of the national interest. My question is, why are we trying to establish a Chamber of Ministers? What is the rationale behind putting six Ministers into the national level? Is that the thinking--that our future legislators will be thinking in terms of the national and not the provincial or the district interests?

Delegate Weital: I wish to point out here that while I agree with the statement made by Delegate Williander regarding the legislatures in the Trust Territory today, it is true that all of the districts have unicameral legislative bodies, but then we must remember that the representatives to these legislatures are also representing the people. I guess what I am trying to say is that each municipality sends a representative or legislator and the number of legislators from each municipality depends on the population, so I don't see the differences between the idea of unicameral in that sense and the bicameral legislative body for the future government of Micronesia.

Delegate Apis: Thank you, Mr. President. I just wish to share some comments on this. I always feel that we should, as much as possible, consider the financial problem. I have some reservation on the two houses and would like to say that if the idea of unicameral is based on population I would support it very much. Thank you.

Floor Leader Tman: The fingers of our Journal Clerks get tired faster and easier than our mouths. I move for a short recess.

Delegate Tun seconded the motion. The President declared the Convention in recess, subject to the call of the Chair, at 12:20 p.m.

RECESS

The Convention was called to order at 12:40 p.m.

The Chair recognized Delegate Carl Heine.

Delegate Heine: Thank you, Mr. President. I would just like to make a few comments with respect to what we are discussing at this point. First, I would like to point out to those who forgot that there is a General Research Study, No. 6, in the black folder which is very helpful. It spells out the advantages and disadvantages of both systems--the unicameral and bicameral systems. Obviously the Committee on Structure favored a bicameral legislature and it has given this Convention very little choice in the matter. Mr. President, I also object to the way in which we are conducting our business here. If we follow the present course of going section by section, we will, in fact, finally come out approving the two-house legislature when we haven't really had a chance to take a closer look at the other alternative before this Convention. Personally, if we are going to adopt the two-house system, as presented in the report, I think it can be reasonably assumed that the Chamber of Chiefs, which is also proposed in the same report, will have no chance of

survival. We simply cannot have three houses at the legislative level. Also, I object to the fact that last week we approved Committee Report No. 21 from the Committee on Functions which relatively spelled out the role of the national government to be very small and kind of weak. At the same time, we are trying to act on a rather expensive and powerful legislature here when we don't know the structure of the executive branch, and the two are very related. I hope we can arrive at whatever we think is right. I would prefer, if we are going to have the two, a bicameral house, at our national government. I would approve of a House of Chiefs and a House of Representatives but, personally, I would vote for a unicameral system of legislature in the government of Micronesia. Thank you.

Delegate Falcam: Thank you, Mr. President. I would like to make some observations regarding some personal views on the subject. It seems to me that hearing different Delegates express their views we have a basic philosophical difference around this Convention Hall--differences that are basically opposing one another. When you relate the unicameral legislative branch with equal representation in that unicameral, we run into basic philosophical differences. Some of us feel that regardless of how many houses we have in the legislative branch, we must accommodate differences in population. Some advocate that we should have one house and have the same number of people in that house from all districts. These are basic philosophical differences which we need to face and accommodate. Some of us are trying to establish a branch of our future government based on what we can afford. I am realistic enough to believe that we should keep in mind what we can afford. I am realistic enough to believe that we should keep in mind the cost of our government. My ears bother me when they pick up money as the basic approach to our government, regarding which one we take and which one we don't take. To me it sounds like we will only buy an item which we can afford whether it works for us or it doesn't. I think we will be venturing into dangerous grounds if we adopt this basic approach. All of us are mindful of money; there is no question about it, but let us not put money before a structure of government that can best serve our people here in Micronesia. Mr. President, I am not troubled by how many houses we have; I am troubled about how we are going to have all our people best represented in that house or both houses as an advocate of a representative form of government, or democratic form of government. This is basic and for the record I would like the Delegates to think about these things and consider them as they examine the proposal. If you remember, Mr. President, I made a statement a few weeks back opposing the unicameral form of the legislative branch, and that opposition is primarily based on my belief that the voters must be fairly represented in their government to protect their interests and that is, I think, the reason why we are here. I would like to recall that statement to the Convention, if you will bear with me. I said, on the 35th Day of this Convention regarding Proposal No. 100, and I quote:

> "The Palau Delegation also calls for a unicameral legislature in which all districts would be equally represented, regardless of size. This is a position which I now find impossible to support. While maintaining the appearance of equality among districts, the proposal is inherently unfair to many individual voters. It is basically undemocratic. I cannot support a proposal whereby, if there were five representatives per district, Yap would have one representative for 1,500 people, Ponape one representative for each 3,000 persons, Truk, one representative for each 6,000 people. This simply is not equal representation by any democratic formula."

Mr. President, I would like to emphasize that we should look at the interest of the people we will be serving and not the number of houses that we must have. It can be one; it can be two, whichever serves the population the best. Thank you very much.

The Chair recognized Floor Leader Tman.

Floor Leader Tmun: I yield the floor to Delegate Mwety, Mr. President.

President Nakayama: He just yielded the floor to you.

Floor Leader Tmun: Thank you, Mr. President, and I also thank my good friend Delegate Mwety. The classic controversy over unicameral versus bicameral really stems from an equally important question--the question of equal representation in the legislature, or representation based on apportionment. It is true, Mr. President, that a unicameral legislature is more efficient and that a bicameral legislature is cumbersome in that legislative enactments must go through both houses. Bicameral legislature, however, insures some checks and balances within the legislature itself. Although it is true that this unicameral legislature is efficient, I think at times efficiency and expediency must give in to political realities. We are discussing whether to have a unicameral or bicameral legislature. The proposal before us suggests a bicameral. I think it would be better, Mr. President, if another proposal in the form of a proposed amendment, setting down the unicameral system, should be before us so we could look at both proposals and make a political decision. If I may, Mr. President, I recommend that consideration of this article on the legislative branch be deferred until tomorrow in order that someone may come up with a proposal for a unicameral system for consideration before this Convention.

Delegate Tmun seconded the motion.

Delegate Ngiraked: Thank you very much, Mr. President. I think there is already a proposal before this Convention and this kind of legislature can be found in Proposal No. 100, in pertinent parts. I have always reminded this Convention that the way that proposal is being treated, it is not going to see the daylight of comprehensive floor debate and, consequently, it will not have a chance for careful consideration as an alternative. So, in deferring this action, I think we can make it a definite assignment to go over by whatever Committee will have the responsibility to deliberate on this measure to bring Proposal No. 100, especially the pertinent parts, to the floor for comparison and consideration. Thank you, Mr. President.

Delegate Cabrera: I understand, Mr. President, that there is a motion on the floor. I venture to make an observation, but, before I do that, I just don't want to be overruled while making it.

President Nakayama: There is no motion on the floor.

Delegate Cabrera: There is no motion?

President Nakayama: There was no motion to defer action. There is a main motion on the floor and that is the adoption of the section.

Delegate Cabrera: Mr. President, Fellow Delegates, I do think there are two important factors in considering the legislative body of the national government that one must be faced with. First of all, I do think that most of us Delegates come to this Convention with a notion that the district identity be preserved, that quality is also preserved among the six districts. I venture to say that even our seating arrangement is based on that; we all sit on a district basis. I do think that we have an important thing that we are overlooking and that is that the national legislature will not be protecting the individual citizen's interest in any given state. The national legislature will be protecting the interests of each of the six states that we have. It does not extend all the way down to the grassroots people living in an outer island. It is protecting the interest of that state and for that reason, Mr. President, I do think that the most workable legislature that the national government can have is a unicameral one. Thank you.

Delegate Tacheliol: Thank you, Mr. President. I would like to move that we defer action on the article on legislative until October 29, which is Wednesday.

Floor Leader Tman seconded the motion.

Delegate Ngiraked: I would like to amend that motion, Mr. President, by saying that when this measure is up for reconsideration that the pertinent part of Proposal No. 100 also be considered.

Delegate Salii seconded the motion.

Floor Leader Tman: Mr. President, I would like to recommend that if it is the wish of Delegate Ngiraked to do so that he come up with the pertinent part of Proposal No. 100 as a proposed amendment to this article. That would be procedurally in order. We cannot take the whole Delegate Proposal No. 100 and put it on the floor unless we move to withdraw it from the Subcommittee on Administration. I would suggest that it come in the form of a proposed amendment to this article.

The motion carried to defer action on the article on legislative of Committee Proposal No. 24 until October 29, 1975.

President Nakayama: We will now consider the judicial branch of the future government of Micronesia. Delegate Tacheliol.

Delegate Tacheliol: Thank you, Mr. President. I would like to move for the adoption of the article on the judiciary of Committee Proposal No. 24.

Floor Leader Tman seconded the motion.

The Chair recognized Delegate Fritz.

Delegate Fritz: Mr. President, as you know, the Committee on Structure's report is a very troublesome matter before the Convention, not only on the executive and legislative areas, but I think also on the judiciary area in this proposal before us. The matter on judiciary was assigned to two different committees--Structure and Functions. You will probably read the proposals submitted to this Convention and find that there are two different approaches we have by these two committees. These two committees were just starting to reconcile their differences this morning and because the time is so limited they were not able to accomplish their purpose. I think the feeling of the committee--the Structure Committee--is that we should allow this Convention to express their observations and suggestions to this Committee Proposal No. 24 so that these two committees understand their concern over this proposal on the judiciary system. I think it will be fair if we just open up all the provisions on judiciary and get all suggestions the Delegates wish to debate over, asking any questions they may wish concerning those proposals. Thank you.

Delegate Tacheliol: Thank you, Mr. President. This morning, prior to the Convention, both the Structure and Functions Committees met to iron out differences on certain portions of the proposal--the subject proposal and the Functions' proposal. In this respect, Mr. President, I would like to move that if there is no debate at this time that action on this be deferred until tomorrow, October 28, in order to give ample time to the two committees to continue their work on the Judiciary Article of Committee Proposal No. 24.

Delegate Falanruw seconded the motion.

The Chair recognized Delegate Weital.

Delegate Weital: Mr. President, thank you. It is difficult for me to have two important documents before me at the same time, going over them. I would like to suggest to the Structure and Functions Committees, if it is possible, to come out with one document regarding the judiciary so that this Convention can read it and be able to come out with something. To me, Mr. President,

it is really hard to look at two things on the same thing--lengthy reports. For that matter, I am requesting these two committees to please consider it.

Delegate Ismael: Thank you, Mr. President. For the benefit of the Delegates and this Convention, I would like to put input into this session so that they could give both committees some observations on their feelings. I was going to reserve my statement until we move on to Committee Proposal No. 30, but since we started on this, perhaps I should indicate some of these differences so the Delegates will understand where the differences lie. Basically, Committee Proposal No. 24 is trying to structure a judicial system in Micronesia that is uniform and that starts with the Supreme Court Chief Justice all the way down, a unitary type of system. There are various technical differences but the basic difference of these two proposals is that the Structure wishes to produce a judicial system that is unitary--that the ultimate authority lies with the Supreme Court. Every case can be appealable to the Supreme Court and the Supreme Court is, in fact, the prevailing judiciary above and over that of the district. The approach taken by the Functions is for the national judiciary to have a Supreme Court which will be delegated various delegated jurisdictions, but for each district to have their own judicial system that the district feels is appropriate to that state. The Functions proposal would delineate and would delegate certain jurisdictions of the court to the national level, while at the same time retaining the procedural jurisdiction to the state so that it would be just the same as those delegated jurisdictions delegated to the Executive and delegated to the national level. What we tried to do from the Functions level is to delegate only certain jurisdiction to the national level, retaining all others in the district. This is the basic philosophical difference between these two proposals. Of course, there are areas of minor technical differences, section by section, but these can be easily ironed out. We would welcome observations and input from this Convention so that when we meet in conference we can also consider those differences and those ideas in the deliberations in the conference about these two proposals.

President Nakayama: The question before the Convention is deferral of the Judiciary Article of Committee Proposal No. 24 to October 28, 1975.

The motion carried to defer action on the Judiciary Article of Committee Proposal No. 24 to October 28, 1975.

President Nakayama: We will now proceed to consider Committee Proposal No. 30. May I hear a motion for its adoption?

Delegate Ismael: Thank you, Mr. President. I would like to move that we defer action on Committee Proposal No. 30 and put it on tomorrow's calendar.

Delegate Tun seconded and the motion carried to defer action on Committee Proposal No. 30 and to place it on the calendar for October 28, 1975.

President Nakayama: We will now proceed to consider the Executive Article of Committee Proposal No. 24.

The Chair recognized Delegate Wainit.

Delegate Wainit: Thank you, Mr. President. I now move for the adoption of Amendment No. 6, as amended, to Committee Proposal No. 24.

Delegate Falanruw seconded, and the motion carried to adopt Amendment No. 6, as amended, to Committee Proposal No. 24.

Delegate Tachelliol: Thank you, Mr. President. I would like to move to defer action on the Executive Article of Committee Proposal No. 24 (CD1) until Wednesday, October 29.

Floor Leader Tman seconded the motion.

Delegate Wainit: Thank you, Mr. President. May we know why the Vice Chairman of the Structure Committee would like to defer action on this particular one? I believe the copies of Amendment No. 6 were distributed last Saturday, and that should give ample time for each Delegate to read and study it, and I don't see any good reason why we should defer action on this particular article.

Delegate Tucheliol: Mr. President, most of these articles in Proposal No. 24 have been deferred until October 29, and we might as well delay this until the 29th and work out the whole proposal instead of having different dates which might confuse the Delegates on some of these issues. Yes, we did have time to study this, but I just want to delay action on this and come up with the proposal at the same time.

President Nakayama: The question is to defer action on the Executive Article of Committee Proposal No. 24 (CD1) until October 29, 1975.

The motion carried to defer action on the Executive Article of Committee Proposal No. 24 (CD1) until October 29, 1975.

INTRODUCTION OF DELEGATE PROPOSALS

None

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Willander.

Delegate Willander: Thank you, Mr. President. Under Miscellaneous Business, Mr. President, I would like to offer an amendment to Proposal No. 24 on the legislative section. Second, under Unfinished Business, Mr. President, I wish to move for reconsideration of Section 11 of Committee Proposal No. 14, Committee of the Whole Draft 1, Style Draft 1, and that Section 11 be put on Wednesday's calendar.

Delegate Tun seconded, and the motion carried to place Section 11 of Committee Proposal No. 14 (CWD1, SD1) on the calendar for Wednesday, October 29, 1975.

Delegate Cubrera: Thank you, Mr. President. I would just like to express our heartfelt appreciation and thanks on behalf of the Marianas Delegation and all other Saipanese who attended the Ponape Delegation's party. We enjoyed ourselves. It was a very, very good party.

Delegate Carl Heine: Thank you, Mr. President. I also would like to offer on behalf of the Marshalls Delegation and the Marshallese community here on Saipan our very sincere thanks and gratitude for the party given by the Ponape Delegation. The Ponape hospitality was overwhelming. Thank you very much.

Delegate Ngiraked: Mr. President, on behalf of the Palau Delegation and the people of Palau, I wish to extend our deep appreciation to the Ponape Delegation and the Ponape community here on Saipan for the wonderful evening of partying and feasting. We have talked about unity; we have sung about unity; and we have danced to unity. We have done almost everything, and the Ponape Delegation has taken a very important lead towards unity and there is no reason we cannot achieve it. So, thank you very much from the people of Palau to the people of Ponape.

Delegate Chief Joseph: Thank you, Mr. President. On behalf of the Truk Delegation to this Convention, Mayor Bossy and I, I would like to convey the same sincere appreciation to the Namwarki, the Nanniken, the Ponape Delegation to this Convention and the Ponape community on Saipan for the very wonderful feast given last Saturday. We really enjoyed it. Thank you very much.

Delegate Cabrera: While we are on the subject of the Ponape party, Mr. President, I wish to remind everyone not to forget the Chamber of Commerce, Rotary Club of Saipan, and the Saipan Women's Association shindig this coming Saturday night. Thank you.

Delegate Isaac Ianwi: Thank you, Mr. President. It is my custom before I eat to say thanks, so I thank the Marianas Delegation now. (Laughter)

President Nakayama: I, too, would like to thank the Ponape people and their Delegation, on behalf of the staff members and myself and the rest whose thanks have not been conveyed in the statements made by the Chairmen of the Delegations. It was a wonderful party. The dancers were excellent and I hope we can send those performers to other countries to say that we in Micronesia can also perform as well as the people of other nations. I thank you very much for the feast. It was a wonderful Ponapean night. Thank you.

Delegate Tun: Thank you, Mr. President. I would like also to thank the Ponape Delegation, the Ponape community in the Marianas, on behalf of the Yap Delegation for the party they hosted last Saturday. The Yapese Delegates, the entire Delegation enjoyed the party. Thank you.

Delegate Falcam: Thank you, Mr. President. I would like to take this opportunity on behalf of the Nanmwarki and the Nanliken and the Ponape Delegation and the people who really put on the party, to thank all of you for coming and making it a doubly successful affair. Thank you very much. (Applause)

ANNOUNCEMENTS

Delegate Williander: Thank you, Mr. President. I wish to announce to the members of your Committee on Style and Arrangement that there will be a meeting today at 2:30 p.m. in this chamber. Thank you.

Delegate Yoma: Thank you, Mr. President. One question to the Chairman of the Marianas Delegation, Mr. President. As you know, this round of parties is pleasant and a pleasure, but it has left a lot of us broke. So, for economic reasons, the question is: is this shindig just cocktails or cocktails and dinner?

Delegate Cabrera: Mr. President, as I understand it, it will be an authentic Saipan party, Chamorro party, or Marianas party, and there will also be entertainment, so you can plan on coming thirsty and with an empty stomach.

Delegate Yoma: Then I will follow Delegate Ianwi and thank you in advance. (Laughter)

Delegate Tachelial: Thank you, Mr. President. In our last session I announced that I would announce the schedule for the Structure Committee today, but it seems that any announcement I make for this afternoon will be in conflict with the other committees. On behalf of my Chairman, who is not here today, I would like to ask the Structure Committee to meet at nine o'clock tomorrow morning in Room No. 4. Thank you.

Delegate Ismael: Thank you, Mr. President. Mr. President, I would like to ask the members of your Governmental Functions Committee to meet in conference with the Governmental Structure Committee members to put some more input into this Proposal No. 24 and Proposal No. 30 at 3:30 this afternoon, and I would like to invite the lawyers of both committees, as well as Dr. Norman Meller, to assist us in our deliberations this afternoon in this chamber.

Floor Leader Tman: Thank you, Mr. President. In view of the committee meetings by the Governmental Structure Committee tomorrow at nine, I move

that the Convention recess until 11:00 a.m. tomorrow morning.

Delegate Tun seconded, and the motion carried. The Convention recessed at 1:15 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

EIGHTIETH DAY

Tuesday, October 28, 1975

The Micronesian Constitutional Convention was called to order at 11:17 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

The Assistant Convention Secretary called the roll. There were 46 Delegates present. Delegates Andrike, Borja, Haruo, Heinrich Iriarte, Kendall, Kijiner, Mateak, Nifon, Olikong and Rasa were excused. A quorum was present. Iroij Lanki and Iroij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved for adoption of the Journal of the 79th Day. Delegate Falanruw seconded, and the motion carried. The Journal of the 79th Day was adopted by the Convention.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 24, CD1, "A Proposal relating to a structure for the government of the Federated States of Micronesia." (Article II, Judiciary, only)

Committee Proposal No. 30, "A Proposal relating to the Judiciary."

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President, point of privilege. I request we go back to item No. 7 on our calendar this morning, on petitions, and I would like to request that we insert in our Order of Business this morning, under the Second Reading Calendar - Final Action, Committee Proposal No. 14, Section 11, entitled "Discrimination". Thank you.

The Chair declared the Convention in recess, subject to the call of the Chair, at 11:25 a.m.

RECESS

The President called the Convention to order at 11:30 a.m., and recognized Delegate Ngiraked.

Delegate Ngiraked: Mr. President, during the recess we have come to an understanding with the leadership. I think we can more efficiently dispose of the matter at hand if I withdraw my motion. Therefore, I withdraw my motion.

Floor Leader Tman: Mr. President, at the request of the Committee on Functions and the Committee on Governmental Structure with respect to consideration of Committee Proposal No. 24 and Committee Proposal No. 30, they wish to have these considered later on in the afternoon if the Convention agrees to a split session. The reason is that they have been able to reach a consensus and are coming with a joint amendment to Committee Proposal No. 24, on the Judiciary, and that amendment is being typed now and should be ready later on this afternoon. For this reason, if there is no objection from the Convention, Mr. President, I would suggest that we suspend the Order of the Day and proceed on to Final Action on Committee Proposal No. 15, Style Draft 1, with the understanding that the two proposals will be included in the supplemental Order of the Day this afternoon. Mr.

President, I move we suspend the Order of the Day and bypass Second Reading of Committee Proposal No. 24, and go on to Committee Proposal No. 15.

Delegate Palanruw seconded, and the motion carried.

SECOND READING CALENDAR - FINAL ACTION

Committee Proposal No. 15, SD1, "A Proposal relating to General and Special Funds."

The Chair recognized Delegate Willander.

Delegate Willander: Thank you, Mr. President. I move for passage on Second and Final Reading of Committee Proposal No. 15, Style Draft 1.

Floor Leader Tman seconded.

The Chair recognized Delegate Nakamura.

Delegate Nakamura: Thank you, Mr. President. I wish to move to amend Committee Proposal No. 15, Style Draft 1, by Amendment No. 2 which was introduced on October 21, and I move that this amendment be adopted.

Floor Leader Tman seconded.

President Nakayama: Before discussion on the amendment, I will ask the Secretary to read the proposed amendment.

The Assistant Convention Secretary read the following:

Amendment to Committee Proposal No. 15, SD1
Amendment No. 2

Amendment A:

Strike all of the words after the period following the words "Foreign Assistance Fund" on line 11 and strike all of the words on lines 12 and 13 of Committee Proposal 15, Style Draft 1, and insert the following:

"Except where a particular distribution is required by the terms or special nature of the assistance, each state shall receive a share equal to the share of the National Government and to the share of every other state."

Amendment B:

Add a new section after line 13 to read as follows:

"Section _____. The National Government may impose levies on the states in amounts equal as to each state, for funds required for the essential functions of the National Government."

Delegate Nimwes: Thank you, Mr. President. I really don't see any reason for including this particular section in the Constitution. It would seem as though we are anticipating something that we are not very sure of. Therefore, Mr. President, I think it is not proper to even consider foreign financial assistance or to include such in this Constitution.

Delegate Sony: Thank you, Mr. President. I just want to ask the Committee responsible for this proposal as to the definition of the term "foreign financial assistance".

President Nakayama: Is that in the amendment? The question before the Convention is the proposed amendment.

Delegate Olter: Thank you, Mr. President. As somebody said, it is presumptuous at this point to include foreign financial assistance in our Constitution, and I, too, agree. Therefore, I would like to move that that section pertaining to foreign financial assistance be deleted from Proposal No. 15, and I so move.

Delegate Tun seconded.

President Nakayama: Unless the motion is to amend the motion to amend, it would be proper; otherwise, it is out of order. Delegate Cabrera.

Delegate Cabrera: Thank you, Mr. President. It seems that we have adopted a good practice, good or maybe bad in some cases, of considering section by section on given proposals and in view of that, I wish to venture a motion for considering Proposal No. 15 on a section by section basis.

President Nakayama: I am confused.

Floor Leader Tman: Mr. President, I wish to address myself to the proposed amendment now before this Convention. I'm sure my Delegation does not have any particular problem with the proposed amendment labeled Amendment A; however, Mr. President, I wish to register my reservation with respect to Amendment B where it says the National Government may impose levies on the states in equal amounts. The richer states may be able to make their contribution to the National Government. Poorer states like Yap will not be able to meet their obligation. Even if the amount is reduced, for instance, let's say $10,000 per state to contribute to the National Treasury, if my state can only raise $40,000 a year in revenue, $10,000 of that is one-fourth. Maybe $10,000 for contribution from other larger states maybe be only ten percent. I find that proposition somewhat difficult to accept. Thank you, Mr. President.

Delegate Ngiraked: Mr. President, the problem of the National Government in getting enough money to support itself is taken care of in another section of the Constitution allowing the National Government to assess and levy various kinds of taxes. Now if and when there arises a need for the National Government to assess contributions from each of the states as proposed in the amendment, I am sure the human beings, who are Micronesians themselves, sitting at the National Government and National Legislature and making that decision will not bring the amount required beyond the reach of any state. Mr. President, on the question of the presumptuousness of this provision, let me say this: For some time in the future Micronesia will be in a position to receive financial grants and aid from National Governments, and we are here trying to assist those people with the responsibility to make the decision as to the distribution of those funds. This may boil down to the minimum amount of money, but involved in this proposal is the important principle of equality, equal political progression, that is the basic tenet of our unity. So, I urge all the Delegates to look at this proposal in that light. Thank you.

Delegate Wainit: Mr. President, I move for a short recess, subject to the call of the Chair, for consultation purposes.

Floor Leader Tman seconded, and the motion carried. The Convention recessed, subject to the call of the Chair, at 11:45 a.m.

RECESS

The Convention was called to order at 11:55 a.m.

President Nakayama: Let us continue discussion on the proposed amendment. Delegate Cabrera.

Delegate Cabrera: Thank you, Mr. President. I wish to offer an amendment to Amendment No. 2, but because the rules prohibit me from doing that, Mr. President, I wish to move that Rule 62a be suspended.

Floor Leader Tman seconded, and the motion carried. Rule 62a was suspended.

Delegate Cabrera: Thank you, Mr. President. I move that Amendment B on Amendment No. 2 be stricken off, thus leaving Amendment No. 2 with only Amendment A, which will amend Section 3 of Committee Proposal No. 15.

Floor Leader Tman seconded, and the motion carried. Amendment No. 2 was amended by striking Amendment B therefrom.

The Chair recognized Delegate Sawaichi.

Delegate Sawaichi: Thank you, Mr. President. Mr. President, under the language of the Committee Proposal the future State of Palau may receive more funds because our needs are greater than most of the districts. The reason why we came up with the amendment is not because of the amount of money we may receive, but we want to form our political partnership on an equal basis. If we are to maintain unity in Micronesia, the only way to do it is to treat each other on an equal basis. Thank you, Mr. President.

Delegate Olter: Thank you, Mr. President. I think our Committee Proposal No. 15, as it has come out of the Style Committee, is a result of long debate and deliberation by your Committee on Finance and Taxation. While I do respect the position of certain Delegates and their proposals, I do, however, place the total Micronesian interest and requirements above that of one person or one district. We talk about unity. I for one cherish that word if it has any meaning among ourselves. I do not believe that unity can be bought by threats nor with equal distribution of money. Unity can only come from within ourselves because there are interests, there are understandings to unite, but if we are to unite based on equal distribution of money, especially when it is from a foreign country, or whether one district raises more taxes than another and, therefore, demands an equal share of that regardless of requirements and needs in other districts, I do not believe that we are at this point ready to negotiate out a nation. We are only kidding ourselves. Unity will require sacrifice by all, not dividing up a pot. Whatever this Convention comes out with, I would support, of course, in the long run, to sell the Constitution, if ever a Constitution is drafted, but I will not support anything that is based on irrationality and a feeling of selfishness and what have you. Mr. President, I therefore would like to move that if we want to be as equal as most of us are supporting, that we adopt Amendment No. 3, which has already been passed out, which is proposed by Delegate Carl Heine. Thank you, Mr. President.

Delegate Toribiong: Mr. President, thank you. I wish to, first of all, re-emphasize the point intended in this amendment and that is, as Delegate Sawaichi has stated, the concept of district equal partnership in the political union of Micronesia. Let us look at the formula set forth in this amendment. It states that foreign financial assistance shall be divided equally between the central government and the six districts of Micronesia. This does not include or apply to funds having a special purpose or of a special nature or for which terms specifically indicate how they are going to be distributed. It applies only to funds which are given without any strings attached or conditions. In light of the fact that the National Government shall have exclusive powers to regulate and conduct international relations, that government shall be negotiating with other nations for these foreign assistance funds. Therefore, it can make all of them foreign assistance funds with special nature or terms and make this formula inapplicable, meaning that no state can receive any portion of the funds unless the central government so provides. So, in the final analysis, it is not the money that is the main concern of the Palau Delegation; it is the concept of equal partnership. Furthermore, when you look at the functions of the central government, it pertains only to international relations, problems an services between districts of Micronesia which, in turn, limit the scope of the operation of the National Government to these areas, meaning that most of the projects and programs would be handled at the district level. They would, in turn, need supplementary funds if the National Government so chooses. We believ that most of these programs and projects shall be financed by the local people maybe in terms of money or maybe in terms of service. Mr. President, let me

restate once again that it is equality of districts which is at stake here. We are afraid to subjugate foreign funds to the political process at the national level; we would like them to be treated administratively so that each district can receive an equal share if the National Government so chooses. Everything boils down, everything depends upon the decision made at the national level. They, themselves, shall be negotiating and handling all matters concerning foreign assistance funds. Thank you, Mr. President.

Delegate Cabrera: Thank you, Mr. President. With all due respect to my Chairman, Delegate Olter, and Delegate Wainit, I wish to state to the Convention that we took substantial amount of time considering Committee Proposal No. 15 and in considering the three sections of the proposal, the Committee wholeheartedly agreed that this proposal would be incomplete without including a section that will treat with foreign financial assistance. However, the important stress, or the important sections of the proposal are the first two sections, and I would like to venture at this time, Mr. President, to move that we suspend action on the amendment and consider the proposal on a section by section basis and when we come to Section No. 3, we will take up the proposed amendment. Thank you.

Floor Leader Tman moved for the previous question. There were ten seconds, and the motion to close debate carried.

The motion to adopt Amendment No. 2, as amended, carried.

The Chair recognized Delegate Nimwes.

Delegate Nimwes: Point of information, Mr. President. How certain are we that there will be foreign financial assistance?

Delegate Toribiong: We are not sure that we won't have it.

Delegate Ismael: Thank you, Mr. President. Are we adopting Amendment No. 2 A? I don't know where we are.

President Nakayama: We already adopted the proposed amendment. Amendment B was stricken from the amendment to the proposal. We are now discussing the Committee Proposal as amended.

Delegate Falcam: Thank you, Mr. President. The voting that we will have is a roll call vote. Am I correct?

President Nakayama: Yes.

Delegate Falcam: On the whole proposal?

President Nakayama: That is correct.

Delegate Falcam: On that basis, Mr. President, may I ask for a brief recess so I can consult with my Delegation?

The President declared the Convention in recess, subject to the call of the Chair, at 12:10 p.m.

RECESS

The Convention reconvened at 12:26 p.m.

President Nakayama: I will ask the Convention Secretary to read the proposal as amended before we continue our discussion.

The Assistant Convention Secretary read the following:

Committee Proposal No. 15, SD1, CD1

A Proposal relating to General and Special Funds.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE_____.

SECTION_____. General Fund. Public money raised or received by the National Government shall be deposited in the General Fund or special funds within the National Treasury. Money may not be withdrawn from the General Fund except by appropriation law.

SECTION_____. Special Funds. Special Funds within the National Treasury may be established by law. Money may not be withdrawn from a Special Fund except by law.

SECTION_____. Foreign Financial Assistance. Foreign financial assistance received by the National Government shall be deposited in a Foreign Assistance Fund. Except where a particular distribution is required by the terms or special nature of the assistance, each state shall receive a share equal to the share of the National Government and to the share of every other state."

The Chair recognized Delegate Nakamura.

Delegate Nakamura: Thank you, Mr. President. We have heard many remarks from many Delegates here and since I introduced this amendment, I would like to reiterate what my fellow Delegates from Palau have said. I think the statement of the Delegate from Truk is true, that we don't expect much foreign aid; however, the foreign aid specified in this amendment is a special one and the least expected one. I know, and I am sure we all know, that there are many foreign aids from great powers to developing countries which usually have specific terms. For example, foreign aid to Israel, let's say, is usually for military purposes. Foreign aid to Vietnam has been for military purposes. However, some foreign aids are also for humanitarian reasons, maybe socio-economic development, but the foreign aid we are talking about in here is something that doesn't have any specific term, and I can envision one we feel this Convention might consider. For instance, suppose the United States or Japan wanted to help, let's say, Palau and Yap. However, since foreign affairs are dealt with by the National Government, we felt -- I think because of our intention not to be selfish -- this should be divided among every district equally and who are going to suffer? Palau and Yap. However, I want to dispute what has been said in here that we made this amendment because of our selfishness and I hope other Delegates will not take this as being done because of selfishness. I think we came here in good faith and we hope that we come out with our Constitution. Thank you.

Delegate Ngiraked: Mr. President, we have come a long and hard road and we have come a long way in putting together a Constitution for our future government. We are going to cast a vote with each individual voting on his conscience, for the matter before us is a question of unity rather than anything else. This question, Mr. President, probably should be examined in the light of human sentiments rather than mathematical principles. How much sentiment, what sentiment you hold for your fellowman, and we have been beating our heads against the wall trying to come up with a formula to regulate those sentiments and to direct those sentiments to each other. Mr. President, if because of human frailti we fail to produce a solution or a formula, we must fall back on our most fundamental principle which unites and keeps together and keeps going some of our oldest social institutions, and I think of the institution of marriage, for example. It has been said that a happy union in marriage is founded on love. It has also been said that love knows no bounds in giving or suffering for the other in the union. But, Mr. President, when that question of unity still does not exist or is in danger, we bring it to the test, and I think the proper test has been equality. A happy marriage founded on love, it has been said, is the one that is founded on a fifty-fifty proposition. I think we have no choice but to pass the proposed amendment and on that basis to achieve our unity, on love, proper regard and respect for each other, on a fifty-fifty proposition. This is what I practice at home in my family. I have tested it and it works, and I think it can work for Micronesia. Thank you very much.

Delegate Apis: Thank you, Mr. President. Mr. President, if I am in order, I would like to move that we take this section by section.

President Nakayama: This is Final Action, and I believe it will take action by the Convention to change the procedural rules. What is the wish of the Convention? Delegate Falcam.

Delegate Falcam: Thank you, Mr. President. I was not going to respond to the question, but I was going to make an observation. I would like my friend, Delegate Ngiraked of Palau, to understand that when I vote for a measure, it is more for principle than for love, and it is more for fairness and what will work in Micronesia than for anything else, and that it will be, and it is, very difficult to reconcile my principle of equality based on a formula of fifty-fifty. But, I want to assure my friend from Palau that that is the way I would approach these things. Thank you.

Delegate Sony: Thank you, Mr. President. I just want to offer another observation. I look at the whole thing as a very remote possibility. If a foreign country grants Micronesia foreign assistance without specific purpose, it will be a rare phenomenon. I think we need to share something, sometimes, on an equal basis, so I think I am going to vote in favor of this proposal as amended. Thank you, Mr. President.

Delegate John Heine: Thank you, Mr. President. It took me quite a while to understand the proposal and especially Section 3, and the reason why it was amended, but today I think I understand it now. Some of our districts may not believe such remote possibility of having some foreign countries send us money. Some might and I think this is but a fair thing to do, to share that. Even though it is designated for the Marshall Islands, the National Government will receive it and divide it among all and for that reason I am going to stand behind it and vote for it. Thank you.

Delegate Williander: Thank you, Mr. President. Mr. President, I am a little uncomfortable with the amendment; however, as a Micronesian, I have confidence in the Micronesian people. I have confidence in the future leadership of Micronesia, that they will not be partial, that they will be working for the good of the people of Micronesia. Therefore, Mr. President, I would encourage all Delegates to vote favorably on Committee Proposal No. 15, as amended. Thank you.

Delegate Apis: Thank you, Mr. President. I must confess that I haven't been convinced by all the arguments and if I happen to vote against, I would like to make myself clear that it is not because I don't like the Palauans or their proposal, but it is a matter of principle. Thank you very much.

Delegate Philippo: Thank you, Mr. President. In line with the statement made by my colleague from the Marshalls, I would like to extend my sincere appreciation for the thoughts presented by the Delegation from Palau as a whole. I was very stubborn about this because as a member of the Committee on Finance and Taxation, I didn't know anything about it because under the present system, as you all know, we are receiving an appropriation from the United States. We are also receiving various grants under the States' Grants. Now, with this in mind, I hope we are going to continue our attachment with the United States because with the attachment with the United States, we will continue receiving such grants. Otherwise, if we are not attached to them, then all the foreign aid we are talking about here won't be applicable and applied to these needs from the U.S. Thank you, Mr. President.

Delegate Robert: Thank you, Mr. President. I just wish to share my views regarding the proposal, Section 3. I think there are times when shares must be equal and also there are times when shares must be distributed according to needs, and for this reason I reserve my vote against this proposed amendment.

Delegate Cabrera: Point of information, Mr. President. A moment ago I was disturbed here in the back and I wondered whether there was any move to vote on this section by section.

President Nakayama: We will vote on the entire proposal, as amended.

Delegate Cabrera: Thank you.

Delegate Toribiong: Thank you, Mr. President. I wish to respond to the statement made by the Delegate from Truk by saying that since the National Government will be dealing with the financial aid from foreign nations and can designate the purpose for which that aid is going to be used in Micronesia, therefore, foreign aid can be distributed on the basis of need.

President Nakayama: Are you ready for the question? We will now vote. It will take 35 votes to pass Committee Proposal No. 15, Style Draft 1, Convention Draft 1. We will vote by roll call.

A roll call vote was taken and the Assistant Convention Secretary announced that there were 39 affirmative votes, six negative votes, and five abstentions. Committee Proposal No. 15, SD1, CD1, passed Second and Final Reading.

[Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 15, SD1, CD1, was re-referred to the Committee on Style and Arrangement.]

SECOND READING CALENDAR - REFERRAL

Committee Proposal No. 24, CD1, "A Proposal relating to a structure for the government of the Federated States of Micronesia." Articles on Executive and Legislative deferred until October 29, 1975.

INTRODUCTION OF DELEGATE PROPOSALS

None

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

None

ANNOUNCEMENTS

Floor Leader Tman: Mr. President, in order for us to have a leisurely lunch and also give adequate time for the staff to prepare a supplemental Order of the Day, in order to accommodate the wishes of the two committees, I move that the Convention recess until 4:00 p.m. this afternoon.

Delegate Falanruw seconded, and the motion carried. The Convention recessed at 12:50 p.m.

RECESS

SUPPLEMENTAL
ORDER OF BUSINESS
4:00 p.m.

The Micronesian Constitutional Convention was called to order after recess at 4:18 p.m.

The Convention Secretary called the roll. There were 45 Delegates present. Delegates Andrike, Borja, Haruo, Heinrich Iriarte, Max Iriarte, Kendall, Kijiner, Mateak, Nifon, Philippo and Rasa were excused. A quorum was present. Iroij Lanki and Iroij Tomeing were also present.

SECOND READING OF COMMITTEE PROPOSALS

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Mr. President, I will call a point of privilege to explain several things. It is my recommendation that we remain in the Plenary to take up the discussion on the Article on Judiciary, like we did yesterday. For the information of the Delegates, proposed amendments 10 and 11 have been distributed, I believe. We will take up proposed amendment 10 later on today because I understand it is from the committee chairmen. So, if there is no objection, I would suggest that we proceed in the Plenary, however,the rule on number of debates and time will apply.

Delegate Tacheliol: At this time I would like to move for the adoption of the entire Article on Judiciary of Committee Proposal No. 24, CD 1.

Delegate Falanruw seconded the motion.

Delegate Nimwes: Point of information, Mr. President. Did I understand the Floor Leader to say that time will not be counted during our discussions?

President Nakayama: Mr. Floor Leader?

Floor Leader Tman: I think the record will verify that I said the number of times and length of time, as provided in our Rules of Procedure, will apply in the Plenary Session.

President Nakayama: Shall we have the question read before we discuss it?

Delegate Ismael: Mr. President, I would like to move to amend the motion to adopt the Joint Committee, the Committee on Governmental Structure and Governmental Functions' amendment number 10 to Committee Proposal No. 24, CD1, Article on Judiciary.

Delegate Toribiong seconded the motion.

Delegate Nimwes: Point of information, Mr. President. On Section 5 dealing with compensation, and also on Section 11, it says"financing"; I just want to be cleared as to these two Sections. Section 5 says "compensation for all justices" and Section 11 says "the national government shall assume a portion of the responsibility for funding each state judiciary." Does this include compensation also, or is Section 11 strictly dealing with other expenses besides compensation?

Delegate Ismael: The question is one that created a great deal of concern by both committees. The portion of the funding by the national government to the district would, in effect, take care not only of the operation costs but also compensation--especially where the district is large and the requirement for a large number of local courts may be present. Mr. President, I just wish to say that this Joint Committee Amendment was arrived at only after intensive study and debate by both of your committees, Structure and Functions, and just a few minutes before we resumed our Plenary Session both committees unanimously adopted this amendment.

Delegate Olter: Mr. President, I would just like to point out an inconsistency here--I think so--since this morning the interpretation of equality was based on equal sharing of revenue or foreign assistance to the national government. I wonder why that equality is in reverse at the end of Section 11 as proposed by this amendment.

Delegate Apis: I am not answering Delegate Olter, but I would like to address myself with that same section. I signed this report before we adopted the distribution of the monies this morning. Now, I reserve the right to support what Delegate Olter has just mentioned. I think, for consistency, this should follow and equal sharing should be, therefore, equal distribution. Thank you, Mr. President.

Delegate Bossy: I just have one small question. It is on page 4, line 5. It deals with the jurisdiction of the Trial Division of the Supreme Court. Beginning on line 5 where it says, "in cases in which the national government is a party except where the ownership of land or any interest therein is at issue." Who is to handle this kind of problem , ownership of land?

Delegate Ismael: The consensus of your Joint Committees on Functions and Structure is that where ownership or interest in land is concerned, this is purely a district matter and it is under the jurisdiction of that district. The national level of our future government will not have jurisdiction over land matters.

Delegate Toribiong: Mr. President, I wish to address myself to the question raised by Delegates Olter and Apis concerning equality in Section 11 of the proposed amendment. I wish to convey the opinion of members of the committee that it was their concern of equal administration of justice which made them include this in this proposed amendment.

Delegate Weital: Mr. President, I believe that the people who worked on this proposed amendment are Micronesians. I also believe that whatever they came up with in this document will serve the needs of the people of Micronesia, and therefore, Mr. President, I wish to indicate here that I support this proposed amendment. I am not troubled by this amendment. I just wanted the record to show that I think this document is a good one and I also request that we consider it seriously and pass it instead of wasting our time discussing something we know is produced by our fellow good Micronesians.

Delegate Olter: May I make a suggestion for amending what is produced by our good Micronesians because I know they are very nice; they are my friends; and when they make mistakes I want them to amend their mistakes. I, therefore, move for an amendment that the last sentence in Section 11 be deleted in its entirety.

Delegate Salii seconded the motion.

President Nakayama: Your motion is out of order.

Delegate Olter: Mr. President, while there is a requirement of suspension of the rule, I believe in this case where the text is fully in front of each and every Delegate, I find it irrelevant to even ask for suspension for such rule. But, if the Chair rules otherwise, I will ask it. Thank you, Mr. President.

Delegate Nimmes: On Section 12 of the proposed amendment, I wish to share some of my observations here. It would seem as though this national government will be loaded with lawyers, technicians, personnel, research assistants; which would leave the districts with nothing. I think this section should be deleted.

Delegate John Heine: I hope I am not speaking against my good friend, Bailey Olter from Ponape, but I think the last part of Section 11 is necessary here because if we are going to deal with the problem of money for each district

in support of our judiciary branch, then I think some districts will have more judges than others and a greater need for support than other states. Therefore, I think that last sentence is necessary and I urge my good friends here not to pass that proposed amendment to delete.

Delegate Ngiraked: I yield the floor, Mr. President.

Delegate Bossy: Point of information, Mr. President. I will resume my question one step further. The Chairman of the Functions Committee stated that all cases in holding land shall be handled by the district courts. Does this mean that we cannot appeal any cases from the District Supreme Court to the federal or national courts? Is that the intention of this proposed amendment?

Delegate Ismael: If permitted by state constitution, any case can be appealed all the way up to the appellate division of the national Supreme Court, as stated on the last line on page 3 and on the first two lines of page 4.

Delegate Toribiong: I wish to supplement what Delegate Ismael has said concerning the appeal of land cases. Even if the state will not permit appeal from the highest court of that state, an individual may always appeal to the highest court of the land if he feels that the state courts deprived him of due process of law--that being guaranteed in our Bill of Rights.

Delegate Yoma: I yield the floor to the senior Delegate from Ponape, Mr. Bailey Olter.

Delegate Olter: Thank you, Mr. President. I hope the motion made is still floating around on the floor. I would like to mention that my same friends who argued that equality should be based on equal sharing of the wealth of the nation, should turn around and say that the needs of the states should be recognized in this case. I think it is the inconsistency of our stand that I am questioning now. In Proposal No. 15 this morning we passed that sharing should be equal and not to be based on needs per district, or per state. In this case we turn 180^{0} about and it is saying here that it should be based on needs. It is not only inconsistent, but I think it is also belittling the future government to say that their apportionment of funds should be regulated by the Constitution. I think it should be regulated by those wise men who will run our future government. Thank you, Mr. President.

Delegate Yoma: Thank you, Mr. President. I don't think I can outdo the eloquence of our senior Delegate; but despite the fact that I signed the report, I am somewhat persuaded by the guidance advanced.

Delegate Salii: Mr. President, I seconded the motion made by Delegate Olter and I am still a little bit puzzled as to why that was ruled out of order. If any rules are in need of being suspended, I would like to move for the suspension of such rules, to permit the deletion of the last sentence in this section.

Floor Leader Tman seconded the motion. Motion carried to suspend Rule 62(a).

Delegate Olter: I move to delete the last sentence of Section 11 in the proposed amendment number 10.

Delegate Salii seconded and motion carried. The last sentence of Section 11, proposed Amendment No. 10, was deleted.

Delegate Nimwes: Is the rule still suspended? If so, I move that the last sentence on Section 12 of the proposed Amendment No. 10 be deleted.

Floor Leader Tman seconded the motion.

Delegate Ismael: It was pointed out during the discussion of this issue that because there are certain districts where there are not sufficient legally trained personnel; perhaps the only appropriate area for supplying these (in order not to duplicate costs with the overall governmental functions of the total Micronesian government) was to make such assistance available so that at the call of the district, such assistance could be recruited from the national level and sent to that particular district.

Delegate Nimwes: I think the first sentence would take care of that. It could be prescribed by law so that there is no need of being too specific here.

Motion to delete the last sentence of Section 12 of the proposed Amendment No. 10 to Committee Proposal No. 24 carried.

Delegate Cabrera: I, uh.....

President Nakayama: Did you say "I, uh?" (Laughter)

The Chair declared a short recess at 4:45 p.m.

RECESS

President Nakayama called the meeting to order at 4:52 p.m.

Delegate Cabrera: While we were considering deleting, Mr. President, the last sentence in Section 11, I raised my hand four times and didn't seem to get your attention. What I really wanted to find out, really, from the chairmen and committee members what was the rationale for including such a section in the proposed amendment. We are going to have a government, Mr. President, that is going to be supported by the states. You give that national government the money and then you expect it to contribute, again, to the states. Most of the money that is generated in each district will be spent in each district, or state. I foresee having a court system, Mr. President, within the national government, that decides important cases from the state all the way on up to the question on the Constitution. And I also foresee a situation where the states would be passing their own constitution, including a provision on their judicial system. I do not see any reason why the national government should be expected to finance the states' courts. I would appreciate a clarification, Mr. President. Thank you.

Delegate Ismael: During the intensive debate on this particular amendment it was pointed out to us, your Joint Committee, by various Delegates that some large, sprawling districts like Truk or the Marshalls may require a large number of municipal courts in order to have justice delivered to the inhabitants of all the various islands scattered through those districts. It was further pointed out to us that if that particular district does not have sufficient revenue to operate, it might mean, virtually, less justice to those people. In order, therefore, to accommodate and make sure that all Micronesian citizens would have justice, it was the majority consensus of your Joint Committee that somewhere along the line financial assistance be requested (as it is written into this amendment) from the national level of the government to assist the state level of the government in providing for justice for their constituents. Thank you.

Motion to adopt proposed Amendment No. 10, as amended, to Committee Proposal No. 24 (CD 1) carried.

Motion to adopt the entire Article on Judiciary, as amended, to Committee Proposal No. 24 (CD 1) carried.

Floor Leader Tmau: The Article on Judiciary which we have just adopted will continue to remain as part of the Committee Proposal No. 24 (CD 2) and will be placed on the Second Reading calendar until we dispose of the other two Articles.

Delegate Ismael: Mr. President, I move that the Convention file Committee Proposal No. 30.

Floor Leader Tman seconded, and the motion carried. The Convention filed Committee Proposal No. 30 and it was, thus, killed.

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Ismael: Mr. President, I would like to ask the Convention to recognize a very distinguished guest we have in the gallery today. A linguistic program specialist from Ponape District, in Saipan attending a workshop, please recognize Mr. Elmer Palik. (Applause)

Delegate Yoma: Mr. President, I would also like to take this opportunity to introduce two distinguished citizens who are in our gallery today from the great municipality of Sokehs, Ponape District. First, Mr. Hilary Conrad, who is Floor Leader of our Ponape District Legislature. (Applause) And, secondly, the English Language Program Coordinator for Ponape District, Mr. Damian Sohl. (Applause) Both guests are from the great municipality of Sokehs.

Delegate John Heine: I would like to ask this Convention to also recognize the presence of one of our people from the great state of the Marshall Islands, Mr. Saido Aini, who also came to Saipan to participate in the education workshop. (Applause)

ANNOUNCEMENTS

Delegate Ismael: I would like to urge all members of your Committee on Governmental Functions to meet in this chamber at 9:30 tomorrow morning.

Delegate Tacheliol: Thank you, Mr. President. I would like to ask the members of your Committee on Governmental Structure to meet in Room 4 at nine o'clock tomorrow morning.

Delegate Carl Heine: I would like to call a meeting of your Committee on Civil Liberties for tomorrow morning at ten o'clock in Room 3. I urge every member of that Committee to try and make it as it may be our last meeting of this Convention and there are some important matters we would like to take care of. I urge the attendance of every member.

Delegate Falcam: I would like at this time to add something to the announcement made by the Vice Chairman of your Governmental Structure Committee and urge that the sponsor of the amendment to Committee Proposal No. 24 on Executive structure please be present at our meeting tomorrow morning.

Floor Leader Tman: Mr. President, I move for a very short recess.

The Chair declared a short recess at 5:00 p.m.

RECESS

The Convention was called to order at 5:05 p.m.

Floor Leader Tman: Mr. President, there being no further business or announcements before this Convention, I move that we recess until eleven o'clock tomorrow morning.

Delegate Falanruw seconded, and the motion carried. The Convention recessed at 5:06 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

EIGHTY-FIRST DAY

Wednesday, October 29, 1975

The Micronesian Constitutional Convention was called to order at 11:30 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

The Convention Secretary called the roll. There were 49 Delegates present. Delegates Andrike, Borja, Haruo, Kendall, Kijiner, Nifon and Rosa were excused. A quorum was present. Iroij Lanki and Iroij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tmau moved that the Journal of the 80th Day be adopted. Delegate Taribiong seconded, and the motion carried. The Journal of the 80th Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

Delegate Wiliander: I move for the acceptance of Committee Report No. 50.

Floor Leader Tmau seconded the motion.

Delegate Nimwes: Point of information. I am just wondering, Mr. President, if the other Delegates whose names appear on this report do not concur with the report--those who have not signed?

President Nakayama: The question is the effect of not signing a report, as to whether that would be because the person does not concur with the report.

Floor Leader Tmau: Thank you very much, Mr. President. I would like to clear myself. It was very unfortunate that I did not sign the report because I was not present, but I do concur with the report.

Delegate John Heine: Thank you, Mr. President. I concur with Committee Proposal No. 50. It was unfortunate that I didn't get a chance to sign it.

There being no further discussion, the motion carried. Committee Report No. 50, from the Committee on Style and Arrangement, submitting Committee Proposal No. 26 (SD1), entitled "A Proposal relating to taxation.", was accepted by the Convention.

Delegate Wiliander: Mr. President, I move for the acceptance of Committee Report No. 51.

Floor Leader Tmau seconded, and the motion carried. Committee Report No. 51, from the Committee on Style and Arrangement, submitting Committee Proposal No. 9 (SD1), entitled "A Proposal relating to Freedom of Religion.", was accepted by the Convention.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 24 (CD1, CD2), "A Proposal relating to a structure for the government of the Federated States of Micronesia.", Articles on Executive and Legislative.

Floor Leader Tman: In order to ascertain the wish of all the Delegates, I venture this motion. I move that the Convention resolve into the Committee of the Whole to consider the articles on Executive and Legislative contained in Committee Proposal No. 24 (CD1, CD2).

Delegate John Heine seconded, and the motion carried. The Chair requested that Floor Leader Tman preside.

The Convention resolved into the Committee of the Whole at 11:40 a.m.

The Convention reconvened in Plenary Session at 3:35 p.m.

President Nakayama: We will have the report from the Committee of the Whole.

Floor Leader Tman: Mr. President, thank you very much. For the record, your Committee of the Whole wished to report that it has not yet accomplished its assignment, but the consensus of the Delegates was that we should return to the Plenary Session to take action on some other proposals now on the calendar requiring final action. After we have properly disposed of those measures, your Committee of the Whole will resume its deliberation on Committee Proposal No. 24. I move for the acceptance of the short report.

Delegate Satti seconded, and the motion carried to accept the oral report of the Committee of the Whole.

SECOND READING CALENDAR - FINAL ACTION

Committee Proposal No. 18, SD1, "A Proposal relating to assumption of rights, obligations, liabilities, and contracts of the Government of the Trust Territory of the Pacific Islands."

Committee Proposal No. 14, CWD1, SD1, CD1, Section 11, "Discrimination", "A Proposal relating to the Bill of Rights."

Committee Proposal No. 9, SD1, "A Proposal relating to Freedom of Religion."

Committee Proposal No. 26, SD1, "A Proposal relating to taxation."

Delegate Wiliander: I move for the passage on Second and Final Reading of Committee Proposal No. 18, SD1.

Floor Leader Tman seconded the motion, and also moved for a short recess.

The President declared the Convention in recess, subject to the call of the Chair, at 3:36 p.m.

RECESS

The Convention was called to order at 3:38 p.m.

Delegate Wiliander: Mr. President, I just noticed that there is a mistake on my motion, so I withdraw my original motion for adoption. However, Mr. President, pursuant to my motion on October 23 that we reconsider Committee Proposal No. 18 today, I move that we reconsider Committee Proposal No. 18, SD1.

Floor Leader Tman seconded, and the motion carried to reconsider Committee Proposal No. 18, SD1.

Delegate Wiliander: I now move for the passage on Second and Final Reading of Committee Proposal No. 18, SD1.

Floor Leader Tman seconded the motion.

The Chair requested the Convention Secretary to read Committee Proposal No. 18, SD1, who so complied with the request.

Floor Leader Tman: I move for the previous question.

Delegate Tun seconded, and the motion carried to close debate.

President Nakayama: It will take 36 affirmative votes to pass Committee Proposal No. 18. We will vote by roll call.

A roll call vote was taken and the Convention Secretary announced that there were 43 affirmative votes, one negative vote and three abstentions. Committee Proposal No. 18, SD1, passed Second and Final Reading, as follows:

Committee Proposal No. 18, SD1

A Proposal relating to assumption of rights, obligations, liabilities, and contracts of the Government of the Trust Territory of the Pacific Islands.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Assumption of Rights, Obligations, etc. A right, obligation, liability, or contract of the Government of the Trust Territory of the Pacific Islands is assumed by the Government of the Federated States of Micronesia except to the extent it directly affects or benefits a government of a district not ratifying this Constitution.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 18, SD1, was re-referred to the Committee on Style and Arrangement.)

Delegate Williander: Mr. President, again pursuant to the motion I made on October 27 for Section 11 of Committee Proposal No. 14 to be reconsidered today, I move that we reconsider Section 11 of Committee Proposal No. 14.

Floor Leader Tman seconded, and the motion carried to reconsider Section 11 of Committee Proposal No. 14.

Delegate Williander: I move for the passage on Second and Final Reading of Section 11 of Committee Proposal No. 14, CWD1, SD1, CD1.

Floor Leader Tman seconded the motion.

Delegate Ngiraked: I move that we amend the motion by striking out that portion of the section beginning with the word "Nothing" on line 15 of page 2.

Delegate Carl Heine seconded the motion.

President Nakayama: Is there a written amendment on that portion, Delegate Ngiraked?

Delegate Ngiraked: Mr. President, since the amendment is a deletion and not an insertion, I hope to accomplish it without going through the process of suspending the rule.

Floor Leader Tman: In order to allow discussion on the proposed amendment being offered by Delegate Ngiraked, I venture a motion to suspend Rule 62a.

Delegate Toribiong seconded and the motion carried to suspend Rule 62a.

Delegate Ngiraked: Mr. President, I move that Section 11 be amended by striking out the entire portion beginning with the word "Nothing" on line 15, page 2, of Committee Proposal No. 14.

Delegate Carl Heine seconded the motion.

Delegate Ismael: Point of information, Mr. President. Can Delegate Ngiraked explain what he means? I'm kind of lost. What page and what line?

Delegate Ngiraked: On the last sheet of Committee Proposal No. 14, line 15, there is a sentence that begins with the word "Nothing"--the entire portion beginning with the word on line 15.

President Nakayama: We will have the Secretary read the section.

> Section 11 - Discrimination. Equal protection of the laws may not be denied or impaired on account of sex, race, ancestry, national origin, language, or social status. Nothing in this Constitution takes away a role or function of a traditional leader as recognized by custom and tradition, or prevents a traditional leader from being recognized, honored, and given formal or functional roles at any level of government as may be prescribed by this Constitution or by law.

President Nakayama: I will take the liberty of declaring a short recess.

The Convention recessed, subject to the call of the Chair, at 3:50 p.m.

The Convention was called to order at 4:00 p.m.

Delegate Heinrich Iriarte: Point of privilege, Mr. President. I would like to make a very short remark.

President Nakayama: Please proceed.

Delegate Heinrich Iriarte: Mr. President, traditional leaders and fellow Delegates:

Most Micronesians agree that traditional leaders are an important part of our Micronesian heritage. From earliest times our chiefs have played an active and important role in the lives of most of the Micronesian cultures. Even today, after more than a century of western influence and dominance in Micronesia, our traditional leaders continue to be an important factor in the daily lives of Micronesia. The institution of traditional leaders has survived all attempts to "westernize" or "colonize" our country by four different foreign powers because our traditional leaders have played and continue to play a very useful and meaningful role in most Micronesian societies.

Today, fellow Delegates, we are at a crossroad . Here at this Convention we have before us a Proposal--Section 11 of the Civil Liberties Proposal--which guarantees that our traditional leaders are not stripped of their positions by this Constitution. This Proposal relating to traditional leaders does not give the traditional leaders any role in government, nor does it require that the national government or any district recognize traditional leaders in any way. Rather, this Proposal simply says that this Constitution shall not later be used to declare the role of traditional leaders in our society contrary to the Constitution. This Proposal leaves the placement of the chiefs in any government up to the government involved.

Fellow Delegates, I urge you to adopt this Proposal giving limited protection to our traditional leaders. If this Proposal fails to pass, I feel that the institution of Chieftancy here in Micronesia may very well have been destroyed once and for all--not by foreign invaders, nor by hostile colonial

administrators trying to remake Micronesia in the image of their homeland, but destroyed by Micronesians themselves.

Thank you very much, Mr. President.

President Nakayama: Thank you. Is there any further discussion on the proposed amendment?

Delegate Ngiraked: I move for the previous question.

Delegate Falanruw seconded and the motion carried to stop debate.

President Nakayama: We will now vote on the question, and the question is the deletion of the sentence appearing on page 2 of Committee Proposal No. 14 beginning on line 15, starting with the word "Nothing".

By voice vote, the motion carried to adopt the oral amendment.

Delegate Ngiraked: I move for the previous question.

Floor Leader Tmun seconded, and the motion carried to stop debate.

President Nakayama: It will take a minimum of 36 affirmative votes to pass Section 11 of Committee Proposal No. 14. We will now vote by roll call.

After roll call vote, the Convention Secretary announced that there were 41 affirmative votes and six abstentions. Section 11 of Committee Proposal No. 14, CWD1, SD1, CD1, CD2, passed Second and Final Reading, as follows:

Section 11, Committee Proposal No. 14, CWD1, SD1, CD1, CD2

SECTION 11 - Discrimination. Equal protection of the laws may not be denied or impaired on account of sex, race, ancestry, national origin, language, or social status.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Section 11 of Committee Proposal No. 14, CWD1, SD1, CD1, CD2, was re-referred to the Committee on Style and Arrangement.)

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: I move to amend Committee Proposal No. 14, as amended, by inserting a Section 12, the text of which is set out in Amendment No. 3 which I think has been distributed to the Delegates.

Delegate Sawaichi seconded the motion.

Floor Leader Tmun: I move for a very short recess.

The President declared the Convention in recess, subject to the call of the Chair, at 4:12 p.m.

The Convention was called to order at 4:17 p.m.

Delegate Ngiraked: Mr. President, this is not a discussion on the motion. This is only a correction on a technical point here. Under the article on the Bill of Rights, there is already a Section 12. With the indulgence of the Delegates, I change my motion from Section 12 to Section 13.

The Chair requested the Convention Secretary to read proposed Amendment No. 3, as follows:

Amendment No. 3

SECTION 13. Traditional Leaders. Nothing in this Constitution takes away a role or function of a traditional leader as recognized by custom and tradition, or prevents a traditional leader from being recognized, honored, and given formal or functional roles at any level of government as may be prescribed by this Constitution or by law.

Delegate Nimwes: Is this a different article or the same article but a different section?

Delegate Carl Heine: I would like to state for the record that your Committee on Civil Liberties met this morning and discussed this thing and we have often discussed this with other members of this Convention. The understanding behind this new action we are taking on this particular section with respect to the Chief amendment is that this section would be deleted from the Bill of Rights and that the Style and Arrangement Committee would create a new article in the Constitution setting forth traditional rights or any other appropriate titles and that this particular section would be listed under that article.

President Nakayama: Does that answer your question, Delegate Nimwes?

Delegate Nimwes: We just voted on a section of Proposal No. 14. I am somewhat confused---whether or not the same treatment will be accorded to this particular section, that is a roll call vote. This is the reason why I raised the question, Mr. President.

Delegate Ngiraked: If we pass this as Section 13 under Proposal No. 14, then the understanding is for the Style Committee to redesignate it as a separate article in the Constitution. It is a procedural matter that can be taken care of in the Style Committee.

Delegate Nimwes: Do I take it then that the vote will be a roll call one--- I mean, just voice vote?

President Nakayama: I am somewhat confused. This comes in the form of an amendment and I suppose after passing it we can have a roll call vote. I am not sure. Delegate Tman?

Floor Leader Tman: Although it is an amendment to Committee Proposal No. 14, since we have voted by roll call on every other section on that article on the Bill of Rights, I think we ought to go by roll call.

Delegate Isaac Lanwi: Thank you, Mr. President. I did not vote or answer the roll call because I was confused because I was still reading this. My poor English. It says here: "Divide Section 11 into two sections", and now the proposed amendment here is another Section 12 or 13. I thought it was going to be Section 11 into two---A and B. So when we come to the final roll call--- this is the reason I did not answer because I am still confused until now. How can we divide Section 11 into two sections, and then it becomes Section 13?

President Nakayama: It can be done by modern math devised by Con Con. The question is now the adoption of the amendment, that is Amendment No. 3.

Delegate Sony: Thank you, Mr. President. Putting this amendment under a separate article doesn't bother me a bit, but the thing that bothers me a lot is the phrase "any level". It is fake and inappropriate in that it does not specify the level where recognition of traditional chiefs is absent. The last phrase of that amendment, beginning with the words "and given formal or functional roles...as may be prescribed by this Constitution or by law."--- I look at this as a very dangerous provision to my chief in my own island or the chief of my district. It will put them in a position where this decision will be subject to approval of a higher body or higher person in the government. Secondly, this may put the chief in a formal role in which he will actually

work just like a commoner. This is my objection to the amendment. It doesn't matter where it belongs. Thank you, Mr. President.

Delegate Ismael: There is one question that the people of my island will ask me when I cast my vote on this yes or no. This question is, if we pass this does it mean that there would be a class standing--one class and second class--or no?

Floor Leader Twan: I only wish to make a technical correction to the proposed amendment now before us. I think the intent behind this is that it read as follows: Add a new section, labeled Section 13, to Committee Proposal No. 14, CWD1, SD1, CD1, CD2.

Delegate Wilfunder: I move for the previous question.

Delegate Tun seconded, and the motion carried to close debate.

President Nakayama: We will now vote by roll call. The same requirement prevails in this case--that is, 36 or more affirmative votes to pass the amendment.

During the roll call vote, the Chairman of the Yap Delegation asked that he be reserved the right to explain the Yap Delegation votes.

After the roll call vote, the Convention Secretary made the following statement:

Convention Secretary: We are having a hard time counting the abstention votes. With the permission of the Convention, I am going to call again those we marked as abstentions.

Delegate John Heine: Point of information, Mr. President.

President Nakayama: Please proceed.

Delegate John Heine: During the last vote that was taken on the same Proposal, there were abstentions but we didn't call them a second time. I wonder why we should call a second time on this particular issue now. I think we have a precedent in the same Proposal so we might as well follow the precedent.

President Nakayama: Yes, the Secretaries are requesting that we call again because they are having difficulty in ascertaining how many people voted by abstaining. If you will bear with the staff, I will ask that they call again those who abstained.

Following a re-call of the abstentions, the Convention Secretary announced that there were 36 affirmative votes, two negative votes and eight abstentions. Amendment No. 3 passed Second and Final Reading as Section 13, Committee Proposal No. 14, CWD1, SD1, CD1, CD2, CD3, as follows:

Section 13, Committee Proposal No. 14, CWD1, SD1, CD1, CD2, CD3

SECTION 13. Traditional Leaders. Nothing in this Constitution takes away a role or function of a traditional leader as recognized by custom and tradition, or prevents a traditional leader from being recognized, honored, and given formal or functional roles at any level of government as may be prescribed by this Constitution or by law.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Section 13 of Committee Proposal No. 14, CWD1, SD1, CD1, CD2, CD3, was re-referred to the Committee on Style and Arrangement.)

The Chair recognized Delegate Tun.

Delegate Tun: Thank you, Mr. President. During the voting I asked that I be reserved the right to explain the votes of the Yap Delegation.

Mr. President, recently some Delegates decided not to attend this Convention, perhaps because of their disappointment and anger at the Convention's failure to pass a measure which recognizes the rights of chiefs, including the chiefs' right to participate at all levels of government.

Mr. President, the Yap Delegates, including their traditional leaders, were not among this group. They were not among the missing. They continued to attend this Convention. I would like to explain why they did so.

Part of the reason is that Yap's traditional leaders do not believe that the defeated measure is so important to them. Other chiefs may disagree, but Yap's traditional leaders do not need to pass laws, cite cases, or count clauses when it comes to defending their role. They do not need to meet and lobby to protect themselves. As Delegate Tman has pointed out previously in the Plenary Session of this Convention, and as our chiefs and Delegates from Yap have consistently pointed out in various committee meetings, Yap's chiefs know their position and so do the people of Yap. Therefore, our unanimous position is that this hotly contested issue was irrelevant to Yap and unnecessary to our Constitution. That was our position, and that is our position now.

Perhaps some other traditional leaders felt that Yap's chiefs and Yap's whole delegation has betrayed them, both in the way they voted and in their continued attendance here. This is a charge without merit. No district in Micronesia has greater respect for tradition, for traditional laws, for traditional leaders, than Yap. No other district can instruct us on this matter. We yield to no one in the defense of our traditions.

Today the Convention has just finished reconsidering the subject which was included under Section 11 of Proposal No. 14 which was previously defeated. The Yap Delegation is not especially impressed by this subject of that section. Before this Convention, and during the recess, we discussed these things with our traditional leaders. We received their instructions. Their instructions were that they did not want their roles, their powers, debated about and legislated upon. They did not want to occupy a corner of the national government. They did not want to have veto powers over national legislation for two reasons: They believed that their participation at the level of government was wrong and, secondly, they did not want to put themselves in a position where their veto could be overridden. Furthermore, our chiefs believed that equal treatment of all citizens in a Bill of Rights did not threaten their customary honor or power. Their conclusion was that they did not need--Yap did not need--the kind of dubious protection for chiefs which is included in the previous Section 11 and now under Section 13 of Proposal No. 14.

In their wisdom, however, the chiefs added another instruction. They told us that, if the unity of Micronesia required it, we should compromise. If it takes language such as is included previously under Section 11 and now under Section 13 to keep Micronesia together, Yap will support it. Thus, the Yap Delegation has been instructed by their traditional leaders, through their own representatives attending this Convention, to vote for the section we have just adopted--Section No. 13 of Proposal No. 14--not because we need it. We don't. We voted for it because other districts think they need it, because they feel strongly about it, and because maybe our yes votes will keep Micronesia together.

Thank you, Mr. President. (Applause)

Delegate Williander: I move for the passage on Second and Final Reading of Committee Proposal No. 9 (SD1).

Floor Leader Tman seconded the motion.

The Chair requested the Convention Secretary to read Committee Proposal No. 9 (SD1), as follows:

Committee Proposal No. 9, SD1

A Proposal relating to freedom of religion.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Freedom of Religion. No law may be passed respecting an establishment of religion or impairing the free exercise of religion.

The Chair recognized Delegate Wainit.

Delegate Wainit: I would like to express my reservation regarding this Proposal in this respect. Although I agree to the intent of this Proposal to the extent that no law shall restrict the establishment of religion, I have some strong feeling against the second portion where it starts with the words "...or impairing the free exercise of religion." I think if we are to pass this provision, including the second portion, I can see where this will interfere with the normal function of our future government. Let me cite an example. In Truk District we have some municipal governments where they have what they call "Municipal Day". On this kind of day the people contribute free labor. Now, some people may not be able to contribute free labor and these people will have to pay some kind of a fine to make up for the loss of free labor. Some religious groups or organizations may have some religious gathering or observance which may fall on the same day. This kind of thing will interfere with the function of the government because if we pass this it would mean that the government cannot impose any fine on these people which, I believe, will be an essential part of the normal function of the government. In this respect, Mr. President, I would like to suspend Rule 62a in order to accommodate an amendment.

Floor Leader Tman: I don't know what the amendment is, but I move to suspend Rule 62a.

Delegate Tun seconded, and the motion carried to suspend Rule 62a.

Delegate Wainit: Mr. President, the oral amendment will be the deletion of the end of the sentence starting with the word "or" on line 3. I so move to that effect.

Floor Leader Tman seconded the motion.

Floor Leader Tman: There is a very earnest request. I move for a very short recess.

Delegate Tacheliol seconded the motion.

The President declared the Convention in recess, subject to the call of the Chair, at 4:50 p.m.

RECESS

The Chair called the Convention to order at 5:07 p.m. Vice President Tun presided.

Delegate Carl Heine: Mr. President, I want to voice my very strong objection to the oral amendment offered by Delegate Wainit. Mr. President, as part of the experience I have gained in the Committee on Civil Liberties during the past eighty days in the studies and understandings and background material that we have been able to discuss--policy and so forth--this is a very dangerous amendment. If we adopt this proposed amendment, we might as well erase the whole clause on freedom of religion. What is the use of having religion if we cannot practice it? Mr. President, many of us here are not lawyers and every word that was placed in most of this Bill of Rights was placed there very carefully. There are social, legal and political implications on every word. Once you touch one or two words, you destroy the meaning on which that particular section was based. I object strongly to this proposed oral amendment. Thank you.

Delegate Nimwes: Because, as pointed out by Delegate Heine, not many of us are lawyers, and because there is some technical terminology contained in this Proposal, a thorough, careful consideration ought to be made regarding the verbal amendment offered by Delegate Wainit. For that reason, I think it is necessary that this particular Proposal, with the proposed amendment, be recommitted to the Style Committee for further study and action. I so move, Mr. President.

Delegate Ngiraked seconded the motion.

Delegate Williander: I really don't think there is a lot more to do on this Proposal, however, I wish to call the attention of the Delegates to Committee Report No. 51 which we just accepted this morning. On the first page it says that the original draft used the words "prohibiting the free exercise thereof" and the Committee on Style just used the word "impairing" in order to be consistent with the style we have adopted for use on the other Proposals of the Bill of Rights. So, the amendment as offered by Delegate Wainit--the Style Committee would not know how to work on it since it was a deletion. There was no amendment offered in terms of sentences, but only the amendment of deleting. What I am saying, Mr. President, is that if the Proposal and proposed amendment are recommitted, they should be recommitted to the original committee if it is a substantial amendment. If the amendment is relative to style, it should be referred to your Committee on Style. But I believe that this amendment is substantial in nature. If it is the desire of the Convention to refer it, I would request that it be referred to the Committee on Civil Liberties. Thank you, Mr. President.

Delegate Falcam: I would like to share my concern with the rest of the Delegates regarding the proposed amendment and, also, the motion to recommit. This proposed amendment is a substantial amendment. It just does away with freedom of religion. The words that would be deleted are very important to that section and to that Proposal. It should not go back to Style and Arrangement. If the Convention should so desire, it should go back to a substantial committee. I would like to indicate here that this amendment does away with the freedom of religion completely so we must be very careful, as the Chairman of the Committee on Civil Liberties pointed out--it is a very substantial amendment.

Delegate Olikong: Mr. President, if I won't be out of order, I move that we vote for the proposed amendment.

Delegate Ngiraked: Point of privilege, Mr. President. I yield the floor to Delegate Nimwes.

Delegate Nimwes: Thank you very much, Mr. Ngiraked. Because the proposed amendment is a substantial one, I shall withdraw my motion.

President Tun: With that motion officially withdrawn, the immediate motion on the floor now is to adopt the proposed oral amendment offered by Delegate Wainit.

Delegate Olter: Thank you, Mr. President. I always feel that there are two areas in this Bill of Rights that belong to God,and that they are in God's jurisdiction only. One is capital punishment and the other is freedom of religion. My observation of the Delegates the last few Sundays has been that most of us did not go to church. I would like to add to the amendment that after the words "freedom of", we put "and from". And, also, after "establishment of" we put "and from". Thank you, Mr. President.

Delegate Ngiraked: Mr. President, the mover of the proposed amendment had a specific problem in mind; to take care of it in his own district. I move that the Convention recommit the measure and the proposed amendment to the Committee on Civil Liberties.

Delegate Nimwes seconded the motion. The motion to recommit Committee Proposal No. 9 and the proposed oral amendment to the Committee on Civil Liberties was defeated.

Delegate Ismael: Mr. President, there is some concern raised by Delegate Wainit that I think we ought to consider. During the recess I was listening to him and the Floor Leader discussing this,and I think we should listen to what he has to say about this.

Delegate Toribiong: Thank you, Mr. President. I do not wish to belabor the point concerning this freedom. I think the Committee Report No. 51 has sufficiently explained what it means, but, basically, there are two parts to this freedom. One is called the "establishment clause," which prohibits the state from creating by law a national religion or church and compels attendance of the citizens in that church. The second part is the "free exercise clause" which means that no state may, by law, impair, prohibit or abridge the right of citizens to choose to worship the way they believe. That is because it includes the right not to worship. I think the concern of Delegate Wainit pertains to a minor area of legislating. I do not see any conflict with that kind of law with this freedom of religion. Even if there is no such freedom, I think that a person who believes what he believes in will not and would not yield to comply with that law--because it is a matter of personal conscience. I think that law was not meant to impair one's right to freely worship according to the dictates of his conscience. I think that law was intended to promote public service and public good. There may be people who choose, for conscience reasons, not to comply with that law. This section, or this clause, pertains only to those laws which are intended to infringe upon peoples' rights to worship or not to worship. This is a very important freedom. It pertains to the very conscience of man; and I fully object to the proposed amendment.

Delegate Yoma: With all due respect to my fellow colleague from Truk, I believe, Mr. President, that this Proposal is in order. I will urge the Convention to go ahead and pass this Proposal now and get it out of the way and go on to other matters. Thank you, Mr. President.

Delegate Sony: I just want to say for the record that the concern expressed by my fellow Delegate from Truk is well taken. However, I would like to point out that most municipalities in Truk District have resolved that problem by providing provisions in their municipal ordinances that those people who will miss work on the island workday, will work on a different day, which will be designated by the municipal magistrate. This is how they have resolved their problem. Thank you, Mr. President.

Delegate Apis: I move for the previous question.

Delegate Falcam seconded, and motion carried to close debate.

Motion to adopt the proposed oral amendment offered by Delegate Wainit was defeated.

Floor Leader Tman: I move for the previous question.

Delegate Falanruw seconded, and motion carried to close debate.

President Tun: We will vote by roll call. I am advised that we require 33 affirmative votes to pass the measure, because some people have left. Delegate Mwety.

Delegate Mwety: Mr. President, I think this would be point of privilege. We still have an amendment to offer, and the proceedings are too fast for us to catch up.

Delegate Nimwes: Mr. President, I move for a short recess.

Floor Leader Tman seconded the motion.

President Tun: The Chair will declare a short recess, subject to the call of the Chair.

The Convention recessed, subject to the call of the Chair, at 5:25 p.m.

RECESS

The President called the Convention to order at 5:33 p.m.

President Tun: There was a motion on the floor, and it has been voted upon and adopted, to close debate. The only possible way we can deal with the proposed amendment is that, if there is no objection from the floor, the Chair will entertain the proposed amendment.

Since there is no objection, the Chair recognizes Delegate Mwety.

Delegate Mwety: Mr. President, I move for the adoption of Amendment No. 3 to Committee Proposal No. 9.

Delegate Nimwes seconded the motion.

President Tun: The Chair will request the Convention Secretary to read the proposed amendment.

The Convention Secretary read the following:

"Amendment to Committee Proposal No. 9

Amendment No. 3

On line 4, preceding the period, add a semicolon and the following:

'provided that assistance may be provided to parochial schools for non-religious purposes'."

Delegate Ngiraked: Mr. President, this has been a long day. I think we are all tired and we are discussing a very important measure. I am going to make a motion for recess, but before I do that I wish to make a short statement for everybody to take home. And I hope God will forgive me for this. There are people in the world today who worship the Devil. If they come to Palau I will do everything I can--with or without the freedom of religion in our Constitution--to keep them out of Palau. I move that we recess until tomorrow.

President Tun: What time tomorrow, Delegate Ngiraked?

Delegate Ngiraked: Eleven o'clock tomorrow morning.

Delegate Nakamura seconded the motion. Motion to recess until eleven o'clock Thursday morning was defeated.

Delegate Carl Heine: Thank you, Mr. President. I want to speak in support of the proposed amendment offered by Delegate Mwoty. In view of the discussion and experience, and the research and study, of the Committee on Civil Liberties, and after consultation with legal staff of this Convention, this amendment is acceptable. I urge this Convention to adopt this amendment as part of the freedom of religion clause.

Delegate Salii: I move for the previous question.

Delegate Falanruw seconded and motion to close debate carried.

Motion to adopt proposed Amendment No. 3 to Committee Proposal No. 9 carried.

Floor Leader Tman: I move for the previous question.

Delegate Techeliol seconded, and motion to close debate carried.

President Tun: As I said before, some Delegates have left the Hall and it will now require 33 affirmative votes to pass Committee Proposal No. 9, as amended. We will vote by roll call.

The Convention Secretary reported that there had been 38 affirmative votes, 2 nays, and 3 abstentions.

The Chair declared that Committee Proposal No. 9, as amended, had been adopted by the Convention on Second and Final Reading. It is as follows:

Committee Proposal No. 9 (SD1) (CD1)

A Proposal relating to Freedom of Religion.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Freedom of Religion. No law may be passed respecting an establishment of religion or impairing the free exercise of religion; provided that assistance may be provided to parochial schools for non-religious purposes.

President Tun: Now we have action on Committee Proposal No. 26, Style Draft No. 1.

Delegate Williander: Mr. President, although I am reluctant to do so, I move for the adoption on Second and Final Reading of Committee Proposal No. 26, Style Draft No. 1.

Delegate Nimwes seconded the motion.

Delegate Ismael: Mr. President, there was a real concern by the members of your Governmental Functions Committee relative to this particular Proposal. This concern is reflected in Amendment No. 2 as provided and distributed to the Delegates to this Convention. I move, Mr. President, that we adopt Amendment No. 2 to Committee Proposal No. 26, SD 1.

Delegate Toribiong seconded the motion.

Floor Leader Tman: Mr. President, it would appear that we might have a lengthy debate on this measure. I move that Committee Proposal No. 26 (SD1) and the proposed amendment be deferred to tomorrow's calendar.

Delegate Ismael seconded, and motion carried to defer action on Committee Proposal No. 26 (SD 1) and the proposed Amendment No. 2 thereto until the calendar of the 82nd Day.

Floor Leader Tmm: I know that many Delegates are tired. I venture a motion that we recess until eleven o'clock tomorrow morning.

Delegate Olikong seconded the motion to recess.

Delegate Ismael: Before we recess, Mr. President, I would like to have a chance for an announcement. I would like to urge that the members of your Committee on Governmental Functions meet at 9:30 a.m. tomorrow in this Chamber.

Delegate Tacheliol: Point of information, Mr. President. Will we have the same Order of Business for tomorrow?

President Tun: We will have a new Order of Business. The Proposal on which we have just deferred action will be on that Order of Business for tomorrow's calendar.

Motion to recess until 11:00 a.m., Thursday, October 30, 1975, carried.

The Convention recessed at 5:50 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

EIGHTY-SECOND DAY

Thursday, October 30, 1975

The Micronesian Constitutional Convention was called to order at 11:32 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

The Convention Secretary called the roll. There were 50 Delegates present. Delegates Andrike, Borja, Namwarki Max Iriarte, Kendall, Kijiner and Rasa were excused. A quorum was present. Iroij Lanki and Iroij Tomeing were also present.

The Chair recognized Delegate Cabrera.

Delegate Cabrera: Thank you, Mr. President. On behalf of the Convention, I wish to extend a hearty welcome to my good friend, Delegate Haruo. [Applause]

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 81st Day be adopted. Delegate Falanruw seconded. The Chair recognized Delegate Sony.

Delegate Sony: Thank you, Mr. President. Mr. President, I just want to make a minor correction on page 457, the last paragraph, that is my statement. On line 3 the statement says "It is a fake and inappropriate. . ." I would suggest that the Secretary strike out the word "a", so that it will be in good English. Thank you, Mr. President.

The motion carried and the Journal of the 81st Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Carl Heine.

Delegate Carl Heine: Thank you, Mr. President. I move for the acceptance of Committee Report No. 52.

Floor Leader Tman seconded. The Chair recognized Delegate Haruo.

Delegate Haruo: Thank you, Mr. President. Mr. President, I would like to raise a point of information. The Federated States of Micronesia will set policies to accord the Micronesian people the following services. It further goes on to say that the Government will also take all the steps necessary and reasonable to secure the fundamental rights to the people. I would just like to find out what those specific steps, reasonable and necessary, that the Federated States of Micronesia would be taking for the people of Micronesia.

President Nakayama: A point of inquiry has been raised. Does anyone wish to respond? Delegate Olter.

Delegate Olter: Mr. President, I am not replying to the inquiry. I have another inquiry -- I am lost as to what my friend from Truk is referring to.

Delegate Haruo: Mr. President, if I may further clarify the point of information, line 4 implies that the Federated States of Micronesia shall take all the steps necessary and reasonable to secure certain fundamental

rights to the people. My question is, what are those specific steps that the Government of Micronesia would take?

Delegate Olikong: Mr. President, would Delegate Haruo inform us as to what he is referring to? Line 4 of what?

President Nakayama: The point of information raised is, line 4 of what are you referring to? What proposal and what page?

Delegate Nimwes: Mr. President, I think we are on Committee Report No. 52 and we haven't discussed Proposal No. 31 yet, so may I ask my good Delegate from Truk to yield his question until we come to that particular proposal?

The motion carried, and Committee Report No. 52 on Committee Proposal No. 31, "A Proposal relating to the right to medical care, the right to legal services and the right to be educated.", was accepted by the Convention.

Delegate Carl Heine: Mr. President, again I move for the acceptance of Committee Report No. 53.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 53 on Committee Proposal No. 32, "A Proposal relating to the right to live in a healthful environment.", was accepted by the Convention.

The Chair recognized Delegate Williander.

Delegate Williander: Mr. President, I move for acceptance of Committee Report No. 54.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 54 on Committee Proposal No. 28, CWD1, SD1, "A Proposal relating to ownership of property.", was accepted by the Convention.

Delegate Williander: Mr. President, I move for the acceptance of Committee Report No. 55.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 55 on Committee Proposal No. 29, SD1, "A Proposal relating to the Effective Date of the Constitution.", was accepted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 31, entitled "A Proposal relating to the right to medical care, the right to legal services and the right to be educated."

Committee Proposal No. 32, entitled "A Proposal relating to the right to live in a healthful environment."

Delegate Carl Heine: Mr. President, I move for passage on First Reading of Committee Proposal No. 31.

Floor Leader Tman seconded, and the motion carried. Committee Proposal No. 31 passed First Reading of the Convention.

Delegate Carl Heine: Mr. President, I again move for passage on First Reading of Committee Proposal No. 32.

Floor Leader Tman seconded, and the motion carried. Committee Proposal No. 32 passed First Reading of the Convention.

SECOND READING OF COMMITTEE PROPOSALS - FINAL ACTION

Committee Proposal No. 28, CWD1, SD1, "A Proposal relating to ownership of property."

Committee Proposal No. 29, SD1, "A Proposal relating to the Effective Date of the Constitution."

Committee Proposal No. 26, SD1, "A Proposal relating to Taxation."

The Chair recognized Delegate Williander.

Delegate Williander: Mr. President, I move for passage on Second and Final Reading of Committee Proposal No. 28, Committee of the Whole Draft 1, Style Draft 1.

Floor Leader Tman seconded. The Secretary read the proposal.

The Chair recognized Delegate Apis.

Delegate Apis: Point of information, Mr. President. The word "may" on line 3, does it mean that they can also have land? It is kind of vague to me. I wonder if the use of the word "may" makes any difference from use of the word "shall".

Delegate Williander: Mr. President, it does not really make a difference, the use of the word "shall" or the word "may" in this respect, but the Style Committee felt that "may" is consistent with the word "not". Therefore, it doesn't really mean that they may acquire, because this article says they cannot, so it is just the word "may" that the Style Committee chose to use. It does not mean that they may; they really cannot. Thank you, Mr. President.

Delegate Nimwes: Thank you, Mr. President. The word "water", does it refer to fresh water or salt water? [Laughter]

Delegate Williander: I am sure . . .

President Nakayama: May I add another? Is it cold or hot water?

Delegate Williander: I think, Mr. President, it refers to both fresh and salt water, or fresh and not fresh water, and it may be cold or hot water. However, by talking with the Chairman of the originating committee, this also includes --- it is really talking about the rights and the title to those waters, lagoons, rivers, streams, whatever we call water is included.

Delegate Nimwes: Mr. President, what if foreign nationals purchase drinking water? Can they possess that?

Delegate Williander: I am sure the Chairman of the Committee on General Provisions will give the right answer, but as I recall, drinking water would be a stream or the source of water under the land, so we don't want a non-citizen to acquire title to that drinking water.

Delegate Toribiong: Thank you, Mr. President. Just for the record, the word "waters" used in that proposal does not refer to the physical matter. It refers to a conceptual matter which includes all use and use rights, mainly referring to the lagoon waters and ocean waters.

President Nakayama: We will now vote. To pass all proposals this morning on Second and Final Reading, it will require a minimum of 37 affirmative votes.

A roll call vote was taken and the Convention Secretary announced that there were 43 affirmative votes, one negative vote, and five abstentions. Committee Proposal No. 28, CWD1, SD1, passed Second and Final Reading, as follows:

Committee Proposal No. 28, CWD1, SD1

A Proposal relating to ownership of property.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE_____

SECTION_____. Property Ownership. A noncitizen, or a corporation not wholly owned by citizens, may not acquire title to land or waters in Micronesia.

The Chair recognized Delegate Isaac Lanwi.

Delegate Isaac Lanwi: Point of privilege, Mr. President. I did not open my mouth during the discussion because I know all my friends and fellow Delegates would not agree with my logical thinking on this measure. To me, it's a one-way thinking in passing this because, for example, if I was going to die or someone was going to kill me on foreign land and a foreigner saved my life and I don't have money to pay for his kindness to me, the only thing I have is a piece of land, my own private land, not government land, I don't see why the Government of Micronesia would prevent me from helping my friend who saved my life by giving him a little bit of my small land. Thank you very much.

The Chair recognized Delegate Williander.

Delegate Williander: Mr. President, I move for passage on Second and Final Reading of Committee Proposal No. 29, Style Draft 1.

Floor Leader Tman seconded. The Secretary read the proposal.

A roll call vote was taken and the Convention Secretary announced that there were 38 affirmative votes, no negative votes, and eleven abstentions. Committee Proposal No. 29, SD1, passed Second and Final Reading as follows:

Committee Proposal No. 29, SD1

A Proposal relating to the Effective Date of the Constitution.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE_____

SECTION_____. Effective Date. This Constitution takes effect 1 year after ratification unless the Congress of Micronesia specifies an earlier date. If a provision of this Constitution is held to be in fundamental conflict with the United Nations Charter or the Trusteeship Agreement between the United States of America and the United Nations the provision does not become effective until the date of termination of the Trusteeship Agreement.

[Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposals No. 28, CWD1, SD1, and No. 29, SD1, were re-referred to the Committee on Style and Arrangement]

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Mr. President, just to remind the Convention, when we recessed yesterday, Committee Proposal No. 26, along with the amendment offered by Delegate Ismael, was deferred until today.

Delegate Williander: Mr. President, I move for passage on Second and Final Reading of Committee Proposal No. 26, Style Draft 1.

Delegate Falanruw seconded. The Secretary read the proposal.

The Chair recognized Delegate Ismael.

Delegate Ismael: Thank you, Mr. President. Mr. President, I move to file Amendment No. 1 to this proposal, offered by my signature, and I move, Mr. President, for adoption of Amendment No. 2 to this proposal, as distributed yesterday.

Delegate Toribiong seconded. The Chair directed the Convention Secretary to read Amendment No. 2, and the Secretary read the following:

AMENDMENT TO COMMITTEE PROPOSAL NO. 26, SD1

Amendment No. 2

1. Line 10, following the word "collected.", insert a new Section 4 to read as follows:

> "Section 4. Without altering the national government's share, a state may reduce or, by means of a surtax, increase the amount of income tax revenues which are attributable to that state."

2. Line 11, delete the numeral "4" and insert in lieu thereof the numeral "5"

3. Line 13, delete the numeral "5" and insert in lieu thereof the numeral "6"

The Chair recognized Delegate Robert.

Delegate Robert: Thank you, Mr. President. For the last time this Convention will act, perhaps, on this Proposal No. 26, and for this reason, I would like to share my discomfort with the language in this proposal. My discomfort comes primarily with Section 3 of the same proposal, in that Section 3 says that not less than fifty percent of the revenue collected shall be returned to the state where collected, and my main concern here is that the words "not less than 50%" can be interpreted to mean the state can get 51 or 52 percent, or in the extreme, perhaps 90 percent or 99 percent of the revenue collected. If this is permissible under our Constitution, I think we will financially immobilize our national government. We can't, and there is nothing that can stop the National Legislature from doing so.

My second concern is the overtone of this section. To me, it is an implication that we have no trust in our future government; we have no trust in our National Legislature, to divide the money collected based on the needs of the future states of Micronesia.

Thirdly, Mr. President, I think the same section violates our long-cherished principle of the equality of districts in that it gives 50 percent, or not less than 50 percent of the money collected to the state in which that money is collected. However, the consensus of this Convention, by the passage of Committee Proposal No. 15, is that the districts should be treated equally, on an equal basis, and Section 3 distributes the money, not equally, but on the basis of a district which contributes more will receive more. Mr. President, this constitutes inequality. Thank you.

Floor Leader Tmau: Thank you, Mr. President. With respect to the proposed amendment to Committee Proposal No. 26, I have real difficulty. It's not that I don't agree that the state should have and exercise taxing power to raise income. The language of the proposed new Section 4 would, in effect, by Constitutional provision, allow the State Legislature to amend National Legislature enactment because it states ". . .a state may reduce or, by means of a surtax, increase the amount of income tax revenues. . ." Of course, it says "Without altering the national government's share, . . .", but if the National Legislature enacts a uniform income tax law, the State will be permitted to reduce the amount imposed. I don't think this is the proper approach, that the law enacted by the National Legislature can be amended by the State Legislature. Thank you, Mr. President.

Delegate Wainit: Mr. President, with respect to Amendment No. 2 to Committee Proposal No. 26, although I think that the rationale and intent of the amendment is good in one respect, in that it will generate additional revenue for each State Government, I should like to point out that concurrent taxing power (which the amendment implies) is not highly recommended, and has been proven to be poor, inefficient fiscal policy.

The Committee on Public Finance took great pains in long discussions considering the matter of concurrent taxing power of the National Government with the State Governments and came to the conclusion that in order to have an efficient and less costly tax system, the taxing power of our future government ought to be clearly divided up between the State and National Governments in a manner that one kind of tax will be collected and administered by one level of government irrespective of any sharing formula.

Not only will we have conflicts and overlapping tax jurisdiction under a concurrent tax system, but also we will have duplication of collection agencies and clashes of fiscal policy.

The fifty-fifty sharing formula between the State and National Government is incorporated in this proposal really to take the place of the concurrent scheme which is not desirable on account of the reasons I just stated.

An intentionally clear division of the taxing power allocated between the State and National Governments, not only is desirable but also highly regarded as good fiscal policy. It will not only avoid all these conflicts, overlapping tax jurisdiction, and duplication of overhead costs, but also it will avoid the undesirable, unpopular matter of double-taxing the taxpayers. Under the amendment taxpayers, who may have already been burdened with a high national income tax, can be subject to another tax by the State Government. The argument sometimes advanced is that the State Legislature is responsible enough to make sure that the people within that State are not overburdened with another State tax. Sometimes I just don't trust that responsibility. There has been some experience in the present districts where due consideration to the people is brushed aside in the interest of increased salaries and unnecessary projects.

Furthermore, I would like to point out that there are two basic reasons for taxation: one is to have revenue for the government so that it can carry out its duties and functions, and two is to be able to institute national economic policies to cope with inflation, economic development, and other essential economic matters which need to be centrally coordinated in order to achieve positive ends.

If we are to allow the State Government to share with the National Government the power to tax income, we will have a situation where economic policies of the two governments will clash and destroy the intent and objective of such policies.

Thank you, Mr. President.

Delegate Toribiong: Thank you, Mr. President. I just wish to say the intent of Amendment No. 2 is to provide room to each of the respective States so that they may increase or decrease the income tax burden of their citizens depending on the needs of that State and the circumstances of that State. It doesn't mean that the State Government may amend the national law to the point where it affects national interest. It limits its authority to the extent that it affects revenues derived under the national law to that State. Assuming that the National Government imposes a very burdensome income tax on the citizens of Micronesia uniformly and one State does not need all the revenue because they can derive revenues from other sources, they may, under this proposal, reduce the national income tax by one-half by completely eradicating all revenues attributable to that State without in any way decreasing or increasing the income due to the National Government. By the same token, they can impose surtax. Given the various conditions from district to district, I think this will not conflict with the national economic policy. It will supplement that policy by fashioning a system in any given State according to the needs of that State without affecting the national economy.

Delegate Ngiraked: Mr. President, I support the amendment for the reason that we are not setting any figure here. I think the people in the National Legislature and the people who will be responsible for reaching a decision will take care of the problem in a more realistic manner, and at this time we cannot see all kinds of contingencies which may occur. The significance of the amendment is to allow each district, after it has received its fifty percent share, and if it still needs more to support its programs, it may do so only at the expense of the people of that district, and I think the well-being of the people of the district is at stake in this amendment.

Delegate Ismael: Thank you, Mr. President. Mr. President, the amendment offered by the Governmental Functions Committee was offered in the light of three serious factors that were considered. One is the concern relative to future legal disputes on taxing matters; two, concern about the reduction of administrative overhead; and, three, potential problems relating to the elimination of tax overlapping. All these points were considered and this amendment reflects the thinking of your Committee on Governmental Functions. Thank you.

Delegate Falcam: Thank you, Mr. President. This is a very complex and important issue. For consultation purposes, I move for a brief recess.

Delegate Toribiong seconded, and the motion carried.

The Convention recessed at 12:24 p.m.

RECESS

The Convention reconvened at 12:50 p.m.

The Chair recognized Delegate Nimwes.

Delegate Nimwes: Mr. President, I move that the Convention recess until 3:00 p.m. today.

Delegate Olikong seconded, and the motion carried. The Convention recessed at 12:51 p.m.

RECESS

The Convention reconvened at 3:20 p.m.

The Chair recognized Delegate Cabrera.

Delegate Cabrera: Thank you, Mr. President. Mr. President, we have heard arguments advanced before we recessed this morning on the advantages and disadvantages of amending Section 3 of Committee Proposal No. 26. It was good that we had the opportunity to recess and confer with people relative to the intent of the amendment and also those people who stand very strongly to not amend Section 3. I was able to learn, Mr. President, that the intent of the amendment is to provide a State with the option to increase more money should they finally need to finance a special project or two. Mr. President, in reading Section 3 again---and reading between the lines---I think the intent could be accommodated in Section No. 3. I do think that if a State wishes to have more money in order to finance a special project, all it has to do is pass a resolution and send it to the National Government and ask for more money from the amount of money they put in. Rather than the "not less than 50%", they may ask for 90%. I think we should put enough trust in the people we place in the National Government. That's all, Mr. President. Thank you.

Delegate Weital: Point of information, Mr. President. In this proposed Amendment No. 2, Section 4, are we trying to make it so that the Constitution dictates to the States how to handle taxes? Is that the intention of this section, Mr. President?

Delegate Ismael: Thank you, Mr. President. That is not the intent of the proposed amendment, Mr. President. The intention of the Committee on Governmental Functions was to make some flexibility relative to personal and business income taxes so that the State may increase or decrease only their portion of the 50%, not infringing upon the original 50% for the National Government.

Delegate Nimwes: Mr. President, I see no need for this proposed amendment. As stated, I think Section 3 will take care of these proposed sections. Therefore, Mr. President, I move that we table this amendment.

Delegate Sony seconded the motion.

Delegate Ngiraked: Mr. President, in offering this amendment, I think the makers had in mind to try to leave some room for the district. There has been some desire in the Convention to reserve the income tax to the district. There also has been some desire to have the district retain 75%. We came to the solution in Committee Proposal No. 26 that returns only 50% to the districts. I think this proposed amendment is trying to compromise with the wishes of some of the districts and some of the Delegates, and trying to solve the problem of the districts. For the National Government to retain 50%--that is the business of the National Government. But for the districts to impose upon their citizens additional tax in this field to try to solve a problem that is peculiar to the district--I do not know why this Convention is reluctant to give some room for the district.

Floor Leader Tmetuchl: Mr. President, I would like to remind the Delegates that the motion to table is not debatable.

Motion to table proposed Amendment No. 2 to Committee Proposal No. 26, SD1, carried.

President Nakayama: The proposed Amendment No. 2 to Committee Proposal No. 26, Style Draft No. 1, has been tabled.

The Chair recognized Delegate John Heine.

Delegate John Heine: Thank you, Mr. President. I think there is a need to look at Section 3 of Committee Proposal No. 26, particularly on line 9. It starts at the end of line 8 and continues on line 9, where it says "Not less than 50%". I am not quite comfortable with that, Mr. President, because when it says "not less than 50%" it allows a leeway in which the share for the district might rise even above 50%, maybe even going up to 99%. Therefore, if I am in order, Mr. President, I would like to move to suspend Rule 62(a) and to make an oral amendment.

Delegate Ngiraked seconded, and motion to suspend Rule 62(a) carried.

The Chair recognized Delegate John Heine.

Delegate John Heine: Mr. President, I would like to make a motion to add the following words: Between "not" and "less than 50%", I move that we add "not more and not less than 50%". That will definitely state that we will be dividing it 50% equally between the National Government and the State Government. I so move.

Delegate Carl Heine seconded the motion.

Delegate Nakamura: Thank you, Mr. President. I think the Delegates of the Convention should know that the power rests at the National Legislature to decide to raise or remain at 50%, so we don't have to worry about how much will go to the district level. It is not the District Government that will decide; it is the National Government that has the exclusive power to either remain at 50% or increase it. Thank you.

Floor Leader Tman: Thank you, Mr. President. The proposed amendment, from the point of view of style, instead of adding "more and not less" could have just said "50% shall". Mr. President, the point is that the "not less than 50%" clause is being used as a limitation or mandatory rule to the National Government that at least 50% must be returned to the districts. If the need arises in the district and there are reserve funds in the national treasury, I think the National Legislature ought to have freedom to increase tax rebates to the districts, for the benefit of the districts.

Delegate Olter: I yield.

Delegate Falcam: Thank you, Mr. President. I merely wanted to add to what Delegate Tman said, that we should not repeat "not more and not less". It should merely say, if that is what the Convention desires, "50% of the revenues shall be paid". There is no need of repeating. If the mover could see the light of that, I would appreciate it if he would consider that.

Delegate Olter: There might be some differences in interpretation here, but to merely say "50%" will allow the National Legislature, also, to appropriate more or put more out to the district. This is the legal interpretation I obtained from my counsel. Thank you.

Delegate John Heine: Thank you, Mr. President. I think Delegate Bailey Olter has stated what I had in mind.

Delegate Toribiong: Mr. President, if that is the interpretation, then I see no reason we need to amend this.

Delegate Ngiraked: I wish to speak on a different section of this Proposal, if I may. But, before I do that, since the interpretation as offered by the Chairman of the Committee concerned seems to take care of Delegate Heine's concern, I suggest that my friend withdraw his motion.

Delegate Cabrera: I move for the previous question.

Delegate Nimwes seconded, and motion to close debate carried.

Motion to amend, as offered by Delegate John Heine's oral amendment, was defeated.

Delegate Sony: Thank you, Mr. President. By listening to all the remarks, pro and con, it becomes more clear to me that most of us--if not all--are not national oriented, but district oriented. It is more discouraging and saddening to note in the final analysis of the actions we have taken so far on some of the Proposals that here we are trying to lay the foundation of our future National Government, our only hope for the existence of a Micronesian nation, a nation whose National Government is not only responsive to one State's needs but, rather, to all its components' needs. Yet, Mr. President, we are stripping that National Government of all its financial means to cope with its responsibilities. Let us remember that out of the 50% share that the National Government will get, the National Legislature will still appropriate funds for district projects and for its international responsibilities. For that reason, Mr. President, I have an amendment to offer. If the Rule 62(a) is still suspended, I would like to make an oral amendment. Is it?

President Nakayama: The rule is no longer suspended.

Delegate Sony: I move to suspend Rule 62(a).

Delegate Ramo seconded, and motion carried to suspend Rule 62(a).

Delegate Sony: Mr. President, I move that on line 9 in Section 3 of Committee Proposal No. 26, we delete the word "less" and insert the word "more" in its stead.

Delegate John Heine seconded the motion.

Delegate Ngiraked: Mr. President, I think about everybody in the Convention has settled down on the language as provided in the Proposal, and let us not open any field of disagreement. I think this Proposal, as this particular section stands now, solves the problem. I am not in favor of the motion to amend.

Delegate Toribiong: I just wish to say that if we amend this section by making "less" into "more", we have actually changed the whole thrust of this section. It becomes very dangerous because here the National Government has the power to establish that percentage. They can completely ignore the interests of a State by saying that nothing shall go to a State treasury.

Delegate Sony: Mr. President, I just want to reemphasize one point. The National Government will have more responsibility than a State Government. The National Government is responsible for international and all the States' problems, if they request assistance.

Motion to amend, as offered by Delegate Sony's oral amendment, was defeated.

Delegate Ngiraked: Mr. President, I think we have been on this same subject long enough. I would like to move on to discuss another part of the Proposal and direct the attention of the Convention to Section 5, Committee Proposal No. 26. Section 5 proposes to place a blanket prohibition on export tax at any level of government. Mr. President, I understand that the concern of the Committee concerned is to try to encourage local industry, but I see a problem here. I think there will be many times in the districts that we would like to control export of certain articles or goods by means of taxation. We know there are things in Micronesia which we would like to preserve for Micronesians. And I think there are times that, although exportation of those goods or products are allowed, that by means of taxation we could put some limitations and control. I would like to use the country of Japan for an example. For many, many years the country of Japan placed a very stringent export regulation on the locally produced rice and thereby tried to control the consumption of certain kinds of rice only to the people of Japan. I think there are many times that this kind of law is necessary to protect the interests of the local citizens and our State Governments. And I think, Mr. President, that I would like to move to delete the entire Section No. 5. But before I do so, Mr. President, I move to suspend Rule 62(a).

Delegate Toribiong seconded, and motion carried to suspend Rule 62(a).

Delegate Ngiraked: Mr. President, I move that we amend Committee Proposal No. 26, SD 1, by deleting the entire Section No. 5.

Delegate Toribiong seconded the motion.

Delegate John Heine: Thank you,Mr. President. I would like to share just a little of my observation regarding Section 5 and what it might do to us if we deleted the entire section. For an example, today we have fishing companies around Micronesia that fish in our areas and then send their catch all the way to Samoa. From Samoa they ship them to the United States without any import tax, to the U.S.A. If we export them directly from here, then it will cost more--so these people are really making use of our fish without us getting any benefit from it. I have seen fish unloaded in Long Beach, California, which were caught in the waters of Micronesia but came through Western Samoa. By imposing an export tax we might be able to point out to somebody that instead of shipping those fish out, they might decide to build some factories in Micronesia where they can produce canned goods--canned fish--and, thus, reduce the price on our imported canned goods. Therefore, I sincerely support this amendment and I would urge that we all vote for it.

Delegate Cabrera: Thank you, Mr. President. Your Committee on Finance & Taxation, in considering Section 5 of the Proposal, Mr. President, took a

substantial amount of time posing hypothetical questions, including the present trading that exists in Micronesia at the present time. If we walk into any store in any district you find all sorts of goodies imported into the Trust Territory. Some of these goods could be produced on our respective islands, but because of the cost in producing such goods and putting them in the store is so great, the businessmen find it incumbent on their part to import. They can make more money selling imported goods than they can selling locally produced goods. We have a situation where we cannot sell the Ponape eggs---as we understand that Ponape produces more eggs now than they need---because the eggs from Japan sell cheaper in the stores than the eggs produced in Ponape. Mr. President, we want to induce local industry. We want to be able to support our government based on what we are able to produce. I don't think we will suffer immensely if we have such a section in our Constitution. I think there are other avenues to tax or collect royalties from fishing industries, foreign fishing industries that come to Micronesia to fish. We should all realize how very dependent we have been on the grants received from Uncle Sam yearly. If we don't try to stimulate our economy we are not going to be able to support our government and be able to meet the needs of our people. I think this Convention owes it to the Micronesian people in providing that such a situation exists where Micronesians are able to produce and sell goods outside of Micronesia. Thank you, Mr. President.

Delegate Tachelliol: I agree with my colleague, Delegate Ngiraked, to delete entirely this Section 5. The Constitution should remain silent on this and, should the need arise in the future, we will have it established by law, either National or State statutes.

Delegate Toribiong: I wish, also, to express my full support for deletion of Section 5. The fact that we have it now doesn't mean that it will induce more local industry. I would rather have us silent on it and let that be a policy decision for our future legislators to make. There are several resources that can only generate revenue by way of export taxation.

Delegate Wainit: In line with my good colleague, Delegate Cabrera, and as a member of your Committee on Finance, I would like to say that Section 5 is in line with our earnest desire for economic development. Furthermore, it is really a protection we want to guarantee in the Constitution for the benefit of our farmers, small industries, who are not able yet to meet the inflationary costs of the modern world.

Delegate John Heine: I agree with the statement made by the proponents of Committee Proposal No. 26, Section 5, and in order to support them I think we ought to delete Section 5 and remain silent on it. Let it come up later on by legislation. Therefore, I support it strongly---both sides.

President Nakayama: Both sides? Delegate Falcam.

Delegate Falcam: Thank you, Mr. President. I move for previous question.

Delegate Ngiraked seconded, and motion carried to close debate.

Motion to delete Section 5 of Committee Proposal No. 26, SD1, carried.

The Chair recognized Delegate Toribiong.

Delegate Toribiong: I have a question, Mr. President, as to the language in Section 3. I heard arguments concerning the division of revenues between the National and District Governments. Does the 50% figure there mean that the National Legislature must impose a uniform rate of sharing between the National and District throughout Micronesia, or can that be on a different basis among the districts?

Delegate Wainit: If we read the beginning of that Section, it says "National taxes shall be imposed uniformly." That answers the question.

Delegate Toribiong: Mr. President, even though it is now moot to argue for the proposed amendment, I think that was the very reason why we submitted the proposed amendment--that the district may alter the rate of district taxation to increase or decrease their revenues without altering what would be due to the National Government under national law.

Delegate Nimwes: I move for the previous question.

Delegate Fatanruw seconded, and motion carried to close debate.

President Nakayama: We will now vote on the motion to adopt Committee Proposal No. 26, SD1, CD1. We will require a minimum of 36 affirmative votes to pass it, and we will vote by roll call.

The Convention Secretary announced that there were 45 affirmative votes, 1 negative vote, and 3 abstentions. Committee Proposal No. 26, SD1, CD1, passed Second and Final Reading, as follows:

Committee Proposal No. 26, SD1, CD1

A Proposal relating to taxation.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE

SECTION 1. A taxing power not expressly delegated to the national legislature is reserved to the states.

SECTION 2. The following powers are expressly delegated to the national legislature:

(a) to impose taxes, duties, and tariffs based on imports;

(b) to impose taxes on income.

SECTION 3. National taxes shall be imposed uniformly. Not less than 50% of the revenues shall be paid into the treasury of the state where collected.

SECTION 4. A tax imposed by a state or local government may not restrict interstate commerce.

President Nakayama: I would like to call a short recess, subject to the call of the Chair.

The Convention recessed at 4:00 p.m.

RECESS

The Convention reconvened at 4:18 p.m.

Delegate Williander: Mr. President, I feel that the Convention should send the Judiciary section of Committee Proposal No. 24 to your Committee on Style and Arrangement to start working on it, since that particular section of the Proposal has passed the Plenary Session. So, Mr. President, I move that we refer the Judiciary section of Committee Proposal No. 24 to your Committee on Style and Arrangement.

Floor Leader Tman seconded, and motion carried to refer the Judiciary section of Committee Proposal No. 24 to the Committee on Style & Arrangement.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 24, CD1, CD2, articles on EXECUTIVE and LEGISLATIVE only. "A Proposal relating to a structure for the government of the Federated States of Micronesia."

Floor Leader Tman: Mr. President, if it is the wish of the Convention, I move that the Convention resolve into the Committee of the Whole to take up Committee Proposal No. 24, articles on Executive and Legislative.

Delegate Ngiraked seconded, and motion carried to resolve into the Committee of the Whole. The Convention resolved into the Committee at 4:20 p.m.

The Convention was called to order at 6:10 p.m.

President Nakayama: We will receive the report from the Committee of the Whole.

Floor Leader Tman: Thank you, Mr. President. Mr. President, your Committee of the Whole again reports that it has not been able to reach a consensus on Committee Proposal No. 24, particularly on articles relating to the Legislative and Executive Branches. Your Committee of the Whole therefore recommends that action on the Legislative article be deferred until Monday and that the article on the Executive Branch be taken up tomorrow for further deliberation. Mr. President, I move for the acceptance of this short oral report.

Delegate Toribiong seconded, and the motion carried to accept the oral report of the Committee of the Whole.

Floor Leader Tman: I move that the article on the Legislative Branch in Committee Proposal No. 24 be deferred until Monday's calendar.

Delegate Toribiong seconded, and the motion carried to defer action on the Legislative Branch of Committee Proposal No. 24 until Monday, November 3, 1975.

Floor Leader Tman: I forgot to include one important item in the motion to defer action on the Legislative Branch until Monday. That motion, if the record will reflect, should include all the amendments pertaining to that article.

Mr. President, I now move that the article on the Executive Branch be placed on tomorrow's Second Reading Calendar.

Delegate Ngiraked seconded, and the motion carried to place the article on the Executive Branch of Committee Proposal No. 24 on the Second Reading Calendar for October 31, 1975.

INTRODUCTION OF DELEGATE PROPOSALS

None

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Weital.

Delegate Weital: Mr. President, I regret to say at this time that I disagree with the way we are operating, especially now that we are running short of time. On important measures, important items of this Convention, to delay action on these issues will not change my vote. These are important, and each and every one here has made up his mind. I do not see the need of delaying action on these matters. Thank you.

Delegate Sony: Point of privilege, Mr. President.

President Nakayama: State your point.

Delegate Sony: Because I couldn't get a copy of the 80th Day Journal, I was unable to correct my statement in the fourth paragraph on page 445. I would like to request that the Secretary include the phrase "without specific purpose" between the word "assistance" and the comma on line 3. Thank you, Mr. President.

President Nakayama: That technical correction will be made.

Delegate Nimwes: We have only eight more days to go, and I am wondering if it would be possible for the Convention to send our file folders to our respective districts after the Convention?

President Nakayama: We will look into that question and advise you when we know exactly what the answer is.

Delegate Sony: Thank you, Mr. President. I just want to request this Convention to recognize the presence of the Civic Affairs Officer in Truk District, Mr. John Sound, who is here with us in the gallery. (Applause)

ANNOUNCEMENTS

The Chair recognized Delegate Williander.

Delegate Williander: I would like to announce to the members of the Committee on Style and Arrangement that we will have a meeting tomorrow at 9:30 a.m. in this chamber. Please be present.

Delegate Ismael: Thank you, Mr. President. I would like to urge members of your Committee on Governmental Functions to attend a meeting tomorrow morning at ten o'clock in Room No. 1.

Floor Leader Tmun: If there is no further announcement, I move that the Convention stand in recess until 11:00 a.m. tomorrow.

Delegate Ngiraked seconded, and the motion carried. The Convention recessed at 6:15 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

EIGHTY-THIRD DAY

Friday, October 31, 1975

The Micronesian Constitutional Convention was called to order at 11:40 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

The Assistant Convention Secretary called the roll. There were 50 Delegates present. Delegates Andrike, Borja, Kendall, Kijiner, Mangiona and Rasa were excused. A quorum was present. Iroij Lunki and Iroij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tmau moved that the Journal of the 82nd Day be adopted. Delegate Toribiong seconded the motion.

The Chair recognized Delegate Sony.

Delegate Sony: Every morning I check my statement to see whether it is twisted, misquoted or misspelled. On page 4fh of my remarks--as a Trukese it is much faster for me to count from the bottom up--so, on the sixth line from the bottom, the word "go" should be changed to the word "cope". I think that's the word I was actually using yesterday. Thank you, Mr. President.

There being no further corrections, the motion carried. The Journal of the 82nd Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Tun.

Delegate Tun: Thank you, Mr. President. I move for the acceptance of Committee Report No. 56.

Delegate Tachelial seconded, and the motion carried. Committee Report No. 56, from the Committee on General Provisions, submitting Committee Proposal No. 33, entitled "A Proposal relating to transition powers of the National Legislature.", was accepted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 33, entitled "A Proposal relating to transition powers of the National Government."

Delegate Tun: Mr. President, I move for the passage on First Reading of Committee Proposal No. 33.

Floor Leader Tmau seconded, and the motion carried. Committee Proposal No. 33 passed First Reading of the Convention.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 31, "A Proposal relating to the right to medical care, the right to legal services and the right to be educated."

Committee Proposal No. 32, "A Proposal relating to the right to live in a healthful environment."

Committee Proposal No. 27, "A Proposal relating to secession and admission of new States."

Committee Proposal No. 24 (CD2), Article on Executive, "A Proposal relating to a structure for the government of the Federated States of Micronesia."

The Chair recognized Floor Leader Tmau.

Floor Leader Tmau: Point of information, Mr. President. I just wish to ascertain from the Delegates to this Convention if they wish to proceed in the Plenary to consider these proposals, or do they wish to resolve into the Committee of the Whole?

Delegate Falcam: I should like to suggest that we resolve into the Committee of the Whole and continue discussion of these measures. Thank you.

Delegate Toribiong: I move that the Convention resolve into the Committee of the Whole.

Delegate Heinrich Iriarte seconded, and the motion carried to resolve into the Committee of the Whole.

The Chair requested that Delegate Weital preside over the Committee of the Whole in the discussion of Committee Proposals No. 31, No. 32 and No. 27, and that Floor Leader Tmau preside in the discussion of the Executive Article of Committee Proposal No. 24.

The Convention resolved into the Committee of the Whole at 11:50 a.m.

The Convention was called to order at 5:51 p.m.

President Nakayama: The Chair will now recognize Delegate Weital to give the report of the Committee of the Whole.

Delegate Weital: On the morning of October 31, 1975 your Committee of the Whole discussed two Proposals, Committee Proposal No. 31 and Committee Proposal No. 32. After lengthy discussion your Committee adopted Committee Proposal No. 31 with an amendment, making it Committee Proposal No. 31, CWD1. And, after lengthy discussion, your Committee decided to defer action on Committee Proposal No. 32 until November 5, 1975, along with proposed amendments numbers 1 and 2. In the afternoon of October 31st your Committee came back and discussed Committee Proposal No. 27. It was the consensus of your Committee of the Whole to defer action on Committee Proposal No. 27 and the minority proposal thereto until November 1, 1975. Mr. President, I move for the acceptance of the oral report.

Floor Leader Tmau seconded, and motion carried for the Convention to accept the oral report of the Committee of the Whole.

Delegate Weital: Mr. President, I move that this Convention refer Committee Proposal No. 31, CWD1, to your Committee on Style & Arrangement.

Delegate Falantruw seconded, and motion carried to refer Committee Proposal No. 31, CWD1, to the Committee on Style & Arrangement.

Committee Proposal No. 31, CWD 1

A Proposal relating to the right to health care, the right to legal services and the right to be educated.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Right to Health Care, Legal Services and to Be Educated. It shall be the policy of the Federated States of Micronesia to take all steps reasonable and necessary to secure the following fundamental rights to the people:

The right to health care;
The right to legal services;
The right to be educated.

Delegate Weital: Mr. President, I move that we defer action on Committee Proposal No. 32, together with proposed Amendment No. 1 and proposed Amendment No. 2, until November 5, 1975.

Delegate Toribiong seconded, and motion carried to defer action on Committee Proposal No. 32, together with proposed Amendment No. 1 and proposed Amendment No. 2, until November 5.

Delegate Weital: Mr. President, I move that we defer action on Committee Proposal No. 27 and the minority Proposal thereto until November 1, 1975.

Delegate Olikong seconded, and motion carried to defer action on Committee Proposal No. 27 and the minority Proposal thereto until November 1, 1975.

Delegate Weital: Mr. President, may I call on the Floor Leader to take care of the rest. (Laughter)

Floor Leader Tmau: I wish to thank my good friend from Ponape, Delegate Daro Weital. Mr. President, your Committee of the Whole, which considered the article on Executive as contained in Committee Proposal No. 24, CD2, CWD1, again recommends the deferral of this article, as amended, along with proposed Amendment No. 17, until tomorrow's calendar. For the record, I wish to note that proposed Amendment No. 6, as amended in the Plenary and adopted in the Plenary to the article on the Executive Branch, was adopted by the Committee of the Whole by a vote of 20 ayes and 15 nays. The recommendation of your Committee of the Whole after proposed Amendment No. 17 was introduced, was that this article, as amended, and the proposed Amendment No. 17 be deferred until tomorrow's calendar. Mr. President, I move for the acceptance of the oral report of your Committee of the Whole.

Delegate Weital seconded, and motion carried to accept the oral report of the Committee of the Whole.

Floor Leader Tmau: I move that the article on the Executive Branch, as amended, along with proposed Amendment No. 17, be deferred until the Second Reading calendar of tomorrow, November 1st, for Committee Proposal 24.

Delegate Tun seconded, and motion carried to defer action on the article on Executive of Committee Proposal No. 24, CD2, CWD1, with proposed Amendment No. 17, until November 1st.

INTRODUCTION OF DELEGATE PROPOSALS

None

INTRODUCTION OF RESOLUTIONS

Resolution No. 33, entitled "Resolution requesting the Congress of Micronesia to establish a Transition Commission to promote a smooth and orderly transfer of functions of government from the Trust Territory of the Pacific Islands to the Federated States of Micronesia.", was introduced by the Committee on General Provisions.

Resolution No. 34, entitled "Resolution relating to the implementation of the Constitution of the Federated States of Micronesia.", was introduced by Delegate Falcam.

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Apis: Mr. President, I would like this Convention to recognize the presence today of some very distinguished visitors we have in the gallery. First, our Director of Education for Ponape District, Mr. Paul Gallen. (Applause) Secondly, a gentleman who has been here quite a long time working with the Boy Scouts, Mr. Jerry Dempsey, who is Field Director of the Boy Scouts of America, Aloha Council. (Applause) With Mr. Dempsey is Isidro Ada, Scouting Representative for the Boy Scouts, Marianas District. (Applause)

Delegate Nimwes: I would also like this Convention to recognize the presence of two very fine gentlemen from Truk District who are here in Saipan participating in the bilingual workshop, Mr. Menchor Moses and Mr. Tony Oto. (Applause)

Delegate Ngiraked: Mr. President, I would like this Convention to recognize the presence today of two beautiful Palauan girls who are also here with the bilingual workshop, Hermana Ramarui and Maria Ongeklungel. (Applause)

Delegate Limes: Mr. President, I beg the indulgence of this honorable body to recognize one of the well-known guests from Saipan, Mr. Jose Lifoifoi. (Applause)

Floor Leader Tmau: Mr. President, I wish the Convention to recognize, and I formally introduce, one of the traditional chiefs of my district. Also the Mayor of Ruil Municipality, Mr. Fernando Falawaath. (Applause)

Delegate Ngiraked: Mr. President, I would also like to introduce to this Convention a very important citizen from Palau, Mr. Ngiratkel Etpison, who is a newly elected member of the Palau District Legislature. (Applause)

Delegate Olikong: I would like to add some information to what Delegate Ngiraked said introducing Mr. Etpison. He is also President of the Palau Chamber of Commerce, President of Ngiratkel Etpison Company, and President of Palau Shipping Company. He is also Vice President of the Palauan Liberal Party. (Applause)

Delegate Falcam: Thank you, Mr. President. I have just introduced to this Convention a very essential Resolution to our work and the work of this Convention in the future. I would like to indicate here for the record that some explanation of this Resolution will be given tomorrow in the Resolution calendar for the benefit of the Delegates. Thank you very much.

Delegate Ngiraked: Thank you, Mr. President. This afternoon we took an action on the proposed structure of the Executive Branch of our National Government. The way I see the functions and the works of the Convention, I have some serious concern that I would like to share with the Convention. The way the procedures are set up in the Convention, the referral to our Style Committee was intended to receive only deliberation as to the style and the form, and not the substantive matter involved in the proposed sections of the divisions for our Constitution. The section on the structure of the Executive Branch of our government passed the votes on the approval of the Committee of the Whole by 20 against 15 votes. This does

...ate a substantial consensus, or enough consensus ... work and a successful adoption when it comes back ... on Style & Arrangement. If we proceed in this way, Mr. ...l come up to a very desperate situation and, possibly, a ... a dead-end where we cannot pass some important measures in ...ion. If this system is not working, as it has been proven time ... again, I think this Convention should look to some means and some ...--maybe we should look to what some people used to call "the Micro-...sian way"--of reaching some consensus so that we do not come to a despera... end of the Convention.

Delegate Apis: I select this time to just make a few remarks under this Miscellaneous and Unfinished Business, especially on the Amendment No. 16 to Committee Proposal No. 24 which will be taken up on Monday. I have attached an explanation to this amendment and I consider it a compromise. I wish not to mention more, but I would like to request that the Delegates read the amendment. I was told that there were 4 more to become 20 amendments to this Proposal, but I ask for the indulgence of the Convention that they read this amendment as a compromise. Thank you, Mr. President.

ANNOUNCEMENTS

Delegate Willander: Mr. President, there will be a meeting of your Committee on Style & Arrangement at ten o'clock tomorrow morning in this Chamber.

Delegate Falcam: I regret being on the Style & Arrangement Committee.

Floor Leader Tman: Mr. President, I have an announcement to make for 4:00 p.m. tomorrow afternoon. The group of students who are in Hawaii wish to contact with some of the members of this Convention through PEACESAT Following are the Delegates to be at the Headquarters Public Affairs Office for the conference with the students in Honolulu: From the Marshalls, Carl Heine; from Palau, Lazarus Salii; from Truk, Hans Willander; from the Marianas, Larry Cabrera; from Ponape, Hiroshi Ismael; and from Yap, sincerely yours.

Delegate Yoma: Mr. President, I would like to say that Chief Falawanth has the distinction of being recognized twice by this Convention today, and I would also point out that Mr. Falawnath is Mayor of Rull Municipality and that is the only chartered municipality in Yap District. (Laughter & Applause)

Floor Leader Tman: Mr. President, if there is no further business before this Convention, I move that we recess until eleven o'clock tomorrow, in view of the fact that some of the Delegates may have to leave for the conference.

Delegate Tun seconded, and motion carried to recess until eleven o'clock on Saturday, November 1, 1975.

The Convention recessed at 5:55 p.m.

Respectfully submitted,

Antonio R. Takesy
Assistant Convention Secretary

EIGHTY-FOURTH DAY

Saturday, November 1, 1975

The Micronesian Constitutional Convention was called to order at 12:40 p.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

The Convention Secretary called the roll. There were 47 Delegates present. Delegates Andrike, Borja, Max Iriarte, Kendall, Kijiner, Mangloña, Mateak, Rasa and Sigrah were excused. A quorum was present. Iroij Tanki and Iroij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 83rd Day be adopted. Delegate Tun seconded the motion.

The Chair recognized Delegate Salii.

Delegate Salii: Thank you, Mr. President. I will stand to be corrected by Delegate Yoma in what I am about to point out in the Journal. On page 484 in the third to the last paragraph, after the introduction of Mr. Falawaath, the Journal says that Rull Municipality is the only charming municipality in Yap. I think that Rull is a very charming municipality, but I wouldn't say that it is the only charming municipality in Yap. I, myself, like Gilman and Gagil very much, and all the rest of the municipalities. I think the word should be changed to "chartered". Thank you.

Delegate Yoma: I agree with the Delegate from Palau, and I thank him for pointing out the error. It should be corrected to say "chartered" merely to avoid the impression that the other municipalities are not charming because they all are charming, but only one is chartered. Thank you, Mr. President.

Floor Leader Tman: Point of privilege. I thank my very good colleague from Palau, Delegate Salii, and also my good friend from Ponape, Delegate Yoma. The Journal actually has been corrected.

Delegate Falcam: If I am in order, I want to make some minor correction on the Committee of the Whole report.

President Nakayama: Can we wait on that and take it up under Miscellaneous Business?

Delegate Falcam: Yes, thank you.

There being no further corrections, the motion carried. The Journal of the 83rd Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Carl Heine.

Delegate Heine: Thank you, Mr. President. I move for the acceptance of Committee Report No. 57.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 57, from the Committee on Civil Liberties, submitting Committee Proposal No. 34, entitled "A Proposal relating to imprisonment for debt.", was accepted by the Convention.

The Chair recognized Delegate Ismael.

Delegate Ismael: Thank you, Mr. President. I move to amend the Order of the Day, Item No. 9, to include for acceptance Committee Report No. 58 from the Joint Committee on Governmental Functions and Governmental Structure.

Floor Leader Tmun: If there is no objection, we are still on Reports of Standing Committees so there is no need for suspending the Order of the Day.

President Nakayama: Please indicate under Item No. 9 that action will be taken on Committee Report No. 58. The Chair recognizes Delegate Ismael.

Delegate Ismael: Mr. President, I move for the acceptance of Joint Committee Report No. 58.

Delegate Heinrich Iriarte seconded, and the motion carried. Joint Committee Report No. 58, from the Committee on Governmental Functions and the Committee on Governmental Structure, regarding the structure and functions of the judiciary, was accepted by the Convention.

FIRST READING OF COMMITTEE PROPOSALS

Committee Proposal No. 34, entitled "A Proposal relating to imprisonment for debt."

Delegate Carl Reine: Mr. President, I now move for the passage on First Reading of Committee Proposal No. 34.

Floor Leader Tmun seconded, and the motion carried. Committee Proposal No. 34 passed First Reading by the Convention.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 33, "A Proposal relating to transition powers of the National Government."

Committee Proposal No. 27, "A Proposal relating to secession and admission of new States."

Committee Proposal No. 24, CD2, CWDL, Article on Executive, "A Proposal relating to a structure for the government of the Federated States of Micronesia."

Floor Leader Tmun: With the indulgence of the Convention, I move that the Convention resolve into the Committee of the Whole to consider the three Committee Proposals under the Second Reading Calendar.

Delegate Toribiong seconded, and the motion carried to resolve into the Committee of the Whole.

The Chair requested that Delegate Weital preside over the Committee of the Whole in the discussion of Committee Proposals No. 33 and No. 27, and that Floor Leader Tmun preside in the discussion of the Executive Article of Committee Proposal No. 24.

The Convention resolved into the Committee of the Whole at 1:55 p.m.

Due to a power outage after the recess in the Committee of the Whole, the Chairman declared that the Convention would stand in recess until 11:00 a.m., Monday, November 3, 1975.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

EIGHTY-FIFTH DAY

Monday, November 3, 1975

The Micronesian Constitutional Convention was called to order at 12:00 noon.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

The Assistant Convention Secretary called the roll. There were 46 Delegates present. Delegates Andrike, Borja, Kendall, Kijiner, Manglona, Olikong, Rasa, Sawaichi, Sigrah and Termeteet were excused. A quorum was present. Ieoij Lanki and Ieoij Tomcing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 84th Day be adopted. Delegate Toribiong seconded, and the motion carried. The Journal of the 84th Day was adopted by the Convention.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 34, "A Proposal relating to imprisonment for debt."

Committee Proposal No. 27, "A Proposal relating to secession and admission of new states."

Committee Proposal No. 24, CDC, CWDL, Articles on Executive and Legislative, "A Proposal relating to a structure for the government of the Federated States of Micronesia."

Floor Leader Tman: If there is no objection from the Convention, I move that we resolve into the Committee of the Whole to take up the proposals under Second Reading Calendar.

Delegate Toribiong seconded, and the motion carried to resolve into the Committee of the Whole.

The Chair requested that Delegate Weital preside over the Committee of the Whole in the discussion of Committee Proposals No. 34 and No. 27, and that Floor Leader Tman preside in the discussion of the Executive and Legislative articles of Committee Proposal No. 24. (Due to a power outage at the Convention site on November 1, 1975, Committee Proposals No. 27 and No. 24, Article on Executive, were carried over to the Second Reading Calendar of Monday, November 3, 1975.)

The Convention resolved into the Committee of the Whole at 12:07 p.m.

(NOTE: During the Committee of the Whole, after adoption of Committee Proposal No. 34, it was decided that the Convention would meet in Executive Session to continue discussion of Committee Proposal No. 24.)

Respectfully submitted,

Victorio Oberiano
Convention Secretary

EIGHTY-SIXTH DAY

Tuesday, November 4, 1975

The Micronesian Constitutional Convention was called to order at 11:30 a.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

The Convention Secretary called the roll. There were 47 Delegates present. Delegates Andrike, Borja, Haruo, John Heine, Kijiner, Mangloña, Milton, Olikong and Rasa were excused. A quorum was present. Troij Lanki and Troij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tmau moved that the Journal of the 85th Day be adopted. Delegate Tacheliol seconded, and the motion carried. The Journal of the 85th Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

President Nakayama: We will proceed to Reports of Standing Committees, but before we do I will ask the two Delegates who shared the chairmanship of our Committee of the Whole the other day to give their reports. I will now recognize Delegate Daro Weital.

Delegate Weital: Thank you, Mr. President. Your Committee of the Whole begs leave to report its following actions:

Your Committee of the Whole, on the first day of the eleventh month of the year 1975, deliberated on Committee Proposal No. 33. After a relatively light discussion on this Proposal, your Committee of the Whole adopted the said Committee Proposal.

Mr. President, on November 3, 1975, the same Committee deliberated on Committee Proposal No. 34. I am proud to report that this Committee Proposal did not have a hard time in the Committee; therefore, the Committee of the Whole adopted this Proposal.

Mr. President, on the same day your Committee also deliberated on Committee Proposal No. 27. Because of the power outage on that day in this Convention hall, your Committee was not able to complete the discussion and, at the same time, it was the consensus of the Committee of the Whole to postpone action on this particular proposal pending the outcome of the discussion on the Executive and Legislative branches of the government (Committee Proposal No. 24).

Mr. President, I move that we accept this oral report.

Floor Leader Tmau seconded, and the motion carried to accept the oral report of the Committee of the Whole as presented by Delegate Weital.

Delegate Weital: Mr. President, I move that we refer Committee Proposal No. 33 to your Committee on Style and Arrangement.

Floor Leader Tmau seconded, and the motion carried to refer Committee Proposal No. 33 to the Committee on Style and Arrangement, as follows:

Committee Proposal No. 33

A Proposal relating to transition powers of the National Legislature.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

GENERAL PROVISIONS

SECTION _____. Transition Powers. The National Legislature (Congress) may provide for a smooth and orderly transition to government under this Constitution.

Delegate Weital: Mr. President. I move that we also refer Committee Proposal No. 34 to your Committee on Style and Arrangement.

Delegate Toribiong seconded, and the motion carried to refer Committee Proposal No. 34 to the Committee on Style and Arrangement, as follows:

Committee Proposal No. 34

A Proposal relating to imprisonment for debt.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Imprisonment for Debt. There may not be imprisonment for debt.

Delegate Weital: Mr. President, may we leave Committee Proposal No. 27 on the Calendar pending the result of the discussion on the Executive and Legislative branches? I so move, Mr. President.

Delegate Toribiong seconded, and the motion carried to leave Committee Proposal No. 27 on the Second Reading Calendar, pending the result of the discussion on the Executive and Legislative branches in Committee Proposal No. 24.

Delegate Weital: Kinisou Chapur (Thank you very much).

President Nakayama: Kalangan (You are welcome). Delegate Tmau?

Floor Leader Tmau: Thank you, Mr. President. With respect to Committee Proposal No. 24, Convention Draft 2, Committee of the Whole Draft 1 and now Style Draft 1, your Committee of the Whole has yet to reach agreement on the Executive and Legislative articles contained in that proposal. At the suggestion of your Committee on Administration, the Delegates met in Executive session in order to discuss more freely the pertinent articles of the proposal. As a result of the discussion in a closed meeting of the Delegates, it was agreed that a group, comprised of one traditional leader and a Delegate from each Delegation, meet for the purpose of further consultation in order to reach an acceptable consensus on these articles. Until this special negotiating committee comes up with its recommendation to this Convention, it is recommended that the Executive and Legislative articles of Committee Proposal No. 24 remain on the Second Reading Calendar.

Mr. President, I now move for the acceptance of this oral report.

Delegate Tun seconded, and the motion carried to accept the oral report of the Committee of the Whole as presented by Delegate Tmau.

The Chair recognized Delegate Willander.

Delegate Willander: Thank you, Mr. President. Thirty minutes ago it was brought to my attention by the attorney to the Committee on Governmental Functions that the report which should be under consideration right now concerning the Judiciary branch of the future government is in conflict with the original Committee Report. Therefore, Mr. President, I move to defer action on Committee Report No. 59, relating to the Article on Judiciary, until tomorrow.

Delegate Toribiong seconded the motion.

Delegate Willander: Mr. President, I am very much embarrassed, and I hope everybody excuses me for the misinformation; however, I believe the attorneys have reached an agreement, so there was no substantial conflict. Therefore, Mr. President, I move that Committee Report No. 59 be accepted by the Convention.

Delegate Falauruw seconded the motion.

President Nakayama: Do I take it that you have properly withdrawn your former motion?

Delegate Willander: By virtue of this motion, I withdraw the motion to defer action.

Floor Leader Tmau: Point of information, Mr. President. I do not quite understand why the Chairman of the Style and Arrangement Committee refers to the fact that the attorneys have reached a consensus.

Delegate Willander: The Style Committee reorganized the Judiciary branch proposal attached to Committee Report No. 59, and our reorganization has to do with the setting--we set the organization first, then it comes down to the power, and so on. That's why there is a little misunderstanding on the part of the lawyer from the Functions Committee thinking that the version of the report from the Committee on Style changed some substantive part of the Judiciary proposal. If that answers the question raised by the Floor leader, that's all I can offer now.

Floor leader Tmau: Thank you.

President Nakayama: The question is answered.

There being no further discussion, the motion carried. Committee Report No. 59, from the Committee on Style and Arrangement, submitting Committee Proposal No. 24, Joint Committee Amendment 10 (SD1), entitled "A Proposal relating to the national judiciary.", was accepted by the Convention.

Delegate Willander: I move for the acceptance of Committee Report No. 60.

Floor leader Tmau seconded, and the motion carried. Committee Report No. 60, from the Committee on Style and Arrangement, submitting Committee Proposal No. 33, entitled "A Proposal relating to transition powers of the National Legislature.", was accepted by the Convention.

The Chair recognized Floor leader Tmau.

Floor Leader Tmau: Mr. President, I move to suspend the order of the day in order to make Item No. 12--Final Action on Committee Proposals--the special Order of Business.

Delegate Toribiong seconded the motion.

Delegate Weital: Point of privilege, Mr. President.

President Nakayama: Will you state your point?

Delegate Weital: Thank you, Mr. President. I may be irritating some Delegates at this time for I wish to say a few words regarding the work of the Constitutional Convention. Mr. President, may I give my short remarks?

President Nakayama: Could we dispose of the motion and then I will recognize you after that?

Delegate Weital: Okay, thank you.

The motion carried to make Item No. 12 the special Order of Business.

The Chair recognized Delegate Weital.

Delegate Weital: Thank you, Mr. President.

Mr. President and fellow Delegates: In the last couple of weeks you have frequently heard me utter the phrase, "There is a right time for everything", and rightly so, Mr. President.

In the last day or two we've gone through the experience of fear. We were and we are still afraid to make a decision once and for all on the Executive and Legislative branches of our future government. Let me point out that our days in this Convention are numbered. We have from now until Wednesday or Thursday to decide on the size and shape of the future Executive and Legislative branches of our government.

I have heard arguments for and against the two issues which have troubled us in the last two days. They were eloquent arguments, but, Mr. President, we have had our time to study these issues before us. We have had our time to argue over the merits and demerits of these issues, and if you will, Mr. President, now is the time to decide which way we want to go. As you said in your opening remarks at the beginning of this Convention, "It's now or never."

Mr. President, we also have had our good share and time to defer. This is not the time to further venture more deferrals. The time to defer is long gone. Let's make our decision now. It is a must that we come up with a solution. Be reminded, fellow Delegates, that there was even a time to defer. This is not--I repeat--this is not the time to defer. It is time to prove to ourselves and to our fellow Micronesians, and to those who advance the position that we are not yet ready to be united, let alone write a Constitution, that we will be united, and united we will be under this Constitution that we write here.

Kinisou Chapur (Thank you very much). (Applause)

President Nakayama: Kalangan (You are welcome). We will now proceed to take action on the Proposals under Item No. 12.

SECOND READING OF COMMITTEE PROPOSALS - FINAL ACTION

Committee Proposal No. 24, CD2, CWD1, SD1, Article on Judiciary, "A Proposal relating to a structure for the government of the Federated States of Micronesia."

Committee Proposal No. 33, "A Proposal relating to transition powers of the National Legislature."

The Chair recognized Delegate Williander.

Delegate Williander: May I request for a one or two-minute recess?

The President declared the Convention in recess, subject to the call of the Chair, at 12:03 p.m.

RECESS

The Convention was called to order at 12:20 p.m.

The Chair recognized Delegate Williander.

Delegate Williander: Thank you, Mr. President. I now move for the adoption on Second and Final Reading of Committee Proposal No. 29, Article on the Judiciary branch.

Delegate Tun seconded the motion.

President Nakayama: We will dispense with the reading of the Article on the Judiciary branch of Committee Proposal No. 29. I will now recognize Delegate Toribiong.

Delegate Toribiong: Thank you, Mr. President. I wish to offer an amendment to this Proposal. That amendment is contained in a paper which has been distributed to all the Delegates. It is labeled "Amendment to Committee Proposal No. 29". That amendment applies to page two of the Proposal. The practical effect of this amendment would be to delete the words "national courts" on line 11 so that only the trial division of the Supreme Court of Micronesia shall have original and exclusive jurisdiction over cases affecting officials of foreign governments, disputes between states, admiralty or maritime cases, and cases in which the national government is a party. The purpose of this amendment is to make the trial division of the Supreme Court of Micronesia the only court which can handle these cases. This amendment also applies to Section 6, paragraph 2--that's "(b)"--by inserting the words "including the" after "national courts," and before "trial division" on line 16, and deleting on line 17 the words "and state and local courts", so that the outcome of the whole process would be to give the national courts, which are the courts which may be established by national law, and the trial division of the Supreme Court concurrent jurisdiction over cases arising under this Constitution, national law or treaties, and disputes between a state and a citizen of another state, between citizens of different states, and between a citizen of a state or a citizen of other states or foreign nations, and so on. This is because if the national legislature would not create any other courts, the trial division shall also have jurisdiction over these matters--but then these cases may be assigned to different courts depending upon the laws which may be enacted in the future--and to remove state and local courts from handling cases arising under this Constitution, treaties and national law because if you allow them to handle those cases we will have a mess on our hands. We will have a thousand local courts interpreting one treaty coming out with conflicting interpretations and that will clog the appeal process of the Supreme Court. So we should leave the local courts to handle local matters and appeal only questions involving federal laws and the Constitution and not to handle cases arising under federal laws and under this Constitution. Mr. President, I now move that this amendment be adopted.

Delegate Tacheliol seconded the motion.

Floor Leader Tmun: Point of information. I just wish to ask if this proposed amendment is consistent with the consensus reached between the Structure and Functions Committees as reflected in Joint Committee Amendment No. 10.

Delegate Toribiong: Mr. President, during the recess I consulted with the Chairman of the Functions Committee and the Chairman of the Committee on Judicial Structure--that's Delegate Fritz--and they seem to agree that this is the consensus of the two Committees.

There being no further discussion, the motion carried to adopt the amendment to Committee Proposal No. 24, Article on Judiciary.

Delegate Ismael: Mr. President, there are certain minor differences from the original. I don't know how to treat this now--whether to ask for a referral back to that Committee so that we could meet with them and discuss it before Final Reading, or whether it should be adopted now and then we could iron out the differences as the proposal goes back to the Style Committee with the amendment.

President Nakayama: The amendment has been adopted and it is now part of the proposal. If the Convention passes the proposal, as amended, on Second and Final Reading, it will go back to the Style Committee for proper wording. Am I right, Mr. Floor Leader?

Floor Leader Ymaan: Yes, proper wording and arrangement.

Delegate Falcam: I believe that at the final meeting, at which the wording of this proposal was discussed in the Style and Arrangement Committee, the minor differences were recognized as differences in the usage of language and not in the intent of the two Committees. Therefore, I see no reason why we should refer this back. The differences that the Chairman of the Functions Committee referred to are minor differences in language usage and not in substance. The lawyer of the Functions Committee was also present and agreed to these things. Thank you.

Delegate Yoma: I would like to suggest that we go ahead and vote on this. Delegate Toribiong's amendment took care of the problem in my opinion, so I think we are ready to vote on it.

Delegate Williander: I wish to suggest to the Chairman of the Functions Committee that if he feels that if the minor changes relate to the substance and to the intent, I have no problem of delaying action on this, but if it is just minor changes having to do with usage of words, as pointed out by Delegate Yoma, I would ask that we vote on this and pass it on Final Reading.

Delegate Tacheliol: I move for the previous question.

There were ten seconds and the motion carried to close debate.

President Nakayama: We will now proceed to vote. We will need a minimum of 35 affirmative votes to pass this measure. We will now vote by roll call.

Following roll call vote, the Convention Secretary reported that the Article on Judiciary of Committee Proposal No. 24, CD3, CWD1, SD1, had passed Second and Final Reading by the Convention. There were 45 affirmative votes and one abstention.

Committee Proposal No. 24, CD3, CWD1, SD1

A Proposal relating to the national judiciary.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

JUDICIARY

SECTION 1. The judicial power of the national government is vested in a Supreme Court and inferior courts established by Congress.

SECTION 2. The Supreme Court is a court of record and the highest court in the nation. It consists of a Chief Justice and not more than 5 associate justices. Each justice is a member of both the trial division and the appellate division, except that sessions of the trial division may be held by one justice alone. No justice may sit with the appellate division in a case heard by him in the trial division. At least 3 justices shall hear and decide appeals. Decision is by a majority of those sitting.

SECTION 3. The Chief Justice and associate justices of the Supreme Court are appointed by the Chief Executive with the approval of 2/3 of the Congress. Justices serve during good behavior.

SECTION 4. If the Chief Justice is unable to perform his duties he shall appoint an associate justice to act in his stead. If the office is vacant, or the Chief Justice otherwise fails to make the appointment, the Chief Executive shall appoint an associate justice to act as Chief Justice until the vacancy is filled or the Chief Justice resumes his duties.

SECTION 5. The Congress may prescribe the qualifications of judges and their compensation. Compensation of judges may not be diminished during their terms of office unless all salaries prescribed by the Congress are reduced by a uniform percentage.

SECTION 6. (a) The trial division of the Supreme Court has original and exclusive jurisdiction in cases affecting officials of foreign governments, disputes between states, admiralty or maritime cases, and in cases in which the national government is a party except where an interest in land is at issue.

(b) The national courts, including the trial division of the Supreme Court, have concurrent original jurisdiction in cases arising under this Constitution, national law or treaties, and in disputes between a state and a citizen of another state, between citizens of different states, and between a state or a citizen thereof, and a foreign state, citizen, or subject.

(c) When jurisdiction is concurrent, the proper court may be prescribed by Congress.

SECTION 7. The Supreme Court may review cases heard in the national courts, and cases heard in state or local courts if they require interpretation of this Constitution, national law, or a treaty. If a state constitution permits, the Supreme Court may review other cases on appeal from the highest state court in which a decision may be had.

SECTION 8. When a case in a state or local court involves a substantial question requiring the interpretation of the Constitution, national law, or a treaty, upon application of a party or on its own motion the court shall certify the question to the Supreme Court. The Supreme Court may decide the case, or remand it for further proceedings.

SECTION 9. The Chief Justice is the chief administrator of the national judicial system and may appoint an administrative officer who is exempt from civil service. The Chief Justice may make and amend rules governing national courts, and by rule may:

(a) divide the national courts and the trial division into geographical or functional divisions;

(b) assign judges among the divisions of a court and give special assignments to retired judges;

(c) establish rules of procedure and evidence;

(d) govern the transfer of cases between state and national courts;

(e) govern the admission to practice and discipline of attorneys and the retirement of judges;

(f) otherwise provide for the administration of the national judiciary. Judicial rules may be amended by Congress.

SECTION 10. Congress shall contribute to the financial support of state judicial systems and may provide other assistance.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 24, CD3, CWDL, SDL, Article on Judiciary, having passed Second and Final Reading, was re-referred to the Committee on Style and Arrangement.)

The Chair recognized Delegate Williander.

Delegate Williander: Before I move for the adoption on Second and Final Reading of Committee Proposal No. 33, I wish to inform the Delegates that your Committee on Style and Arrangement practically did nothing on this so we just recommended it for adoption on Second and Final Reading. I so move, Mr. President.

Floor Leader Tman seconded the motion.

President Nakayama: We will now vote by roll call. The same minimum number of affirmative votes applies in this case, which is 35 votes, to pass the measure. We will now proceed to vote.

Following roll call vote, the Convention Secretary reported that Committee Proposal No. 33 had passed Second and Final Reading by the Convention. There were 46 affirmative votes.

Committee Proposal No. 33

A Proposal relating to transition powers of the National Legislature.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

GENERAL PROVISIONS

SECTION _____. Transition Powers. The National Legislature (Congress) may provide for a smooth and orderly transition to government under this Constitution.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 33, having passed Second and Final Reading, was re-referred to the Committee on Style and Arrangement.)

INTRODUCTION OF DELEGATE PROPOSALS

None

INTRODUCTION OF RESOLUTIONS

Resolution No. 35, entitled "Resolution relating to the name of the National Legislature.", was introduced by Delegate Williander.

ACTION ON RESOLUTIONS

Resolution No. 33, "Resolution requesting the Congress of Micronesia to establish a Transition Commission to promote a smooth and orderly transfer of the functions of government from the Trust Territory of the Pacific Islands to the Federated States of Micronesia."

Resolution No. 34, "Resolution relating to the implementation of the Constitution of the Federated States of Micronesia."

Resolution No. 35, "Resolution relating to the name of the National Legislature."

The Chair recognized Delegate Falcam.

Delegate Falcam: Although Resolution No. 33 and Resolution No. 34 are two Resolutions, the goal and the purpose are the same. Resolution No. 33 is expressing the same intent as Resolution No. 34, except that one is a little bit more detailed than the other. They are both expressing the intent or the sense of this Convention to the Congress of Micronesia for certain action regarding transition, including the problem of the existing Secretarial Order, the existing Trusteeship Agreement, and the Charter of the United Nations. I am sure all the Delegates have examined these two Resolutions and will concur that because their intent is the same they should be merged and become one Resolution expressing the sense of this Convention to the Congress of Micronesia. Along that line, Mr. President, I would like to suggest that these two Resolutions be referred to the Committee on General Provisions so that that Committee could propose a single Resolution for this Convention to pass. The passage of this single Resolution will, in effect, advise the Congress of Micronesia regarding the items enumerated above. For that reason, Mr. President, I move that these two Resolutions be referred to the Committee on General Provisions for consideration so that the Committee can draft a single Resolution out of them. Thank you.

Floor Leader Tman seconded, and the motion carried to refer Resolution No. 33 and Resolution No. 34 to the Committee on General Provisions.

The Chair recognized Delegate Williander.

Delegate Williander: As you know, Mr. President, your Committee on Style and Arrangement always tries to work in advance of the Convention. Resolution No. 35 is a Resolution from your Committee on Style and Arrangement regarding the name of the Legislative branch of the Government of Micronesia. As the Resolution says, it does not need to be unicameral, bicameral or multicameral. The name may be changed as the Convention adopts the official name, but for the purpose of our work, we wish that the Convention would give us this mandate. Therefore, I move for the adoption of Resolution No. 35.

Delegate Tun seconded, and the motion carried to adopt Resolution No. 35.

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Ngiruked: There is a lady in Guam who is an important leader of the Palauan community on Guam. She has undertaken the publication of a newsletter with her own limited resources. I have seen some of the publications in the early stages and some of the coverage that she has done on the activities of the Constitutional Convention, and she is doing a very commendable job on her own. She is here with us in the gallery. She traveled over from Guam to visit

us for the second time. Her name is Mrs. Rosalia Giltner. Please stand to be recognized. (Applause) Sitting right next to her is her husband, Mr. Giltner. (Applause) (Note: Mr. and Mrs. Giltner were introduced during the Committee of the Whole on November 3, 1975.)

Delegate Falcam: At this time I would like to beg the indulgence of the Convention to have the Convention recognize the presence of several distinguished visitors from Ponape District. I shall call them by name or title and I would like them to stand up for recognition. The first one on the list is the Nanniken of Madolenihmw, Klemens Hadley; then we have the Wanai of Uh, Mr. Andreas Williams, who is also a representative of Uh; Mr. Lino Miguel, President of the Ponape District Parish Council; Mr. Santiago Joab, a member of the Ponape District Commission on Future Government; Mr. Misail Pelep, a representative of the Ponape Catholic Mobile Team; Mr. Herculano Kohler, representing the Municipality of Sokehs; Mr. Tory Charley who is a legislator-elect, also an announcer, and who is representing the southern islands of Ngatik and Nukuoro; Mr. Asher Palik, representing the Chief Magistrate of Kusaie--the future state of Kusaie; last, but not the least, the official escort, the Ponape Transportation Officer, Mr. Duchuo Johnson, who is familiar with this Convention. (Applause)

President Nakayama: I would like to welcome the distinguished visitors to this Convention on behalf of the Delegates.

Delegate Cabrera: I should also like the Convention to recognize the presence of a group of ladies who are sitting in the back. As they will be shortly leaving the Convention, I want to introduce them before we get down to the last order of the day. The Convention is honored by the presence of a group of ladies attending the Secretarial Training Program. I should like to note that most of these ladies are working and attending the training session at the same time, too. I should like to welcome them in the following order: Mrs. Dulce Pangelinan, the training officer and wife of Edward Pangelinan; Mrs. Lolorene Broiles, the instructor; participants are: Connie Aldan, Terry A. Borja, Terry M. Borja, Florida Dela Cruz, Ignacia Pua, Lupe Eugenio, Cathy Laniyo, Fatima Cabrera, and last, but not least, Miriam Kaipat. (Applause)

President Nakayama: Welcome to the Convention, ladies.

Delegate Philippo: Also, if I may have the privilege I would like to introduce to this Convention a distinguished lady who has been known by many Saipanese and in other districts. She is also the wife of a well-known agriculturist who has been working on Saipan. Ladies and gentlemen, I am glad to introduce Mrs. Les (Azalea) Weaver. (Applause)

The Chair recognized Floor Leader Tman.

Floor Leader Tman: Thank you, Mr. President. I wish to risk this motion at this time that we recess for lunch and allow the Special Committee to continue their deliberations. I move that we recess until four o'clock this afternoon.

Delegate Tun seconded the motion.

President Nakayama: Before I put the question to the Convention, I would like to request that the members of the Special Committee come back to this Convention immediately after lunch. Please be back here at two o'clock this afternoon. Our meeting will be in Room No. 1.

The motion carried to recess until 4:00 p.m.

The Convention recessed at 12:45 p.m.

RECESS

The Convention was called to order at 6:05 p.m.

President Nakayama: As you know, the Special Conference Committee has been meeting since this morning and again met this afternoon to try to come out with a compromise proposal on the two articles that we have for Final Action. The Special Conference Committee would like to request that it be given more time in order for the members to consult with their various Delegations. The Committee suggests that we recess now and reconvene at 2:00 p.m. tomorrow. Before we vote on the recess, I would like to ask if there are any announcements to be made.

ANNOUNCEMENTS

The Chair recognized Delegate Wiliander.

Delegate Wiliander: Thank you, Mr. President. I wish to announce to the members of the Committee on Style and Arrangement that there will be a meeting tomorrow morning, if there is no Plenary Session, at eleven o'clock, as requested.

Point of privilege, Mr. President.

President Nakayama: State your point of privilege.

Delegate Wiliander: Thank you. I have some information from Joseph C. Murphy of the Pacific Daily News from his Editorial of yesterday (November 3, 1975). I beg the indulgence of the Delegates. We have nothing, or little, in common with the State of Nebraska. It has a population of 1,483,791. Nebraska has some industry, and some military, but mostly Nebraska is a farm state. That may be the little thing we have in common. There are, however, some things we can learn from thrifty, sensible and conservative Nebraskans about running a government. Before 1937, the Nebraska Legislature was bicameral with a membership of 33 Senators and 100 Representatives. Nebraska shifted to the unicameral system in 1937. Today there are 49 Senators. Each Senator receives a salary of $4,800 per annum. The Nebraska legislature operates on one million dollars a year. For purposes of comparison, our Congress operates on nearly two million dollars per annum. Our Congress is bicameral. Each member receives $12,000 per annum and $2,500 for office expenses. Our population is only one-tenth of that of Nebraska. I offer this as food for thought, fellow Delegates, because common sense dictates that there is something wrong and expensive. Let us not repeat this again. Thank you. (Applause)

Delegate Falcam: Point of privilege, Mr. President. I trust that among the 50 states of the wise country of the United States that only Nebraska has unicameral legislature. Thank you very much.

President Nakayama: That is correct. Delegate Cabrera?

Delegate Cabrera: I have a couple of happy announcements, Mr. President. I think it is good to have happy announcements before we break up. The first one is that I wish the Convention to congratulate my colleague, Delegate Luis Limes, on his 41st birthday. (Applause)

President Nakayama: I did not get it clear--was it birthday or anniversary? (Laughter)

Delegate Cabrera: Birthday! My second announcement, Mr. President, is that I think the Convention should extend a hearty congratulation to the McPhetres on the arrival of their bouncing 8.5-pound baby girl, Josephine Ana McPhetres. (Applause)

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Delegate Yoma: The Committee on Governmental Functions will meet tomorrow at six o'clock in the evening. I was delegated by the Chairman to make the announcement, and the members are to check with me as to where we will meet. Thank you.

Delegate Toribiong: Where is the place and time of meeting for the Functions Committee?

Delegate Yoma: The place is Quarters 1238 on Capital Hill. I would like to have Delegate Falanruw and Delegate Ismael meet with me at four o'clock tomorrow afternoon to plan the agenda.

President Nakayama: If there is no objection from the floor, the Chair suggests that we recess until 2:00 p.m., tomorrow.

The Convention recessed at 6:10 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

EIGHTY-SEVENTH DAY

Wednesday, November 5, 1975

The Micronesian Constitutional Convention was called to order at 3:17 p.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

The Convention Secretary called the roll. There were 49 Delegates present. Delegates Andrike, Borja, Haruo, Kijiner, Manglona, Nifon and Rasa were excused. A quorum was present. Iroij Lanki was also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 86th Day be adopted. Delegate Tun seconded the motion.

Delegate Wiliander: Mr. President, there is a major correction on page 498 on Delegate Cabrera's statement. I believe it was Delegate Limes' 41st birthday, rather than the 31st. I stand corrected by Delegate Cabrera.

Delegate Cabrera: Thank you, Mr. President. I was going to make the correction, but I thank Delegate Wiliander for making it. The fact of the matter is that Delegate Limes is ten years older. (Laughter)

Motion to adopt carried and the Journal of the 86th Day was adopted by the Convention.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 32, entitled "A Proposal relating to the right to live in a healthful environment."

Committee Proposal No. 24, CD2, CWD1, SD1, CD3. (Article on EXECUTIVE) "A Proposal relating to a structure for the government of the Federated States of Micronesia."

Committee Proposal No. 24, CD2, CWD1, SD1, CD3. (Article on LEGISLATIVE) "A Proposal relating to a structure for the government of the Federated States of Micronesia."

Committee Proposal No. 27, entitled "A Proposal relating to secession and admission of new States.", together with Minority Proposal thereto.

Floor Leader Tman: Mr. President, just to ascertain the wishes of the Delegates, I move the Convention resolve into the Committee of the Whole in order to consider the several Proposals listed on our Second Reading calendar.

Delegate Toribiong seconded, and the motion carried for the Plenary to resolve into the Committee of the Whole.

President Nakayama asked that Floor Leader Tman preside over the Committee of the Whole.

The Convention resolved into the Committee of the Whole at 3:25 p.m.

The Convention reconvened in Plenary Session at 6:07 p.m.

The Chair called the meeting to order, but there were technical difficulties with the recording system so he called a short recess at 6:07 p.m.

RECESS

The Convention reconvened at 6:28 p.m. and the President called on Floor Leader Tman for the oral report of the Committee of the Whole.

Floor Leader Tman: Mr. President, Your Committee of the Whole, which deliberated on Committee Proposal No. 32, adopted proposed Amendment No. 2, as amended. Your Committee recommends that it be referred to Style & Arrangement.

And, Mr. President, your Committee of the Whole--after many days of long deliberation and consultation among various Delegations--has finally reached a consensus on the articles relating to Executive and Legislative branches contained in Committee Proposal No. 24, CD3,CWD1, SD1. It was indicated the Special Committee created by the Plenary come up with a compromise and they came up with a draft amendment that has been accepted by your Committee of the Whole. Amendment No. 19, as offered by the Special Committee, was further amended by the Committee of the Whole and favorably passed by the Committee of the Whole. Your Committee of the Whole now recommends that the Executive and Legislative articles of Committee Proposal No. 24, CD2, CWD3, SD1, be referred to the Committee on Style & Arrangement. Your Committee also notes that there are three additional articles contained in Committee Proposal No. 24,CD3,CWD3,SD1 to be disposed of. These articles are the articles on "National and Other Governments", "Oath of Office" and "Role of Traditional Leaders". At an appropriate time, perhaps tomorrow, your Committee of the Whole will deliberate on these articles.

Mr. President, your Committee of the Whole recommends that Committee Proposal No. 27, along with the Minority Proposal thereto, be referred to the Special Committee that deliberated on the Executive and Legislative articles of Committee Proposal No. 24.

I move for acceptance of the oral report of the Committee of the Whole.

(Delegate Toribiong seconded the motion, motion carried, and the oral report of the Committee of the Whole was accepted by the Convention.)

Floor Leader Tman: Mr. President, I move that Committee Proposal No. 32, CWD1, be referred to the Committee on Style & Arrangement.

Delegate John Heine seconded, and motion carried to refer Committee Proposal No. 32, CWD1, to the Committee on Style & Arrangement as follows:

Committee Proposal No. 32, CWD1

A Proposal relating to the right to live in a healthful environment.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Radioactive, toxic chemical, biological or other harmful substances may not be treated, stored or disposed of within the jurisdiction of Micronesia without the express approval of the Government of Micronesia.

Floor Leader Tman: I move that the articles on Executive and Legislative Branches as contained in Committee Proposal No. 24, CD2, CWD3, SD1, be re-referred to the Committee on Style & Arrangement with instructions for that Committee to carefully review the language of these articles.

Delegate Falanruw seconded, and motion carried to re-refer the articles on Executive and Legislative of Committee Proposal No. 24 to the Committee on Style & Arrangement as follows:

Committee Proposal No 24, CP3, CWD3, SD1

A Proposal relating to a structure for the government of the Federated States of Micronesia.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____. CONGRESS OF MICRONESIA

SECTION 1. Legislative Power. The legislative power of the Federated States of Micronesia is vested in the Congress of the Federated States of Micronesia.

SECTION 2. Congress of the Federated States of Micronesia. The Congress consists of members elected on the basis of state equality, population, and traditional status. Each Congressman has one vote, except on the final reading of bills.

SECTION 3. Terms of Congressmen. The members of Congress elected at large from each state on the basis of state equality shall serve for a term of four years. Every other member of Congress serves for a term of two years.

SECTION 4. Elections. Congressional elections shall be held biennially as provided by law. Congressmen shall be chosen by secret ballot of the qualified voters.

SECTION 5. Qualifications. A person is ineligible to be a member of Congress unless he is a citizen of the Federated States of Micronesia for at least fifteen years, is at least 30 years of age on the day of election, and is a bona fide resident of the State from which he is elected for at least five years. Except as may be otherwise provided by law, no person who has been convicted of a felony by a Micronesian court shall be elected to Congress. Congress may prescribe further qualifications.

SECTION 6. Apportionment. Each state by law shall apportion itself into single member Congressional districts of approximately equal population, after giving due regard to language, cultural, and geographic differences. If the state provides for a traditional leader to be elected at large as a member of Congress, the number of single member Congressional districts shall be one less than the number of seats assigned to the state on the basis of population. Each state is entitled to at least one member of Congress on the basis of population in addition to the member elected on the basis of state equality. For purposes of the first election under this Constitution, on the basis of population, members of Congress shall be elected from each state as follows:

Kusaie	-	1
Marianas	-	2
Marshalls	-	4
Palau	-	2
Ponape	-	3
Truk	-	5
Yap	-	1

If Kusaie is not a state at the time of the first election, 4 members shall be elected from Ponape. Thereafter, Congress shall be reapportioned not less frequently than once every 10 years.

SECTION 7. Vacancies. Any vacancy in the Congress shall be filled for the unexpired term as provided by law, or, if no provision be made, by appointment by the chief executive of the state in which the vacancy occurs if the unexpired term is less than one year, or by special election if the unexpired term is one year or more.

SECTION 8. Restrictions of Office. No member of the Congress shall hold any other national or local public office or employment, nor shall he, during the term for which he is elected or within three years immediately following such term, be elected or appointed to any public office or employment which shall have been created by national legislative act during such term. Members of the Congress shall not engage in activities or have interests which conflict with the proper discharge of their duties and responsibilities. Congress may prescribe further restrictions.

SECTION 9. Compensation of Members. The members of the Congress shall receive an annual salary and such allowances as may be provided by law, except that no increase of salaries shall apply to the Congress which enacted the same.

SECTION 10. Immunity. The members of Congress shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the session of the Congress and in going to and from the same. No member shall be held to answer before any tribunal other than the Congress for any speech or debate in the Congress.

SECTION 11. Sessions. The Congress shall meet in regular and public session as provided by law. It may be convened in special session by the President or, at the written request of two-thirds of its members, by its presiding officer.

SECTION 12. Organization and Procedure. The Congress shall be the sole judge of elections, returns, and qualifications of its own members. The Congress shall choose its presiding officer from among its members and shall determine its rules of procedure. The Congress may compel the attendance of absent members, discipline its members and, with the concurrence of two-thirds of all the members, suspend or expel a member. The Congress shall have the power to compel the attendance and testimony of witnesses and the production of documents and other matters either before the Congress or before any of its committees thereof.

SECTION 13. Transaction of Business. A majority of all the members of the Congress shall constitute a quorum to do business, but a smaller number may adjourn from day to day and compel the attendance of absent members. The Congress shall keep a journal of its proceedings which shall be published from day to day. The Congress shall prescribe the methods of voting on matters but a record vote, with the yeas and nays entered in the journal, shall be taken on any question on the demand of one-fifth of the members present.

SECTION 14. Passage of Bills. A bill to become a law shall pass two readings in the Congress, on separate days. For a bill to pass first reading, a two-thirds majority vote of all the members is required. On final passage, each state delegation shall cast one vote, and a two-thirds majority vote of the states is required. All votes on first reading and final passage shall be entered upon the journal.

SECTION 15. Bills; Requisites. The enacting clause of all bills shall be: "BE IT ENACTED BY THE CONGRESS OF MICRONESIA" and no law shall be enacted except by bill. Every legislative act shall embrace but one subject and matters properly connected therewith, such subject being expressed in the title; PROVIDED, that if any subject shall be

embraced in an act which shall not be expressed in the title, such an act shall be void only as to so much thereof as shall not be embraced in the title. No law shall be amended or revised by reference to its title only. The act, as revised, or section or subsection as amended, shall be reenacted and published at full length.

SECTION 16. Language. All legislative proceedings shall be conducted in the English language; PROVIDED, that knowledge of the English language shall not be a qualification for membership in the Congress. Nothing herein shall limit the right of a member to use his own language if he lacks fluency in English, and the Congress shall provide for interpretation into English in such cases.

ARTICLE _____. EXECUTIVE

SECTION 1. President. The executive power is vested in a President of the Federated States of Micronesia who is elected by the Congress of Micronesia by a majority vote of all the members for a term of 4 years. He may not serve for more than 2 consecutive terms.

SECTION 2. Powers. The following powers are vested in the President:

(a) Be the head of state of the Federated States of Micronesia;

(b) Receive all foreign ambassadors;

(c) Make recommendations to the Congress of Micronesia from time to time as deemed necessary, and make an annual report to the Congress of Micronesia on the state of the Federated States of Micronesia;

(d) Approve or veto all bills enacted by the Congress of Micronesia;

(e) Appoint, with the advice and consent of the Congress of Micronesia:

(i) all judges of the High Court, and such other courts as are provided for by law;

(ii) ambassadors to foreign countries;

(iii) directors of the executive departments of the Federated States of Micronesia; and

(iv) such other officers as may be provided for by law;

(f) Perform such other duties as may be provided by law.

SECTION 3. Qualifications. A person is ineligible to be President unless he is a member of Congress elected for a 4 year term at the time chosen, a citizen of the Federated States of Micronesia by birth, at least 30 years of age on the day of election, and a resident of the Federated States of Micronesia for at least 15 years.

SECTION 4. Vice-President. The Vice-President shall be elected after the election of the President in the same manner as the President, shall have the same qualifications, and shall serve for the same term of office. He shall not be a resident of the same state.

SECTION 5. Vacancy. If the office of President is vacant, or the President is unable to perform his duties, the Vice-President becomes President. Congress shall provide for the succession in the event both offices are vacant, or both officers are unable to discharge their duties.

SECTION 6. Compensation. The compensation of the President may not be increased or reduced during his term. He may receive no other emolument from the Federated States of Micronesia or from a state.

SECTION 7. Executive Departments. There shall be Executive departments which may be established in the national government by law.

Floor Leader Tman: Mr. President, I move that Committee Proposal No. 27 and the Minority Proposal thereto, be referred to the Special Committee.

Delegate Tachelliol seconded, and motion carried to refer Committee Proposal No. 27 and the Minority Proposal thereto to the Special Committee appointed previously by the Convention to deliberate on articles contained in Committee Proposal No. 24.

Floor Leader Tman: Mr. President, it has been requested by some members of the Special Committee that the Chairman of the Committee call a meeting as soon as practical.

INTRODUCTION OF DELEGATE PROPOSALS

None

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Wilfander: Mr. President, I beg the indulgence of this Convention on a new matter that it is necessary to take up. The Committee on Style and Arrangement's consultant, Mr. Mike Sanford, is leaving Saipan today. So, Mr. President and fellow Delegates, I ask you to join with me in expressing our appreciation to Mr. Sanford for his services given us. He was to leave because of previous obligations. Mr. Sanford. (Applause)

Delegate Nimwes: Mr. President, I also beg the indulgence of this Convention to introduce one of our senators. Please recognize the presence of Senator Nick Bossy of Truk. (Applause)

Delegate Falcam: Thank you, Mr. President. I would like to introduce part of the delegation that came to Saipan just to observe the works of this Convention. Please recognize the presence of Mr. Yasuo Yamada, a member of the group that came from Ponape primarily to observe this Convention. (Applause)

Delegate Bossy: Point of privilege, Mr. President. I have a question to be directed to the Chairmen of the Committee on Civil Liberties, and the lawyers to that committee, and to the Committee on Style & Arrangement, and their lawyers.

In the original proposed Bill of Rights there was one section entitled "Right to own private property." In the corresponding report on that section it was understood and agreed upon after much discussion that ownership of marine areas--meaning tidelands, reefs, seamounts--recognized by custom and tradition as inclusive within the meaning of that section. Committee Proposal No. 16, entitled "Existing Laws", passed final action by this Convention. The legal effect of the section which dealt with the

"Right to own private property" would invalidate the appropriate section in the T.T. Code which gave the T.T. title over marine areas. Of course, we know the Style Committee deleted the section on "Right to own private property" in its entirety, claiming that such section is unnecessary due to the existence of Section 3 of the Bill of Rights which we passed on final action.

The question is this: Does Section 3 incorporate all the understanding, concerns and intentions of the section which was deleted, knowing that the Style Committee cannot change the substance of any Proposal passed on Second Reading by this Convention?

President Nakayama: To which committee are you addressing the question?

Delegate Bossy: The Style and Civil Liberties Committees, and let the answer be reflected in the Journal.

President Nakayama: Of course it will.

Delegate Willander: Mr. President, I would like to request of Delegate Bossy that the answer to the question be given to him tomorrow in writing so he will have it clear and concise. That is my answer.

Delegate Bossy: I have no disagreement with the idea suggested by the Chairman of the Style Committee, but I still want the answer to be included in the Journal. Thank you.

ANNOUNCEMENTS

Delegate Tun: Mr. President, there will be a meeting of your Committee on General Provisions at nine o'clock tomorrow morning in Room 1. We will consider the two Resolutions which were referred to the Committee yesterday, Resolution No. 33 and Resolution No. 34.

Delegate Willander: Mr. President, I wish to announce to the members of your Committee on Style and Arrangement that there will be a meeting tomorrow at 9:30 a.m. in this Convention Chamber.

Delegate Apis: Mr. President, I just wish to, with the indulgence of this Convention, ask this Convention to recognize the presence of the seven coconuts outside, one of which is sprouting. (Laughter)

President Nakayama: Is that the coconut labelled Truk District?

Delegate Apis: Yes, it is.

President Nakayama: That explains a lot of things. (Laughter) I would like to take this opportunity to announce that the Special Committee will meet here at ten o'clock tomorrow morning. Will ten o'clock be all right? We will meet at 10:30, Micronesian-time.

Delegate Ismael: Mr. President, I remind members of your Governmental Functions Committee to meet at Strik Yoma's house shortly after this meeting.

Delegate Falcam: Thank you, Mr. President. I was wondering whether the other members of the other committees are invited to that meeting, too. (Laughter)

Delegate Toribiong: The product of our meeting tonight will be sent to the Style Committee. (Laughter)

The Chair recognized Floor Leader Tmau.

Floor Leader Tuan: Thank you, Mr. President. In order to allow ample time tomorrow morning for the committees to meet, and for the Journal to be printed, I move that the Convention recess until 1:00 p.m. tomorrow.

Delegate Tun seconded, and motion carried.

The Convention adjourned at 6:45 p.m.

Respectfully submitted,

for Victoria Uherbelau
Convention Secretary

EIGHTY-EIGHTH DAY

Thursday, November 6, 1975

The Micronesian Constitutional Convention was called to order at 2:00 p.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

The Convention Secretary called the roll. There were 49 Delegates present. Delegates Andrike, Borja, Haruo, Kijiner, Mangiena, Nifon and Rasa were excused. A quorum was present. Troij Lauki and Troij Tomeing were also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman moved that the Journal of the 87th Day be adopted. Delegate Tachelfol seconded, and the motion carried. The Journal of the 87th Day was adopted by the Convention.

REPORTS OF STANDING COMMITTEES

Delegate Williander: Mr. President, I move for the acceptance of Committee Report No. 61.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 61, from the Committee on Style and Arrangement, submitting Committee Proposal No. 31, CWDI, SDI, entitled "A Proposal relating to Education, Health Care, Legal Services.", was accepted by the Convention.

Delegate Williander: I move for the acceptance of Committee Report No. 62.

Delegate Falanruw seconded, and the motion carried. Committee Report No. 62, from the Committee on Style and Arrangement, submitting Committee Proposal No. 34, SDI, entitled "A Proposal relating to Imprisonment for Debt.", was accepted by the Convention.

SECOND READING OF COMMITTEE PROPOSALS - FINAL ACTION

Committee Proposal No. 31, CWDI, SDI, "A Proposal relating to Education, Health Care, Legal Services."

Committee Proposal No. 34, SDI, "A Proposal relating to Imprisonment for Debt."

Delegate Williander: I move for the passage on Second and Final Reading of Committee Proposal No. 31, CWDI, SDI.

Floor Leader Tman seconded the motion.

The Chair requested the Convention Secretary to read Committee Proposal No. 31, CWDI, SDI, who so complied with the request.

President Nakayama: Is there any discussion? If not, we will now vote by roll call. In order to pass this measure it will require a minimum of 36 affirmative votes.

A roll call vote was taken and the Convention Secretary announced that there were 47 affirmative votes and one abstention. Committee Proposal No. 31, CWD1, SD1, passed Second and Final Reading, as follows:

Committee Proposal No. 31, CWD1, SD1

A Proposal relating to Education, Health Care, Legal Services.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Education, Health Care, Legal Services. The Government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to achieve them.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 31, CWD1, SD1, was re-referred to the Committee on Style and Arrangement.)

Delegate Willander: Mr. President, I move for the passage on Second and Final Reading of Committee Proposal No. 34, SD1.

Floor Leader Tman seconded the motion.

The Chair requested the Convention Secretary to read Committee Proposal No. 34, SD1, who so complied with the request.

President Nakayama: Is there any discussion? It will take at least 36 affirmative votes to pass Committee Proposal No. 34. We will now vote by roll call.

A roll call vote was taken, but prior to announcing the result the President recognized Delegate Tman.

Delegate Tman: Point of privilege, Mr. President. Will the Secretary call my name again?

President Nakayama: The Delegate abstained. Will the Secretary call his name again?

Delegate Tman changed his abstention to an affirmative vote.

Delegate Cabrera: Should the Secretary also call Delegate Limes' name?

President Nakayama: Did he abstain?

Delegate Cabrera: Yes, he did.

Delegate Limes still abstained after having his name called again by the Secretary.

The Convention Secretary announced that there were 40 affirmative votes, three negative votes and five abstentions. Committee Proposal No. 34, SD1, passed Second and Final Reading, as follows:

Committee Proposal No. 34, SD1

A Proposal relating to Imprisonment for Debt.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Imprisonment for Debt. Imprisonment for debt is prohibited.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 34, SD1, was re-referred to the Committee on Style and Arrangement.)

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 24, CWD3, SD1, CD3, "A Proposal relating to a structure for the government of the Federated States of Micronesia."
- Article on National and Other Governments
- Article on Oath of Office
- Article on Role of Traditional Leaders

Floor Leader Tmau: Mr. President, I understand that the Special Committee is ready to report on its deliberations regarding Committee Proposal No. 27. Therefore, Mr. President, before we resolve into the Committee of the Whole, I move that Committee Proposal No. 27 be placed on the Second Reading Calendar.

Delegate Paleam seconded, and the motion carried to place Committee Proposal No. 27 on the Second Reading Calendar.

Delegate Ngiraked: Mr. President, some time ago we deferred action on Committee Proposal No. 25, Committee Report No. 37, as it relates to the future capital of Micronesia. The deferral was until November 8. That is the last day of the Convention and if we wait that long it may miss the mainstream of Convention activity, so I move that we place this subject for our final action under Item No. 13 of our order of the day.

Delegate Toribiong seconded the motion.

President Nakayama: It would be proper to place that proposal under Item No. 12 of the Order of Business.

Delegate Ngiraked: I amend my motion to that effect.

The motion carried to place Committee Proposal No. 25 on the Second Reading Calendar.

Floor leader Tmau: I move that the Convention resolve into the Committee of the Whole.

Delegate Toribiong seconded, and the motion carried. The Chair requested that Floor Leader Tmau preside over the discussion of Committee Proposal No. 24 and that Delegate Weital preside over the discussion of Committee Proposal No. 27 and Committee Proposal No. 25.

The Convention resolved into the Committee of the Whole at 2:25 p.m.

The Convention reconvened in Plenary Session at 4:37 p.m.

President Nakayama: We will now receive the reports from the Committee of the Whole. Floor leader Tmau?

Floor Leader Tmau: Thank you, Mr. President. Your Committee of the Whole, which deliberated on the many articles of Committee Proposal No. 24, CD3, CWD3, SD1, is happy to report as follows:

The Committee of the Whole has adopted the Article on National and Other Governments with little debate. With respect to the Article on Oath

of Office, your Committee agreed to the inclusion of the word "ambassadors" after the word "officials," as an amendment, with the instruction, however, that if this article is adopted that the Style Committee would put in the proper phraseology in that article by using phrases such as "all public officials", if appropriate. With regard to the Article on the Role of Traditional Leaders, your Committee adopted the article after extensive amendment. Your Committee also entertained and adopted Amendment No. 14 with regard to a periodic review necessitating revision or amendment of the Constitution.

Therefore, Mr. President, Committee Proposal No. 24 now stands as follows: Committee Proposal No. 24, CD3, CWD8, SD1. It now recommends that this proposal, as amended, be adopted by the Plenary and that it be forwarded to the Committee on Style and Arrangement. I move for the acceptance of this oral report.

Delegate Futamruw seconded, and the motion carried to accept the oral report of the Committee of the Whole as presented by Floor Leader Tmau.

Floor Leader Tmau: I move that Committee Proposal No. 24, CD3, CWD8, SD1, be referred to the Committee on Style and Arrangement.

Delegate Nimwes seconded, and the motion carried to refer Committee Proposal No. 24, CD3, CWD8, SD1, to the Committee on Style and Arrangement, as follows:

Committee Proposal No. 24, CD3, CWD8, SD1

ARTICLE _____. NATIONAL AND OTHER GOVERNMENTS

SECTION 1. Levels of Government. There shall be three levels of government in Micronesia: National, State, and District or other local governments; PROVIDED, that nothing herein shall require any State to establish new District or other local governments where none exist on the effective date of this Constitution.

SECTION 2. State Constitutions. Each State shall have a democratic constitution.

SECTION 3. Sovereign Immunity. There shall be no sovereign immunity at any level of government in Micronesia.

ARTICLE _____. OATH OF OFFICE

SECTION 1. Oath. Upon assuming office, all judges, elected officials, ambassadors and Department Directors of Micronesia shall take an oath to uphold, promote, and support the laws and the constitution of the nation.

ARTICLE _____. ROLE OF TRADITIONAL LEADERS

SECTION 1. Chamber of Chiefs. The National Legislature shall establish when needed a Chamber of Chiefs consisting of traditional leaders from each state having such leaders, and elected representatives from states having no traditional leaders.

SECTION 2. Traditional Leaders at State Level. In each State having traditional leaders, the State constitution may make provision for an active, functioning role for the traditional leaders of that State.

ARTICLE _____

SECTION _____. Constitutional Conventions. At least every ten years, the National Legislature shall submit to the electorate at a general or special election the question, "Shall there be a convention to propose a revision of or amendments to the Constitution?" If a majority of ballots cast upon the question are in the affirmative, delegates to the Convention shall be chosen no later than the next regular election, unless the National Legislature provides for the selection of delegates earlier at a special election.

The Chair recognized Delegate Weital.

Delegate Weital: Thank you, Mr. President. Finally, in the afternoon of November 6 in the year of our Lord 1975, your Committee of the Whole discussed Committee Proposal No. 27 with an amendment offered by the Special Committee which was reported on by the President of the Convention of 1975. With no heavy, harsh discussion and debate, the Committee adopted the amendment to Committee Proposal No. 27.

Regarding Committee Proposal No. 25, of the same day, it was the recommendation of your Committee of the Whole to refer this Committee Proposal to the Special Committee with instructions to iron out the differences between the Majority and Minority Proposals and come up with a favorable solution, I hope, Mr. President, and report back to this Convention.

With this brief report, Mr. President, I move that we accept the oral report.

Floor Leader Tman seconded, and the motion carried to accept the oral report of the Committee of the Whole as presented by Delegate Weital.

Delegate Weital: I move that we send Committee Proposal No. 27 to your Style and Arrangement Committee for final smoothening. (Laughter) I so move, Mr. President.

Delegate Tacheliol seconded the motion.

Delegate Falcam: I was wondering whether the report had been accepted.

President Nakayama: Yes, the report has been accepted.

Delegate Weital: Mr. President, I advise that we wake up and listen to the report. (Laughter)

Mr. President, with instruction from your Committee of the Whole, it was decided that Committee Proposal No. 25 be sent to the Special Committee.

President Nakayama: May we dispose of the motion to refer Committee Proposal No. 27 to the Style Committee for "smooth" wording?

The motion carried to refer Committee Proposal No. 27, CWD1, to the Committee on Style and Arrangement, as follows:

Committee Proposal No. 27, CWD1

A Proposal relating to Principles of unity and admission of new States.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

PRINCIPLES OF UNITY AND ADMISSION OF NEW STATES

SECTION _____. It is the solemn obligation, both of the national and state governments, to uphold the provisions of this Constitution and to promote and advance the principles of unity upon which this Constitution is founded.

SECTION _____. New states may be formed and admitted by law, subject to the same rights, duties, and obligations as provided for in this Constitution.

Delegate Weital: Mr. President, I move that we refer Committee Proposal No. 25 to the Special Committee with instructions to iron out the differences between the Majority and Minority Proposals and bring it up to the Convention later. I so move, Mr. President.

Delegate Tun seconded, and the motion carried to refer Committee Proposal No. 25 to the Special Committee.

INTRODUCTION OF DELEGATE PROPOSALS

None

INTRODUCTION OF RESOLUTIONS

Resolution No. 36, entitled "Resolution relating to possible conflicts between the Constitution of the Federated States of Micronesia and agreements on the future political status of Micronesia.", was introduced by Delegates Falcam, Sigrah, Yoma, Apis, Carl Heine, Olter, Ismael, Nimwes and Weital.

The Chair recognized Delegate Falcam.

Delegate Falcam: Thank you, Mr. President. This Resolution (No. 36) needs no detailed explanation. I urge that every Delegate read it carefully and be prepared to discuss such Resolution when it appears on the calendar. The subject has to do with future status. Thank you.

ACTION ON RESOLUTIONS

Resolution No. 1, CD1, "Resolution declaring a consensus of the Constitutional Convention that a federation of autonomous states be established as the sovereign government of Micronesia."

The Chair recognized Delegate Sawaichi.

Delegate Sawaichi: Thank you, Mr. President. There is no longer any need to act on this Resolution; therefore, I move that this Resolution be filed.

Floor Leader Tman seconded, and the motion carried to file Resolution No. 1.

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Cabrera: Point of privilege, Mr. President. If I may I wish to introduce some guests that we have with us this afternoon. They will be leaving shortly. Mr. President, I wish to introduce to the Convention the other half of the in-service trainees who are attending the on-going secretarial training program here on Saipan: Frances Dela Cruz, Juann Phillips, Vivian Odoshi, Maggie Camacho, Sue Kaipat, Maria Iginolf, Paz Manglona, Lucy C. Santos, Juanita S. Inos, and their chaperon, Bernie Cabrera. (Applause)

President Nakayama: I must say that the presence of the beautiful ladies has helped to improve the morale in this Convention. I overheard someone say: "This is the first time I have seen a smile." Ladies, you are welcome to the Convention.

The Chair recognized Delegate Wiliander.

Delegate Wiliander: Mr. President, I wish to respond to the question raised yesterday by Chief Fichita Bossy which I said I would answer formally in writing.

The second section in the Bill of Rights as contained in Committee Proposal No. 14 originally read: "The right to own private property shall not be deprived without due process of law." The next section read in part: "no person shall be deprived of...property without due process of law..." In view of the duplication, the Committee on Style and Arrangement in its Committee Report No. 44, page two, recommended that the initial section be deleted as "it is necessarily included in the next Section... One cannot be deprived of property unless one first has a right to own it, and this is the implication of the next Section."

In Committee Report No. 23, the Committee on Civil Liberties, in referring to the now deleted section on the right to own private property, said in part--that's on page three--: "This Section protects the right to own private property. This right includes individual or collective ownership and all well-established forms of customary ownership as they may exist in each district. This Section also includes customary ownership and use rights in marine areas recognized by local customs. Marine areas refer to the lagoons and submerged reefs within and beyond the territorial sea of Micronesia."

As the same protection of property is contained in the section which has been retained in Committee Proposal No. 14, SD1, this language in Committee Report No. 23 is equally applicable. It may be read as though the reference to "This Section" in the above quoted paragraph were placed under and specifically cited the "due process clause" Section retained in Committee Proposal No. 14, SD1.

Thank you, Mr. President.

Delegate Chief Bossy: I should thank the Chairman of the Style Committee for the reply, however I have an additional question. Does this mean then that the appropriate section in the Trust Territory Code would be invalid on the first day that this Constitution goes into effect?

Delegate Foribiong: Any laws which shall be in conflict with this Constitution shall become invalid after that date, and if that provision is in conflict with this Constitution it shall become void.

Delegate Falcam: With the kind permission of the Director of Public Affairs and the Department, I would like to ask the pages to distribute to the Delegates the latest copy of the Micronesian Reporter in which we shall find some very well written material on the first part of the Constitutional Convention. This is with the compliments of the Department of Public Affairs. Thank you, Mr. President. (Applause)

Delegate Yoma: It is also my privilege to warn you that in this particular issue of the Micronesian Reporter the only female member of this Convention is prominently featured in this issue. Thank you. (Applause)

Delegate Philippo: In order to correct the records of the Convention Secretary, I would like to say that I was absent during the roll call this afternoon, however, I have been here since the voting period. Thank you.

President Nakayama: Please note that Delegate Philippo was in attendance at the Convention for the entire session of today. (Note: Delegate Philippo was excused during roll call vote of Committee Proposals No. 31 and No. 34.)

Delegate Apis: If there is no objection from the Convention, I would like to request that I be allowed to submit a prepared statement to be inserted in today's Journal. If I am allowed, I so move for its insertion in the Journal of today.

Floor Leader Tman seconded, and the motion carried to insert Delegate Apis' statement in the Journal of the 88th Day, as follows:

"Mr. President, fellow Delegates:

During the final weeks of this Convention, we have enjoyed the opportunity to listen as fellow Delegates express their views on the type of future government Micronesia should have. This afternoon I want to express my personal feelings about a subject I believe needs emphasizing, even though it may not please everybody here today.

Mr. President, a reality that will always be with us, now and in the future, is that the measure of our success during this Micronesian Constitutional Convention will not be determined by those of us who write this Constitution. Instead, future generations will be the sole judge of our work. They will prosper or, God forbid, they will suffer because of what we do here during this Convention.

Each district here today has differing views on the kind of government we should create. But the unusual part of this situation is that we all have the same problems. We are all bothered by problems of unity; we are all bothered by problems of administrating our scattered island populations; we are bothered with problems of economics and finance; and, more often than not, we are bothered by all these problems at the same time.

The real question before us, as I see it, is: Will we attempt to solve these problems as separate sovereign states, each of us competing against our Micronesian brothers and sisters in the other districts for the favors of richer nations? Or, will we join hands and work together and face another important reality: that the only way for a people to keep control is to have one representative political power to cover the vast area of the Pacific, which we know today as our Micronesia.

Separately, Mr. President, if we have a weak central government we will each be in a weak bargaining position.

A strong central government, with exclusive powers, on the other hand, will mean that Micronesia could attack all of the problems now facing us simultaneously. Of course, the six district governments could attack these problems one by one, on a district-by-district basis, but development will be slower. It would be less efficient and, in many cases in the absence of inter-district coordination, we would have unnecessary and expensive duplication of efforts.

Likewise, can we afford a decentralized system where local government units, acting on their own, encounter disputes with one another--regional jealousies--and find yourselves with a central government too weak and too poor and too indecisive to settle these problems?

It has been suggested during this Convention that Micronesia cannot afford a strong central government. I say Micronesia cannot afford not to have a strong central government. If a central government is in a position to control how we will develop our resources, for example, then it can be done and these resources used to correct inequalities of governmental services available to all our people throughout Micronesia.

"I am of the firm conviction, Mr. President, that real progress can only come by reducing the economic and bureaucratic barriers which could easily divide us even more in the future. We must increase joint social, economic and political activities between the districts if we are to realize a true Micronesian government. We must keep the concept of Micronesia, as one unit, before ourselves and our people, at all times. Our schools, radios, newspapers, church gatherings, village meetings, must be a part of this effort. We must share our resources as well as our leadership. We must share revenues from the outside, even on a per capita basis, if need be. And, we must even share our songs, dances, everything...and do whatever is necessary to help our people know each other, help each other as Micronesians.

In short, we must create a central government strong enough to do whatever is necessary to build a new Micronesian nation. After all, it will be ours; we will have created it; it will be ours to use and we can all benefit by it. It is no accident that the United States, China, the Soviet Union, became powerful nations, because they saw the importance of unity. And it is no accident that the nations of Europe today have come together to form a powerful regional economic organization, the Common Market, to deal with the fundamental reality, the same reality that faces us here today--that we must work together if we are to survive. Just as Spain, Germany, Japan, and now the United States, brought new loyalties to Micronesia, our job is to create one last new loyalty--loyalty to one another and to ourselves, not as Trukese, Marshallese, Yapese, Palauans, Saipanese or Ponapeans, but as Micronesians.

Let us create a central government that can accomplish this goal. Thank you."

Floor Leader Tmau: We still have a number of important proposals to dispose of in the Plenary on Final Action. I understand that the Committee on Style needs time to meet and come up with their final draft. I would like to request a very short recess so that we can ascertain what time we should reconvene the Plenary this evening.

The President declared the Convention in recess, subject to the call of the Chair, at 4:58 p.m.

RECESS

The Convention was called to order at 5:00 p.m.

The Chair recognized Floor Leader Tmau.

Floor Leader Tmau: I yield the floor to Chairman Williander for any announcements.

ANNOUNCEMENTS

Delegate Williander: Thank you, Mr. Floor Leader. I wish to announce to the members of the Style and Arrangement Committee to meet immediately after the session here in this chamber.

President Nakayama: May I ask the members of the Special Committee to meet in Room No. 1, right after this Convention session.

Floor Leader Tmau: I know that we are all tired, but we have important proposals to dispose of later on this evening, so I risk a motion by moving that we recess until 8:00 p.m.

Delegate Toribiong seconded, and the motion carried. The Convention recessed at 5:03 p.m.

SUPPLEMENTAL
JOURNAL
EIGHTY-EIGHTH DAY - 8:00 P.M.

The Micronesian Constitutional Convention was called to order at 9:40 p.m.

The Honorable Tosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Convention Secretary called the roll. There were 45 Delegates present. Delegates Andrike, Borja, Cabrera, Haruo, Max Iriarte, Kijiner, Manglona, Ngiraked, Nifon, Rasa and Salii were excused. A quorum was present. Iroij Lanki was also present.

REPORTS OF STANDING COMMITTEES

Delegate Williander: Mr. President, I move for the acceptance of Committee Report No. 63, originating from your Committee on Style & Arrangement.

Floor Leader Tman seconded, and motion carried. The Convention accepted Committee Report No. 63.

SECOND READING OF COMMITTEE PROPOSALS - FINAL ACTION

Committee Proposal No. 21, CD2, CWD1, SD1, entitled "A Proposal relating to the functions of government."

Committee Proposal No. 24, CWD8, CD3, SD2, entitled "A Proposal relating to a structure for the government of the Federated States of Micronesia."

Delegate Williander: Mr. President, in accordance with the Committee Report we have just adopted, I wish to move to defer action on Committee Proposal No. 21, CD2, CWD1, SD1, and Committee Proposal No. 24, CWD8, CD3, SD2, and refer these two Committee Proposals to your Special Committee and your Style & Arrangement Committee with instructions for them to eliminate possible conflicts in the two Proposals.

Delegate Tun seconded, and motion carried to refer Committee Proposal No. 21, as amended, and Committee Proposal No. 24, as amended, to the Committee on Style & Arrangement and the Special Committee.

Floor Leader Tman: Mr. President, if that is the case, I move that the Convention recess in order for these two committees to meet now.

Delegate Falanruw seconded the motion.

Delegate Falcam: Point of information, Mr. President. I did not understand the motion made by our Floor Leader. I could not hear it.

President Nakayama: Mr. Floor Leader, would you please repeat your motion.

Floor Leader Tman: My motion was to recess and allow the Special Committee and Style Committee, to which these two Committee Proposals have now been referred, to meet now and advise us whether we should go on and come back in later or, we should recess until tomorrow.

Voice vote on the motion to recess was taken twice, a division being apparent each time. The President asked what was the wish of the Convention.

Delegate John Heine: I just would like to explain my negative vote. We have called this meeting and we have sat here for so much time already. I think we need a little bit of explanation as to why we should delay this. Is there a real possibly of a conflict?

Floor Leader Tman: I have read Committee Report No. 63 and the Style Committee drafts on Committee Proposal No. 21 and Committee Proposal No. 24. The inconsistencies mentioned in Committee Report No. 63 are evident in these two Proposals.

Delegate Nakamura: I go along with the Floor Leader. Also, I found a very important function of the chief executive which was omitted by the Style Committee. I am referring to the oral amendment made by Delegate Johnson Toribiong on October 20 where it said, "To faithfully execute and implement the provisions of this Constitution and administer all national laws and programs.". I fail to see it in either of these two Proposals.

Delegate Toribiong: In response to Delegate Nakamura's concern, that provision is now being handled by the staff of the Style Committee. Furthermore, there are technical inconsistencies which result from integrating these two Proposals into one document, and we believe the two committees can iron out and smooth the two things together.

Motion to recess carried.

The Convention recessed at 9:55 p.m., subject to the call of the Chair.

RECESS

The Convention was called to order at 11:30 p.m.

The Chair recognized Delegate Williander.

Delegate Williander: Mr. President, I move for the adoption of Committee Proposal No. 21, CD2, CWD1, SD1.

Delegate Falanruw seconded the motion.

Delegate Williander: Mr. President, I move for the adoption of the proposed amendment labelled Joint Amendment No. 1, to Committee Proposal No. 21, as amended.

Delegate Nakamura seconded the motion.

Delegate Toribiong: Thank you, Mr. President. I wish to offer an amendment to Joint Amendment No. 1 to Committee Proposal No. 21, as amended. My amendment has been labelled Amendment No. 1 and has been distributed to all the members. It amends page 2 of the proposed Joint Amendment. It reads:

> "On page 2 delete subdivision "q" of Section 2, and insert the following: '(q) To override an executive veto by not less than a 3/4 vote of all the delegations, each state delegation casting one vote.'"

This amendment is necessary because under this Proposal the initial requirement for passage of bills is a two-thirds vote. If we leave the proposed joint amendment like it is, it would make the overriding meaningless since it would be the same as the initial required vote. My amendment increases the minimum required vote to three-fourths. I move that the Joint Amendment No. 1 be amended by my amendment.

Floor Leader Tman seconded, and motion carried to adopt Amendment No. 1 to Joint Amendment No. 1, to Committee Proposal No. 21, CD2, CWD1, SD1.

Delegate Williander: Mr. President, I also wish to offer an amendment on behalf of some Delegates. It has been distributed to the members and is labelled Amendment No. 2 to Joint Amendment No. 1, to Committee Proposal No. 21, SD1. Our amendment has to do with Section 9 on page 3. The purpose of this amendment is to give a State its option to provide by its own laws how the traditional leader is selected, if it so chooses to have a traditional leader representative in the Congress. I move for the adoption of this amendment.

Delegate Nakamura seconded the motion. The proposed amendment is as follows:

"Amendment No. 2 to Joint Amendment No. 1 to Committee Proposal No. 21, SD1

On page 3, delete the first sentence of Section 9, and insert the following:

"Section 9. A state may provide that one of its seats is set aside for a traditional leader who shall be chosen as provided by state law for a 2-year term, in lieu of one representative elected on the basis of population."

Delegate Ismael: Point of information, Mr. President. On the Proposal before us, on page 2 of Committee Proposal No. 21 that was discussed in the Joint Committee; we were supposed to delete three areas of the Proposal on page 2 of Committee Proposal No. 21. But I see in the proposed Joint Committee Amendment No. 1 that it is taken care of. Do we need to go into this or not? May I ask the Floor Leader, please? Over.

President Nakayama: Thank you. Over. (laughter) Mr. Floor Leader.

Floor Leader Tman: The Joint Amendment No. 1 to Committee Proposal No. 21, CD2, CWD1, SD1, has already taken care of the agreement that was reached by the Special Committee and the Style & Arrangement Committee.

Motion to adopt proposed Amendment No. 2 to Joint Amendment No. 1 to Committee Proposal No. 21, as amended, carried.

Delegate Nakamura: Mr. President, I just want to ask a question regarding Section 10 in the article on Executive. Does this provision include the vice-president, too? Or is he immune from impeachment?

Delegate Nimwes: Most probably it is an oversight.

Delegate Williander: Mr. President, I request a short recess.

Delegate Nimwes: Mr. President, can't we just insert the words "vice-president" after "president"?

Delegate Falcam: I think Delegate Nakamura has raised a good question. The Convention can insert "vice-president" or we can assume that every action which is illegal or corrupt by the executive department is the responsibility of the president, so he is impeached for those reasons, at which time the vice-president takes over. But it is a policy question that can easily be ironed out by inserting "vice-president" if we so desire. I am assuming that the intent is that every responsibility rests with the president, so the president is impeached in this case. As I say, it is a policy matter. Thank you.

Delegate Williander: If it is the desire of the Convention--and I also believe it is an oversight on the part of the Joint Committee and the staff--and, therefore, Mr. President, I wish to move for the suspension of Rule 62(a) so that I can offer an oral amendment.

Delegate Tucheliol seconded, and motion carried to suspend Rule 62(a).

Delegate Williander: I offer an oral amendment to Section 10, page 7, by inserting a comma after the word "President" on line 1 of Section 10, and insert the words "Vice-President,". I so move.

Floor Leader Tmau seconded the motion.

Delegate Foribiong: Thank you, Mr. President. I wish to direct attention

to Section 8. We seem to have the same problem there. Or do we want to exclude the vice-president from the application of that section, with respect to the salaries?

Delegate Robert: I have just another point of information, Mr. President. On page 4, Section 15, the number "2/3rds vote". I wonder if the two-thirds votes refer to district delegations--two-thirds of the district delegations--or two-thirds of the members of Congress.

President Nakayama: Could we come to your question later, after we have disposed of the motion to amend Section 10?

Floor Leader Tman: Thank you, Mr. President. To satisfy the point raised by Delegate Toribiong with respect to Section 8 on page 7, and since the Rule 62(a) is still suspended, I move that Section 8, page 7, line 1, be amended by adding the letter "s" to "compensation" and after the word "President", insert the words "and the Vice-President". This is a motion to amend the oral amendment offered by Delegate Williander.

Delegate Toribiong: There is a purely technical amendment that should be made to Delegate Tman's proposed amendment. The word "He" should be changed to "Their" and the word "his" should be changed to "their".

Floor Leader Tman: Mr. President, could I request a short recess.

The Convention President declared a short recess, subject to the call of the Chair.

RECESS

The Convention was called to order by the President.

Delegate Williander: In order to take care of the little amendments, I wish to withdraw my motion to amend Section 10, so that we can take care of Section 8 first.

Floor Leader Tman: Since my amendment was an amendment to the amendment, when the original motion to amend was withdrawn, mine is automatically withdrawn, too.

President Nakayama: So all motions are withdrawn.

Delegate Williander: Mr. President, I move to amend Section 8 of Joint Amendment No. 1 to Committee Proposal No. 21, as amended, by inserting the following words: On line 1, after the word "President", insert the words "and the Vice-President shall be established by law and". On the same line the word "compensation" should be altered to read "compensations". On the second line insert the word "their" in lieu of the word "his". And, on the second sentence, delete the word "He" and insert the word "They". That is the amendment, Mr. President, and I so move.

Delegate Falanruw seconded, and motion carried to amend Section 8 of the Joint Amendment No. 1 to Committee Proposal No. 21, as amended.

Delegate Williander: Mr. President, I also wish to offer an oral amendment to Section 10 of Joint Amendment No. 1. On the first sentence insert a comma after the word "President" and add the words "Vice-President" and a comma. On the second sentence after the word "President" insert a comma and the words "or Vice-President" and a comma. I so move.

Floor Leader Tman seconded, and motion carried to amend Section 10 of the Joint Amendment No. 1 to Committee Proposal No. 21, as amended.

Delegate Nakamura: Since this is our last day to look at the article, I would like to make a technical correction on Section 4 of the Executive. To me, it would be consistent if we add after "Federated States" the words "of Micronesia", to be consistent with the other Proposals. This is on page 6.

Delegate Toribiong: I wonder whether we can treat that as a technical matter.

President Nakayama: Yes, we will treat that as a technical correction, to be handled by the Secretary.

Delegate Nakamura: Mr. President, I hate to ask a question again, but I feel to are a quorum of the special tribunal appearing on Section 10. Although the judicial review by the supreme court is already taken care of by this article on Judiciary, but since this is a special tribunal I am afraid that it might create some problem if one state or one executive fails to appoint their judge from that state for political reasons.

Delegate Toribiong: I can appreciate the concern of my colleague from Palau, but it would seem to me that this is a judicial problem. This is the constitutional duty for the state's chief executive to appoint a judge to that tribunal. It would seem to me that if an aggrieved party cannot have a tribunal to consider his appeal, he can always go to the highest court of the land and get a court order, in the form of mandamus, to compel a state chief executive to do his job and to uphold to the aggrieved individual his due process of law.

Delegate Robert: Point of information. On page 6, Section 5, which talks about the qualifications of the president, it states that the president has to be a citizen of the Federated States of Micronesia by birth. Then in the last clause it says that he must have been a resident of the Federated States of Micronesia for at least fifteen years. It looks to me that being a citizen by birth and having this residency requirement allows children of aliens, who are born in Micronesia, to become president after having been residents for fifteen years.

Delegate Toribiong: Thank you, Mr. President. I think we need to have that there to make sure that, not only must a candidate be a citizen by birth, but he must have resided in Micronesia for fifteen years. Often a child is raised in a foreign country because his parents may be in the foreign service, or something.

Delegate Mwety: Mr. President, would you kindly allow me to make an amendment. Do we need to suspend the rules?

President Nakayama: The rule is still suspended. Please proceed.

Delegate Mwety: On Section 18 of the Legislative Proposal, page 5, the second sentence, I move to amend the section by deleting "2/3" and inserting in lieu thereof "simple majority". Delete the word "all", and insert in between the words "members" and "is" the word "present". Then it will read "a simple majority vote of members present is required.". Also, on the second sentence delete "each state delegation shall cast one vote and". Also delete on the second sentence the words "all the delegations" and insert in lieu thereof the words "members present", so that it will read "On final reading a 2/3 vote of members present is required.". I so move.

Delegate Olikong seconded the motion.

Delegate Toribiong: Mr. President, it seems to me that this is a very substantial amendment to this section. In order for me to vote on this matter, I move for a short recess in order to consult with my delegation and my chiefs.

Delegate Falcam seconded, and motion carried for a short recess.

RECESS

President Nakayama called the meeting to order, informing the Convention that they had before them the proposed amendment sponsored by Delegate Mwety.

Delegate Mwely: Mr. President, I made my motion for the amendment based on reasons of my own. I proposed the amendment because I believe that on first reading of a bill only 13 votes would be required to pass a measure. On second reading it will require 18. My sense of fairness tells me that I should make that motion, however, Mr. President, because of extreme pressure on me by my own delegation, I withdraw my motion. (Applause)

President Nakayama: Thank you. That was the core of the compromise that your Special Committee approved. I thank the Delegate for withdrawing his motion. A gentleman's agreement is a gentleman's agreement.

Motion to adopt the amendment, as amended, carried. The Convention adopted Joint Amendment No. 1, as amended, to Committee Proposal No. 21, CD2, CWD1, SD1.

President Nakayama: We will now vote by roll call on the adoption of the Committee Proposal No. 21, as amended. It will require 35 affirmative votes to pass the measure.

The Convention Secretary reported that there had been 40 affirmative votes and 5 abstentions.

President Nakayama: Committee Proposal No. 21, as amended, has passed Second and Final Reading.

Committee Proposal No. 21, CD3, CWD1, SD1

A Proposal relating to the structure and functions of the government of the Federated States of Micronesia.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____
LEGISLATIVE

Section 1. The legislative power of the national government is vested in the Congress of the Federated States of Micronesia.

Section 2. The following powers are expressly delegated to the Congress:

(a) to provide for the national defense;
(b) to ratify treaties;
(c) to regulate immigration, emigration, naturalization, and citizenship;
(d) to impose taxes, duties, and tariffs based on imports;
(e) to impose taxes on income;
(f) to issue and regulate currency;
(g) to regulate banking, foreign and interstate commerce, insurance, the issuance and use of commercial paper and securities, bankruptcy and insolvency, and patents and copyrights;
(h) to regulate navigation and shipping except within lagoons, lakes and rivers;
(i) to establish usury limits on major loans;
(j) to provide for a national postal system;
(k) to acquire and govern new territory;
(l) to govern the area set aside as the national capitol;
(m) to regulate the ownership, exploration, and exploitation of natural resources in insular or continental shelves beyond 12 miles from island baselines.
(n) to establish and regulate a national public service system;
(o) to impeach and remove the Chief Executive and justices of the Supreme Court;

(p) to define major crimes and prescribe penalties, having due regard for local custom and tradition; and
(q) to override an executive veto by not less than a 3/4 vote of all the delegations, each state delegation casting one vote.

Section 3. The following powers may be exercised concurrently by Congress and the states:

(a) to appropriate public funds;
(b) to borrow money on the public credit;
(c) to promote education and health;
(d) to establish systems of social security and public welfare.

Section 4. A treaty is ratified by vote of two-thirds of the membership of Congress, except that a treaty delegating major powers of government of Micronesia to another government shall also require majority approval by the legislatures of two-thirds of the states.

Section 5. National taxes shall be imposed uniformly. Not less than 50% of the revenues shall be paid into the treasury of the state where collected. Net revenue derived from ocean floor mineral resources exploited under Section 2(m) shall be divided equally between the national government and the appropriate state government.

Section 6. The Congress consists of one member elected at large from each state on the basis of state equality, and additional members elected in congressional districts in each state apportioned by population. Members elected on the basis of state equality serve for a 4-year term, and all other members for 2 years. Each member has one vote, except on the final reading of bills. Congressional elections are held biennially, as provided by law.

Section 7. A person is ineligible to be a member of Congress unless he is at least 30 years of age on the day of election and has been a citizen of the Federated States of Micronesia for at least 15 years, and a resident of the state from which he is elected for at least 5 years. A person convicted of a felony by a state or national government court is ineligible to be a member of Congress. Congress may modify this provision or prescribe additional qualifications; knowledge of the English language may not be a qualification.

Section 8. At least every 10 years Congress shall reapportion itself. Each state is entitled to at least one member of Congress on the basis of population in addition to the member elected at large. Each state shall apportion itself by law into single member congressional districts. Each district shall be approximately equal in population after giving due regard to language, cultural, and geographic differences.

Section 9. A state may provide that one of its seats is set aside for a traditional leader who shall be chosen as provided by state law for a 2-year term, in lieu of one representative elected on the basis of population. The number of congressional districts shall be reduced and reapportioned accordingly.

Section 10. A vacancy in Congress shall be filled for the unexpired term. In the absence of provision by law, an unexpired term is filled by special election, except that an unexpired term of less than one year is filled by appointment by the state chief executive.

Section 11. A member of Congress may not hold another public office or employment. During the term for which he is elected and three years thereafter, a member may not be elected or appointed to a public office or employment created by national statute during his term. A member may not engage in any activity which conflicts with the proper discharge of his duties. The Congress may prescribe further restrictions.

Section 12. The Congress may prescribe an annual salary and allowances for members. An increase of salary may not apply to the Congress enacting it.

Section 13. A member of Congress is privileged from arrest during his attendance of Congress and in going to and from sessions, except for treason, felony, or breach of the peace. A member answers only to Congress for his statements in Congress.

Section 14. The Congress shall meet in regular, public session as prescribed by law. Special sessions may be convened by the President of the Federated States of Micronesia, or by the presiding officer on the written request of 2/3 of the members.

Section 15. (a) The Congress shall be the sole judge of the elections and qualifications of its members, may discipline a member, and, by 2/3 vote may suspend or expel a member.

(b) The Congress may determine its own rules of procedure and choose a presiding officer from among its members.

(c) The Congress may compel the attendance and testimony of witnesses and the production of documents or other matters before Congress or any of its committees.

Section 16. A majority of the members is a quorum, but a smaller number may adjourn from day to day and compel the attendance of absent members.

Section 17. The Congress shall keep and publish a journal of its proceedings. A roll call vote, entered on the journal shall be taken at the request of 1/5 of the members present. Legislative proceedings shall be conducted in the English language. A member may use his own language if not fluent in English, and Congress shall provide interpretation.

Section 18. To become law, a bill must pass two readings on separate days. To pass first reading a 2/3 vote of all members is required. On final reading each state delegation shall cast one vote and a 2/3 vote of all the delegations is required. All votes shall be entered on the journal.

Section 19. (a) The Congress may make no law except by statute and may enact no statute except by bill. The enacting clause of a bill is: "BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA." A bill may embrace but one subject expressed in its title. A provision outside the subject expressed in the title is void.

(b) A law may not be amended or revised by reference to its title only. The law as revised or amended shall be published and re-enacted at full length.

Section 20. Every bill passed by Congress shall be presented to the President for signature. If he disapproves of the bill, he shall return it with his objections to Congress within 10 days. If Congress has 10 or less days remaining in its session, or has adjourned, he shall return the bill within 30 days after presentation. If the President does not return a bill within the appropriate period, it becomes law as if signed.

ARTICLE
EXECUTIVE

Section 1. The executive power of the national government is vested in the President of the Federated States of Micronesia who is elected by Congress for a term of four years by a majority vote of all the members. He may not serve for more than 2 consecutive terms.

Section 2. The following powers are expressly delegated to the President:

(a) to faithfully execute and implement the provisions of this Constitution and administer all national laws and programs;

(b) to receive all ambassadors, and to conduct foreign affairs and the national defense in accordance with national law;

(c) to grant pardons and reprieves, except that the chief executive of each state shall have this power concurrently with respect to persons convicted under state law;

(d) with the advice and consent of Congress, to appoint ambassadors; all judges of the Supreme Court and other courts prescribed by statute; the principal officers of executive departments in the national government; and such other officers as may be provided for by law. Ambassadors and officers serve at the pleasure of the President.

Section 3. The President is head of state of the Federated States of Micronesia. He shall perform such duties as may be provided by law.

Section 4. The President shall make recommendations to Congress, and make an annual report to Congress on the state of the Federated States of Micronesia.

Section 5. A person is ineligible to become President unless he is a member of Congress for a four-year term, a citizen of the Federated States of Micronesia by birth, at least 30 years of age on the day of election, and a resident of the Federated States of of Micronesia for at least 15 years.

Section 6. After the election of the President, the Vice-President is elected in the same manner as the President, has the same qualifications, and serves for the same term of office. He may not be a resident of the same state.

Section 7. If the office of the President is vacant, or the President is unable to perform his duties, the Vice-President becomes President. Congress shall provide by statute for the succession in the event both offices are vacant, or either or both officers are unable to discharge their duties.

Section 8. The compensations of the President and the Vice-President shall be established by law and may not be increased or reduced during their term. They may hold no other office and may receive no other compensation from the Federated States of Micronesia or from a state.

Section 9. Executive departments shall be established by statute.

Section 10. The President, Vice-President, or a justice of the Supreme Court may be removed from office for treason, bribery, or conduct involving corruption in office, by a 2/3 vote of the membership of Congress. When the President, or Vice-President, is removed,

the Supreme Court shall review the decision. When a justice of the Supreme Court is removed the decision shall be reviewed by a special tribunal composed of one state court judge from each state appointed by the state chief executive. The special tribunal shall meet at the call of the President.

ARTICLE _____
TRANSITION PROVISIONS

Section _____. For purposes of the first congressional election, congressional districts are apportioned among the states as follows: Kusaie-1; Marianas-2; Marshalls-4; Palau-2; Ponape-3; Truk-5; Yap-1. If Kusaie is not a state at the time of the first election, 4 members shall be elected on the basis of population in Ponape.

President Nakayama: May I ask the status of Committee Proposal No. 24?

Floor Leader Tman: Mr. President, may I suggest that we leave Committee Proposal No. 24, as amended, on the calendar. A portion of it has already been incorporated in Committee Proposal No. 21, however, there are about 4 articles still with the Style Committee. I am sure the Style Committee will come up with their report. Therefore, Mr. President, I move that consideration on Committee Proposal No. 24, as amended, be deferred to tomorrow's calendar.

Delegate Tun seconded, and motion carried to defer action on Committee Proposal No. 24, as amended, until November 7, 1975.

INTRODUCTION OF DELEGATE PROPOSALS

None

INTRODUCTION OF RESOLUTIONS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

None

ANNOUNCEMENTS

Delegate Williander: Mr. President, I wish to announce to the members of your Committee on Style & Arrangement that there will be a meeting tomorrow morning at eleven o'clock in this Chamber.

Delegate Heinrich Iriarte: Thank you very much, Mr. President. There will be a meeting of your Committee on Governmental Structure tomorrow at eleven o'clock in Room 4.

President Nakayama: Room 4 is no longer available. Can you change it to Room 3?

Delegate Heinrich Iriarte: Yes, Room 3 will be fine.

Delegate Tacheliol: I understand, Mr. President, that the Structure and Style Committees will meet tomorrow morning at the same time. Many members are on both committees and I am wondering if the Chairmen could work that out so both meetings could be attended by all.

Floor Leader Tman: I wish to assure my good colleague that he can attend the meeting of the Committee on Structure, as his colleague will attend the meeting of the Style Committee.

Delegate Philippo: Mr. President, I would like to ask how many more Proposals we will have to dispose of?

President Nakayama: We have a few more Proposals to dispose of.

Delegate Philippo: How long will it take? (Laughter)

Delegate Ismael: Mr. President, I would like to introduce to this Convention a very distinguished lady, the wife of a prominent leader in Micronesia. She was first recognized by virtue of her education; Mrs. Strik Yoma. (Applause)

Delegate Philippo: Mr. President, I would like to ask the Convention how many more Proposals do we have to be disposed of and how long will it take?

President Nakayama: The answer is that if you come to the next session you will know exactly how long it takes us to complete the work on the unfinished business.

Delegate Nakamura: Mr. President, may I ask this Convention to recognize the presence of three handsome Palauans in our gallery. First, we have Hideo Tell, captain with the Transportation Division. (Applause) Secondly, we have Ben Misech, the senior radio technician from Palau. (Applause) And, last but not least, we have Sizuo Ubedei, an employee of Headquarters. (Applause)

President Nakayama: May I remind the members of the Special Committee that we will have a meeting at ten o'clock tomorrow morning in Room 1 to continue discussions on Committee Proposal No. 25.

Delegate Tun: Mr. President, I move that the Convention recess until one o'clock tomorrow afternoon, November 7, 1975.

Delegate Nakamura seconded, and motion carried to recess the Convention until 1:00 p.m., November 7, 1975.

The Convention recessed at 11:59 p.m.

Respectfully submitted,

Victorio Uherbelau
Convention Secretary

EIGHTY-NINTH DAY

Friday, November 7, 1975

The Micronesian Constitutional Convention was called to order at 3:40 p.m.

The Honorable Yosiwo Nakayama, President, presided.

A moment of silent prayer was observed.

The Preamble to the draft Constitution of the Federated States of Micronesia was read.

The Convention Secretary called the roll. There were 47 Delegates present. Delegates Andrike, Borja, Haruo, Habbey, Kijiner, Mangkona, Nifon, Philippo and Rasa were excused. A quorum was present. Troij Lanki was also present.

ADOPTION OF THE JOURNAL

Floor Leader Tman: Due to our Xerox machine breakdown, we have only half of yesterday's Journal (88th Day). The other half (88th Day Supplemental Journal) is still being run. Therefore, Mr. President, I suggest that we skip the adoption of the Journal until the other half is completed.

President Nakayama: All right. We will proceed to Item No. 9--Reports of Standing Committees.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Williander.

Delegate Williander: I move for the acceptance of Committee Report No. 64 relating to the Committee Proposal on unity and admission and the Committee Proposal on environmental protection.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 64, from the Committee on Style and Arrangement, submitting Committee Proposal No. 27, CWD1, SD1, entitled "A Proposal relating to unity and admission of new states.", and Committee Proposal No. 32, CWD1, SD1, entitled "A Proposal relating to environmental protection.", was accepted by the Convention.

Delegate Williander: Mr. President, I move for the acceptance of Committee Report No. 65.

Floor Leader Tman seconded, and the motion carried. Committee Report No. 65, from the Committee on Style and Arrangement, submitting Committee Proposal No. 24, CWD8, SD2, CD3, entitled "A Proposal relating to a structure for the government of the Federated States of Micronesia.", concerning the Articles on Traditional Rights, Levels of Government, and General Provisions, was accepted by the Convention.

Floor Leader Tman: In order to expedite our work on the Proposals under Final Action, I move that we suspend the order of the day and move to Item No. 12.

Delegate Tun seconded, and the motion carried to suspend the Order of Business.

SECOND READING OF COMMITTEE PROPOSALS - FINAL ACTION

Committee Proposal No. 27, CWD1, SD1, "A Proposal relating to unity and admission of new states."

Committee Proposal No. 32, CWD1, SD1, "A Proposal relating to environmental protection."

Committee Proposal No. 29, CWD3, SD2, CD3, "A Proposal relating to a structure for the government of the Federated States of Micronesia.", Articles on Traditional Rights, Levels of Government, and General Provisions.

Delegate Williander: I move for the passage on Second and Final Reading of Committee Proposal No. 27, CWD1, SD1.

Delegate Falanruw seconded the motion.

The Chair requested the Convention Secretary to read Committee Proposal No. 27, CWD1, SD1, who so complied with the request.

President Nakayama: Is there any discussion? It will take a minimum of 33 affirmative votes to pass this measure on Final Reading. We will now proceed to vote by roll call.

Delegate Weital: Point of privilege, Mr. President. Before I put forth my point of privilege, will the record reflect that Delegate Weital is present. Mr. President, I couldn't hear what you were saying with regard to how many votes will be required to pass the Proposal.

President Nakayama: With you present, Delegate Weital, the minimum required affirmative vote is increased to 34 to pass the measure on Final Reading. We will now proceed with our roll call vote.

Following roll call vote, the Convention Secretary announced that Committee Proposal No. 27, CWD1, SD1, had passed Second and Final Reading by the Convention. There were 44 affirmative votes and one abstention. (Note: Delegates Carl Heine and Isaac Lauwi were not present for the roll call vote on Committee Proposal No. 27.)

Committee Proposal No. 27, CWD1, SD1

A Proposal relating to unity and admission of new states.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. It is the solemn obligation of the national and state governments to uphold the provisions of this Constitution and to advance the principles of unity upon which this Constitution is founded.

SECTION _____. New states may be formed and admitted by law, subject to the same rights, duties, and obligations as provided for in this Constitution.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 27, CWD1, SD1, was re-referred to the Committee on Style and Arrangement.)

Delegate Williander: Mr. President, I move for the passage on Second and Final Reading of Committee Proposal No. 32, CWD1, SD1.

Floor Leader Tman seconded the motion.

The Chair requested the Convention Secretary to read Committee Proposal No. 32, CWD1, SD1, who so complied with the request.

The Chair recognized Delegate Apis.

Delegate Apis: Thank you, Mr. President. I have a minor question here regarding toxic chemicals. I don't know if it is the intention in this report, but it seems to me that toxic chemicals also refer to fertilizers, herbicides, and what have you. In order to use these, does it mean that the people in agriculture will have to get permission from the government?

President Nakayama: A point of information has been raised. Will someone repond?

Delegate Williander: I wish to respond to that question by Delegate Apis by saying that those chemicals which he just enumerated, I think, fall under harmful substances so they may be barred by this provision, unless they are not harmful substances.

Delegate Apis: I think Delegate Williander answered part of my question, but he posed another question as to whether they are harmful--yes, they are. Thank you.

President Nakayama: Is there any further discussion? We will now vote by roll call.

Following roll call vote, the Convention Secretary announced that Committee Proposal No. 32, CWD1, SD1, had passed Second and Final Reading by the Convention. There were 44 affirmative votes and two abstentions. (Note: Delegate Isaac Lanwi was not present for the roll call vote on Committee Proposal No. 32.)

Committee Proposal No. 32, CWD1, SD1

A Proposal relating to environmental protection.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Radioactive, toxic chemical, or other harmful substances may not be tested, stored, or disposed of within the jurisdiction of the Federated States of Micronesia without the express approval of the Government of the Federated States of Micronesia.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 32, CWD1, SD1, was re-referred to the Committee on Style and Arrangement.)

Delegate Williander: Mr. President, I move for the passage on Second and Final Reading of Committee Proposal No. 24, CWD8, SD2, CD3.

Floor Leader Tman seconded the motion.

The Chair requested the Convention Secretary to read Committee Proposal No. 24, CWD8, SD2, CD3, who so complied with the request.

The Chair recognized Delegate Toribiong.

Delegate Toribiong: I wish to offer an amendment to this Proposal, but before I state my amendment, I move to suspend Rule 62a.

Delegate Tacheliol seconded, and the motion carried to suspend Rule 62a.

Delegate Toribiong: Mr. President, I move that Section 3 in the second Article of this proposal concerning sovereign immunity be deleted.

Delegate Falanruw seconded the motion.

Delegate Toribiong: Mr. President, may I explain the reasons for this motion?

President Nakayama: Please proceed.

Delegate Toribiong: Sovereign immunity--and I believe most of us are aware of its meaning--is the power of the government, and the character inherent in every government, that makes that government immune from civil actions--meaning that the purpose of this immunity is to protect the government from being harassed by all kinds of civil actions in protecting its financial integrity so that civil suits may not become the most important matter for it to be concerned about. It should be occupied with the more important problems of the nation. If you open the door for civil actions against our national government, I can foresee a barrage of civil actions coming from the citizens, foreign nationals, and foreign companies in Micronesia which may drain our national treasury. It may also place our government in a situation where it shall be defending itself in our courts of law all the time. If you delete this section you will only give the future government the discretion to either consent to be sued in limited areas and for a limited amount of damages, or not at all, but I would rather give this option to our future leaders to decide. In the case of Micronesia, I believe they have by statute allowed certain civil actions against the government up to a certain limit in terms of what can be paid. This is very significant because we are a new nation and we don't have a lot of financial resources and technical resources to become involved with problems that may arise as a result of the inclusion of this section in our Constitution. I urge all the Delegates to consider this amendment favorably.

Floor Leader Tman: Point of information, Mr. President. My point of information is directed to the mover of the motion to amend. If we delete this section from this Article, would the Congress of the Federated States of Micronesia be able to enact a tort claims act--in other words, that the government can be sued in certain areas?

Delegate Toribiong: I wasn't clear on the question.

Floor Leader Tman: My question was, if we delete this section, as proposed in the amendment, will the Congress of the Federated States of Micronesia be able to enact something like a tort claims act?

Delegate Toribiong: Mr. President, exactly. Sovereign immunity means that a government cannot be sued without its consent; therefore, it can by legislation draft its consent to limited things and for limited purposes. It can enact such actions or it can open the door for any actions against itself.

Delegate Yoma: Mr. President, I read the report of the Committee from which this Proposal originated and, quite frankly, at first I was persuaded by the logic of the argument put forward by the committee, but on second thought, Mr. President, I feel that the future government should enact by legislation how this particular subject should be handled and not leave

it as it is here where there is a total bar of sovereign immunity. Therefore, Mr. President, I would urge my good colleagues to adopt the amendment by Delegate Toribiong.

Delegate Cabrera: This is just a simple question. If we are silent on sovereign immunity, will that prevent the national legislature from enacting a law that precludes the government or any legal entity in Micronesia from being sued? I am concerned--at least we all wish that there will never be any need to sue the government, but we are all human and we are susceptible to making mistakes--although honest at times--and the recourse of a private individual will not be asserted if there is such immunity. It is a question to which I would like an answer. Thank you.

Delegate Toribiong: I will try to answer that by saying that if you are silent on this, then sovereign immunity is assumed to be vested in our future government and, therefore, it cannot be sued without its consent. It may open the door for actions against itself on conditions. If you reverse it then I don't believe you can by legislation defend yourself from civil actions. You cannot say, "I cannot be sued by law" when the Constitution says you can.

Delegate Ismael: On Joint Committee Amendment No. 10 to Committee Proposal No. 24 in Section 6 where it talks about diversity of citizenship--meaning that the state as well as the national court could be trying all these civil cases--it seems to me that if we do not adopt this proposed amendment we will, in effect, flood our judiciary system with a great deal of these suits. For this matter, Mr. President, I would like to urge that the Delegates consider this amendment favorably. Thank you.

President Nakayama: If there is no further discussion, we will now vote on the proposed amendment. I hope the machine operator will fix his machine so that we can hear each other in this Convention.

There being no further discussion, the motion carried to amend Committee Proposal No. 24, CWD8, SD2, CD3, by deleting Section 3 of the Article on Levels of Government.

President Nakayama: Are you now ready for the question? The minimum number of yes votes required to pass this measure has increased to 36. We will now vote by roll call.

Following roll call vote, the Convention Secretary announced that Committee Proposal No. 24, CWD8, SD2, CD4, had passed Second and Final Reading by the Convention. There were 43 affirmative votes and three abstentions.

Committee Proposal No. 24, CWD8, SD2, CD4

A Proposal relating to a structure for the government of the Federated States of Micronesia.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

TRADITIONAL RIGHTS

Section 3. The Congress may establish, when needed, a Chamber of Chiefs consisting of traditional leaders from each state having such leaders, and of elected representatives from states having no traditional leaders. The Constitution of a state having traditional leaders may provide for an active, functional role for them.

ARTICLE _____

LEVELS OF GOVERNMENT

Section 1. There are three levels of government: national, state and local, except that a state is not required to establish a new local government where none exists on the effective date of this Constitution.

Section 2. Each state shall have a democratic constitution.

ARTICLE _____

GENERAL PROVISIONS

Section _____. Upon assuming office, all public officials shall take an oath to uphold, promote, and support the laws and the Constitution as prescribed by law.

Section _____. At least every 10 years, the Congress shall submit to the electorate at a general or special election the question: "Shall there be a convention to propose a revision of or amendments to the Constitution?" If a majority of ballots cast upon the question are in the affirmative, delegates to the Convention shall be chosen no later than the next regular election. The Congress may provide for the selection of delegates earlier at a special election.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 24, CWD8, SD2, CD4, was re-referred to the Committee on Style and Arrangement.)

Floor Leader Tman: Mr. President, because of some oversights, some of us have discovered that some of the Proposals which passed on Final Reading and which were sent to the Committee on Style and Arrangement need some important corrections. For this reason, Mr. President, with the indulgence of the Convention, I move to recall the following Committee Proposals from the Committee on Style and Arrangement in order that they may be placed on the Final Action Calendar for reconsideration: Committee Proposal No. 7, CWD2, SD1, Committee Proposal No. 10, CWD1, CD2, SD1, and Committee Proposal No. 21, CWD1, CD3, SD1.

Delegate Tun seconded, and the motion carried to place Committee Proposals No. 7, CWD2, SD1, No. 10, CWD1, CD2, SD1, and No. 21, CWD1, CD3, SD1, on the Final Reading Calendar for reconsideration.

The Chair recognized Delegate Wiliander.

Delegate Wiliander: Mr. President, I move to amend Committee Proposal No. 7, CWD2, SD1, by deleting lines 1 through 15 on page 1 and all of page 2 and insert Amendment No. 8. For the information of the Delegates, Amendment No. 8 was distributed three days ago. If they wish to refer to their files on amendments, this is Amendment No. 8 to Committee Proposal No. 7.

Delegate Toribiong seconded the motion.

Floor Leader Tman: I hear a lot of people shuffling their papers; therefore, I move for a short recess.

The President declared a short recess, subject to the call of the Chair, at 4:20 p.m.

RECESS

The Convention was called to order at 4:50 p.m.

The Chair recognized Delegate Willander.

Delegate Willander: Thank you, Mr. President. I belive there is a motion to amend Committee Proposal No. 7, CWD?, SD1, by Amendment No. 8.

Delegate Toribiong: The amendment actually pertains to Section 1 of Committee Proposal No. 7 in the second sentence concerning the extent of our jurisdiction beyond the baselines of the 200-mile limit. By our treaty obligations or by our own act, we qualify the nature and extent of that jurisdiction, whereas previously the section seems to make a unilateral claim over all waters up to a distance of 200 miles from our baselines. That was in conflict, I believe, with the intent of the Committee. The intent was not to extend our jurisdiction without any qualifications to that extent. It was meant only to extend it subject to our treaty obligations or by our own act, and I urge the Delegates to adopt Amendment No. 8 to Committee Proposal No. 7.

Floor Leader Tmun: Just to add to what Delegate Toribiong has said, the original language in the Proposal, as indicated by Delegate Toribiong, made a unilateral declaration which is not very conducive to our current participation in and successful conclusion of the Law of the Sea Conference.

There being no further discussion, the motion carried to adopt Amendment No. 8 to Committee Proposal No. 7.

Floor Leader Tmun: Are we going through the roll call, I believe?

President Nakayama: Yes. Is there any discussion on Committee Proposal No. 7, CWD?, SD1, CD1? We will now vote. It will require a minimum of 36 affirmative votes to pass this measure.

Following roll call vote, the Convention Secretary announced that Committee Proposal No. 7, CWD?, SD1, CD1, had passed Second and Final Reading by the Convention. There were 49 affirmatives votes. (Two Delegates were excused from the roll call vote on Committee Proposal No. 7.)

Committee Proposal No. 7, CWD?, SD1, CD1

A Proposal relating to the territory of the state of Micronesia.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

TERRITORY OF MICRONESIA

Section 1. The territory of the Federated States of Micronesia is comprised of the Districts of the Micronesian archipelago that ratify this Constitution. Unless limited by international treaty obligations assumed by the Federated States of Micronesia, or by its own act, the waters connecting the islands of the archipelago are internal waters regardless of dimensions, and jurisdiction extends to a marine space of 200 miles measured outward from appropriate baselines, the seabed, subsoil, water column, insular or continental shelves, airspace over land and water, and any other territory or waters belonging to Micronesia by historic right, custom, or legal title.

Section 2. Each State is comprised of the islands of each District as defined by laws in effect immediately prior to the effective date of this Constitution. A marine boundary between adjacent states is determined by law, applying the principle of equidistance. State boundaries may be changed by Congress with the consent of the state legislatures involved.

Section 3. Territory may be added to the Federated States of Micronesia upon approval of Congress, and by vote of the inhabitants of the area, if any, and by vote of the people of the Federated States. If the territory is to become part of an existing state, approval of the state legislature is required.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 7, CWD2, SD1, CD1, was re-referred to the Committee on Style and Arrangement.)

Delegate Tmu: I move to amend Committee Proposal No. 10, CWD1, CD2, SD1, as follows: In Section 1, subsection 1, in the first sentence after the word "Constitution" add the following words, "and a domiciliary of a district ratifying this Constitution,". This subsection in the Proposal will read as follows: "A person who is a citizen of the Trust Territory of the Pacific Islands immediately prior to the effective date of this Constitution and a domiciliary of a district ratifying this Constitution, is a citizen and national of the Federated States of Micronesia."

Second, add a new section---Section 5--- to read as follows: "A domiciliary of a district not ratifying this Constitution who was a citizen of the Trust Territory of the Pacific Islands immediately prior to the effective date of this Constitution, may become a citizen and national of the Federated States of Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months after the effective date of this Constitution or within 6 months after his 18th birthday, whichever is later."

Lastly, renumber subsection 5 to subsection 6.

There being no discussion, the motion carried to amend Committee Proposal No. 10.

President Nakayama: Is there any further discussion? If not, we will now vote by roll call.

Following roll call vote, the Convention Secretary announced that Committee Proposal No. 10, CWD1, CD3, SD1, had passed Second and Final Reading by the Convention. There were 42 affirmative votes, one negative vote, and two abstentions. (Two Delegates were excused from the roll call vote on Committee Proposal No. 10.)

Committee Proposal No. 10, CWD1, CD3, SD1

A Proposal relating to Citizenship, Naturalization and Immigration.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Citizenship and Nationality.

1. Any person who is a citizen of the Trust Territory of the Trust Territory of the Pacific Islands immediately prior to the effective date of this Constitution and a domiciliary of a district ratifying this Constitution, is a citizen and national of the Federated States of Micronesia.

2. Any person born of parents one or both of whom are citizens of Micronesia shall be a citizen and national of Micronesia at birth.

3. Any citizen of Micronesia who is recognized as a citizen of another nation shall, within three years of becoming 18 years of age, or within three years of the effective date of this Constitution,

whichever is later, register his intent to retain his Micronesian citizenship and renounce his citizenship of any other nation; OTHERWISE, he shall be a Micronesian national.

4. Any citizen of the Trust Territory of the Pacific Islands, who becomes a national of the United States of America under the terms of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, may become a citizen of Micronesia by applying to a Micronesian court of competent jurisdiction within six months after the date he becomes a United States national.

5. A domiciliary of a district not ratifying this Constitution who was a citizen of the Trust Territory of the Pacific Islands immediately prior to the effective date of this Constitution, may become a citizen and national of the Federated States of Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months after the effective date of this Constitution or within 6 months after his 18th birthday, whichever is later.

6. Upon ratification of this Constitution, this article shall be construed to apply both retroactively and prospectively.

SECTION _____. Naturalization. Eligibility requirements and procedures for naturalization shall be established by law.

SECTION _____. Immigration. Eligibility requirements and procedures for the admission of immigrants shall be established by law.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 10, CWD1, CD3, SD1, was re-referred to the Committee on Style and Arrangement.)

Delegate Willander: Before I move to offer an amendment, I wish to ask the Delegates to refer to Committee Proposal No. 21, Joint Amendment No. 1, which was adopted last night. Mr. President, I move to amend the Article on Executive on page 7, after Section 10, by adding Amendment No. 1 to Committee Proposal No. 21, CD3, CWD1, SD1, which was distributed.

Delegate Falanruw seconded the motion.

Delegate Willander: May I request the Convention Secretary to read the amendment.

DECLARATION OF EMERGENCY

Section 1. If required to preserve public peace, health, or safety, at a time of extreme emergency caused by civil disturbance, natural disaster, or immediate threat of war, or insurrection, the President may declare a state of emergency and issue appropriate decrees.

Section 2. A civil right may be impaired only to the extent actually required for the preservation of peace, health, or safety. A declaration of emergency may not impair the power of the judiciary except that the declaration shall be free from judicial interference for 30 days after it is first issued.

Section 3. Within 30 days after the declaration of emergency, the Congress of the Federated States of Micronesia shall convene at the call of its presiding officer or the President to consider revocation, amendment, or extension of the declaration. Unless it expires by its own terms, is revoked, or extended, a declaration of emergency is effective for 30 days.

There being no discussion, the motion carried to amend Committee Proposal No. 21.

President Nakayama: Are you ready to vote? We will now vote by roll call.

Following roll call vote, the Convention Secretary announced that Committee Proposal No. 21, CDⁿ, CWDL, SDL, had passed Second and Final Reading by the Convention. There were 45 affirmative votes. (Two Delegates were excused from the roll call vote on Committee Proposal No. 21.)

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 21, CDⁿ, CWDL, SDL, was re-referred to the Committee on Style and Arrangement.)

Delegate Willander: I have an oral amendment to make but before I do that I wish to suspend the rules regarding duplication of amendment in order to offer an oral amendment.

Floor Leader Tman seconded, and the motion carried to suspend Rule 62a.

Delegate Willander: Mr. President, before I make a motion I wish to explain the reason for the amendment. If you will recall, your Style and Arrangement Committee submitted Committee Proposal No. 24 on Legislative and Executive and Committee Proposal No. 21 on Functions in Committee Report No. 63. Included on page 1 of Committee Proposal No. 21 were two sections regarding national and state powers. Inadvertently Joint Amendment No. 1 to Committee Proposal No. 21, SDL, omitted these two sections on express delegation of powers to the states. The Joint Committee was only to handle conflicts and these sections posed no conflict. Therefore, Mr. President, I move to amend Committee Proposal No. 21, now CDⁿ, CWDL, SDL, by inserting Section 1 and Section 2, from the former Committee Proposal No. 21, SDL, under Committee Report No. 63, on page 7 immediately above the Article on Transition Provisions.

Delegate Palanruw seconded the motion.

President Nakayama: May we ask the Secretary to read the section as amended.

Convention Secretary: Mr. President, the oral amendment appears on page 1 of the Functions Proposal, labeled Section 1 and Section 2. They were to be included on page 7 of Joint Amendment No. 1, following Section 10, above the Article on Transition Provisions. I assume that Section 1 will be renumbered Section 11, as follows: "Section 11. A power not expressly delegated to the national government or prohibited to the states is a state power." Section 2 will be renumbered Section 12, as follows: "Section 12. A power expressly delegated to the national government, or a power of such an indisputably national character as to be beyond the power of a state to control, is a national power."

There being no discussion, the motion carried to amend Committee Proposal No. 21, CDⁿ, CWDL, SDL.

President Nakayama: How do we dispose of this on Final Action?

Floor Leader Tman: Mr. President, if there is no objection, unless there are people who are totally opposed to the amendment which we already adopted previously and because this was an oversight, I move that we suspend the requirement of roll call vote in this particular case.

Delegate Tun seconded, and the motion carried to suspend Rule No. 60. Committee Proposal No. 21 was amended to include Section 11 and Section 12 on page 7 immediately after Section 10 and prior to the Article on Transition Provisions.

(Pursuant to Rule 59(b)(7) of the Official Rules of Procedure, Committee Proposal No. 21, CD5, CWD1, SD1, was re-referred to the Committee on Style and Arrangement.)

Delegate Ismael: I would like to move for the suspension of Rule No. 55 in order to reconsider a particular proposal.

Delegate Toribiong seconded, and the motion carried to suspend Rule No. 55.

Delegate Ismael: I am going to make a motion but perhaps before I do that I better explain that some people wanted to see where eminent domain powers should rest--whether it should be concerned with our level of government, or within the district or state. Because this is concerning Committee Proposal No. 3, I would like to move for reconsideration of this Committee Proposal and to place it on the calendar.

Delegate Toribiong seconded, and the motion carried to place Committee Proposal No. 3 on the Second Reading Calendar for reconsideration.

Delegate Ismael: I move that Committee Proposal No. 3, CWD1, SD1, CD1, be amended by the adoption of Amendment No. 3.

Delegate Falanruw seconded the motion.

President Nakayama: May we have the amendment read? Mr. Floor Leader.

Floor Leader Tman: Thank you, Mr. President. If my good colleague from Kusaie will withdraw his motion to amend and then make a motion to adopt the Proposal first and then to amend that would be in proper order.

Delegate Ismael: I wish to withdraw my motion and move for the adoption of Committee Proposal No. 3, CWD1, SD1, CD1.

Delegate Toribiong seconded, and the motion carried to adopt Committee Proposal No. 3, CWD1, SD1, CD1.

Delegate Ismael: I move for the adoption of Amendment No. 3 to Committee Proposal No. 3.

Delegate Toribiong seconded the motion.

President Nakayama: May we have the amendment read?

The Convention Secretary read Amendment No. 3 to Committee Proposal No. 3, CWD1, SD1, CD1, as follows:

> Delete the entire text beginning with the word "The" on line 2, and substitute the following:
>
> "The power of eminent domain shall be reserved to the people of each state."

Delegate Ismael: Mr. President, some people would argue that this amendment is ambiguous, and I quite agree with them. There is no such thing as eminent domain resting with the people. There are some other people that will argue that because this amendment says that eminent domain shall be reserved to the people of each state that this may mean that eminent domain shall be reserved to the people of that state so that when they write up their constitution they can then resolve the issue of eminent domain as to where it would lie--whether it should be in the state level, the district level, or the municipal level, or whether there should be no article on it at all in their own constitution. Concern is also raised in that if there is no document on eminent domain in our Constitution, it may rise to argument. The legal battle will revolve

around whether eminent domain can be exercised at the national level of our government relative to the jurisdiction of inherent or incidental powers expressly delegated to the national level of the government. Others might argue that this particular eminent domain issue, since it is not delegated in the Constitution, rests in the districts. Many Delegates in the Convention are concerned about this and they would like to have it recalled for reconsideration today. Thank you, Mr. President.

Delegate Apis: Mr. President, for the last time I just wish to make some comments regarding my reservation on this present amendment. What I have mentioned before is in the Journal record, but I would like to just say something regarding this. I believe that some states may need this power, others may not, but I do believe that the national government will need it. Thank you, Mr. President.

Delegate Willander: This is just a procedural point. Is there a motion to amend the Committee Proposal?

President Nakayama: Yes.

Delegate Nimwes: Point of information.

President Nakayama: Please state your point.

Delegate Nimwes: Thank you, Mr. President. If this Constitution is silent on eminent domain, would it not be possible for the states to establish eminent domain, or whatever it is called, within their respective constitutions?

Delegate Ismael: I do not think so, Mr. President; however, there would possibly be a legal battle as to whether or not eminent domain can be considered as an inherent power of the national level of the government which was delegated for national defense, foreign affairs, postal services, what have you. This was the area of concern by some of the Delegates in that the national level of the government may possibly argue from this angle and exercise this. Thank you, Mr. President.

Delegate Nimwes: Are we implying here that when the states establish their constitutions they should go around and check each person within their states to release such a reserve power?

Delegate Ismael: I don't think so, Mr. President. I think what it means here is that it should be reserved to the people of that state and that they should resolve this issue in their constitution.

Delegate Sony: Point of information. May I ask what the word "people" means here?

Delegate Youm: Point of information. Which Proposal are you talking about?

President Nakayama: Committee Proposal No. 3, eminent domain, Amendment No. 3.

Delegate Ngiraked: Mr. President, I think we need to consult with our legal experts as to whether or not the power of eminent domain is something that arises automatically or is something that needs to be created. So, I move for a short recess.

Delegate Falanruw seconded, and the motion carried. The Convention recessed, subject to the call of the Chair, at 5:30 p.m.

RECESS

The Convention was called to order at 6:03 p.m.

President Nakayama: Let us continue the discussion on the proposed amendment to Committee Proposal No. 3. Delegate Ngiraked?

Delegate Ngiraked: Thank you, Mr. President. During the recess we consulted with the legal staff and we were assured that the language offered in the amendment takes care of the problem as intended by the Convention. It is in order, and I urge everyone to adopt the amendment.

Delegate Ismael: I would like to clarify a few points to the Delegates. I would like to call your attention to Committee Report No. 63 on the Functions part of it. Section 2, which was adopted by this Convention, reads as follows: "A power expressly delegated to the national government, or a power of such an indisputably national character as to be beyond the power of a state to control, is a national power." This particular section could very well be used by the national government as to the exercise of eminent domain power anywhere in Micronesia because eminent domain, in itself, is an inherent power unless the Constitution limits it to the level of the state or lower and reserves it to the people, whether by constitutional manner, whether by saying in their constitution at the district or state level that there shall not be any eminent domain power, or whether they resolve it by the traditional way.

President Nakayama: Are you ready for the question? We will now vote.

The motion carried to adopt Amendment No. 3 to Committee Proposal No. 3, CWDI, SDI, CDI.

Floor Leader Tmau: Just for the record, we now have Committee Proposal No. 3, CWDI, SDI, CDI.

Delegate Fritz: I am still confused on the issue we have before us. I still want some clarification before I cast my vote on it. During the recess of this Convention I consulted with my people at home on this issue and they told me their feelings about eminent domain. Before I cast my vote on this particular matter, I would like more clarification so that I will be sure that I know what I am voting for. I feel that I am still cautious about the word "people" here. This is a constitution which we are making, not only for lawyers but I think it should be understood by laymen as well. In order for us to understand the intent of this Constitution, I think we should clarify the intent of the provision we are now adopting in this Convention. Let me direct my question to Delegate Ismael on the matter of the power that will be reserved to the people of each state. Probably I did not understand his explanation on the question raised by Delegate Nimwes that in order to exercise the power of eminent domain, for example in Truk, they would have to get the approval of all the people of Truk.

Delegate Ismael: I shall try to answer the question raised by Delegate Fritz in this manner, Mr. President. A government that exercises eminent domain power does that only as a last resort. First, if it needs land it negotiates with the owner, but when the owner refuses, that is when the government takes some money, deposits it with the Clerk of Courts, saying, "This is $2 for one acre of land which we are going to condemn for the use of the government." This is why we feel that it should be reserved to the people of that particular state who would know what they want and what they don't want. If this Constitution is silent on it, there will be a legal battle as to what level of government can exercise the power of eminent domain. If we delegate the authority to the people of that state, it will mean that this Convention does not want the national government to exercise eminent domain power.

Delegate Nimwes: Point of information. Does it mean that the people would exercise eminent domain then?

Delegate Ismael: As I understand it, there would be three options: one, in drafting a constitution for that district, the district or the state can write into their constitution that there should be no eminent domain; two, the people may use their traditional way of resolving eminent domain; or, three, they may exercise eminent domain and write it into the constitution according to their wish.

Delegate Toribiong: During the recess we talked to the staff of the Convention concerning this very important power. It seems to be the consensus of most of the attorneys that the power of eminent domain is not a power which the government exercises for itself. It is a power exercised only to promote public good. Therefore, it is an inherent power in government. Therefore, whenever you delegate powers to the government it has been argued that necessarily implies that this power exists in order for that government to be able to accomplish its purpose. Here in the Constitution we are expressly delegating the power to, for example, run a postal system. It can be argued that that power necessarily implies that the national government shall have the power to acquire necessary lands to erect needed facilities. That can also be argued against the power to defend the nation, to acquire lands, and to provide for necessary facilities. Therefore, if we are silent on the question there is a possibility for little arguments that this power exists at all levels of government, from the national to the local levels. If you say that it is reserved to the state, you automatically vest this power in the state government and, therefore, even if the state constitution is silent it is implied to be inherent in that state government. If you say that it is reserved to the people of the state, then it no longer exists at the national level and at the state level of our government. In order for it to be exercised at the state level, the people of that state in ratifying that constitution must expressly delegate it to that state government, otherwise it remains in the people. If it remains in the people it can not be exercised as such because it is a power of government and people can act only through their government.

Delegate Nimwes: Point of information. Just tonight we adopted Amendment No. 1 to Committee Proposal No. 21 regarding Declaration of Emergency. If this particular power is reserved to the state, would it be possible for the national government to exercise such a power in case of emergency? However, within this proposal that we passed we only permit a 30-day period.

Delegate Toribiong: Mr. President, let me try and respond to the question by saying that the power of emergency relates only to temporary situations. The power of eminent domain applies to acquisition of private property for more or less permanent purposes. I don't think it shall be necessary for the government to ever utilize eminent domain power in the event of an emergency. It can always suspend our civil rights, particularly our rights to exclusively possess and own our property in order to afford public relief to the citizens.

Delegate Sony: Up to now I am not convinced that I understand the meaning of the word "people" of the state. At the beginning I got the impression that the phrase "people of the state" refers to a group of citizens not bound by the social contract, out of which the government of the state is formed. When Delegate Ismael explained the intent of the amendment, it seems to me that that phrase meant the government of the state. Now, when Delegate Toribiong made his point it just went back to the original impression that I got that the people of the state means the individual citizens. It doesn't have anything to do with the state government. What does the word "people" mean? Are they not bound under the social contract?

President Nakayama: Delegate Robert, are you responding to the question?

Delegate Robert: I am not going to respond to the question. I want to make a remark.

President Nakayama: Then let me ask if Delegate Cabrera is responding to the inquiry.

Delegate Cabrera: No, I am not responding. I have questions of my own.

President Nakayama: In that case, the floor is Delegate Roberts'.

Delegate Robert: Thank you, Mr. President. I would like to share my views regarding the proposal we are discussing. I think, in recognizing the uncertainties that lie ahead of us and also the fact that we are in a crisis-ridden era, it is only imperative and proper that we keep this Constitution silent on this issue so that the national government or the state government can have the power when they need it to exercise the power of eminent domain. We never know when, at what time, or which one, will need the eminent domain power at a certain point in time. Therefore, I think it is very proper that we keep the Constitution silent on this one.

Delegate Cabrera: First of all, I would like to pose a question to anybody in the Convention. The question is the priority and use of the term "eminent domain". I have always been under the impression, Mr. President, that eminent domain is a power reserved by the government and exercised by the government should it need to acquire private property. As used in the amendment, I doubt if the use is appropriate. The second concern that I wish to state, Mr. President, is that we have been discussing eminent domain for quite some time. It has always been killed whenever it came up. I understand that the proponents of such a proposal for inclusion in the constitution feel that the people at any given time should have the final say so. I do not think that the amendment would appease the opponents because, as explained, it will mean that if the people wish to have eminent domain in their respective states, it should be included in their respective constitutions. During the recess I heard people interpreting the amendment. One person said that eminent domain, as proposed in the amendment, is reserved for the people and only practiced by the people. As proposed today, it goes to the people to acquire such property, but what will happen next month or next year when the government wants to acquire a piece of property? In the interest of ensuring that the national government does not have the power, that the state government does not have the power, and in the interest of appeasing everyone, I think it would be wise to say something in the Constitution by indicating that no levels of government shall exercise eminent domain. Thank you.

Delegate Toribiong: I wish to say a few words concerning what Delegate Robert said concerning the assumption that our silence means that the power of eminent domain exists at all levels of government. That was a mere opinion by some staff attorneys. There are arguments advanced to the contrary and the argument is based upon the theory that since the national government shall be a government which acquires its powers from the Constitution and those powers are expressly delegated, it cannot have additional powers not so delegated. Reading that against the Article on Judiciary, which says that the federal courts shall have no jurisdiction at all over land matters, tends to lead me to the conclusion that perhaps silence can still be used to mean that the national government does not have the power of eminent domain--it resides with the states as the Constitution provides, that those which are not expressly given to the national government shall reside with the states. It is not very clear at this stage to make assumptions or to make conclusions.

Delegate Mwoty: Point of information. We would like to know whether it is the intent of the Functions Committee to grant the power of eminent domain to the district governments or not to grant it.

Delegate Toribiong: Being a member of the Functions Committee, I can venture to say that I think it is the intent of the Committee to leave the decision to the people of each of the respective states of Micronesia. You cannot quite separate states from the people. Actually, they are one and the same. It is up to the people.

Delegate John Heine: I think I follow the line of reasoning as offered by Delegate Toribiong that you cannot separate the people from the government or the government from the people, but now we are writing a Constitution and the people I think sent us over here. Who do we represent---the government that we are building or the people that selected us to come here? When we say that we reserve the power to the people of the state, which people are we talking about? We represent them here. Can we not make a decision now and then take it back to them and see if they ratify it? Then we would know that it is their wish, that is if people and the government are inseparable. I am quite confused on this issue.

Delegate Wainit: With all due respect to those Delegates who argue against this amendment, I simply want to point out that the intent is, I think, clear in this amendment. That is, the intent of this amendment is to reserve the power or the right to the people of each state to so decide whether they want their government to have the power of eminent domain or not. I think that is the intent, if I am not mistaken, and there are several ways that that can be done. One way would be to approve the writing of a Constitution or some other ways. Thank you.

Delegate Otter: I would like to make some observations here before I move for a recess for dinner. I think many people are hungry. First, if eminent domain is to be exercised, I learned from Troij Ismael that it is best exercised in Kunaie where an acre of land costs only $2 to be deposited with the Clerk of Courts! We are trying to establish certain philosophies around this eminent domain principle, and one asks the question as to what happens if this is reserved with the people, whether one individual will exercise eminent domain on the next individual or vice versa. I think it is pretty elementary that what is granted to the government is only something that is given by the people. Originally, everything is reserved in each individual. Each individual or collectively, it is reserved in the people, whether the people would give it to the government or not, but it is a government by consent here we are talking about, whether we consent to our government exercising that power or not exercising it. Since we are hungry, Mr. President, may I move that we have a recess until nine o'clock.

Delegate Nimwes seconded the motion.

Delegate Ngiraked: Point of privilege, Mr. President. This is our last evening of work and we have some business on the calendar. We have sandwiches at the counter. We have something to drink. If dinner means eating and drinking, I think nine o'clock is too far away. I think we should stay here and continue to work.

Delegate Nimwes: I withdraw my second. (Laughter)

President Nakayama: Are you ready for the question. The minimum required affirmative vote now is 35. We will now vote by roll call.

Following roll call vote the Convention Secretary announced that he would call the names of the Delegates who abstained.

Delegate Salii: Why are you calling them again? Is it required by the rules?

Convention Secretary: It is the decision of the Chair.

Following a re-call of the abstention votes, the President announced that there were 32 affirmative votes, six negative votes and eight abstentions. Committee Proposal No. 3, as amended, failed to pass Final Reading.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: I think it is proper to take note of what has just happened here. By remaining silent we have left the power of eminent domain floating around and it is available at all levels of government and, possibly without intending to do so, we have delegated the decision to our future courts to decide.

Delegate Toribiong: Point of privilege, Mr. President. I wish to have the record reflect that it is my opinion that in considering all the proposals concerning land and concerning the delegation of powers, I conclude that the national government does not have the power of eminent domain.

SECOND READING OF COMMITTEE PROPOSALS

Committee Proposal No. 25, "A Proposal relating to the capital of Micronesia and jurisdiction and control over property of the national government."

Floor Leader Tmetuchl: In order to dispose of Committee Proposal No. 25, I move that the Convention resolve into the Committee of the Whole.

Delegate Falanruw seconded, and the motion carried. The Chair requested that Delegate Weital preside over the discussion of Committee Proposal No. 25.

The Convention resolved into the Committee of the Whole at 6:40 p.m.

The Convention reconvened in Plenary Session at 6:47 p.m.

President Nakayama: As soon as the Chairman of the Committee of the Whole takes his seat I will ask him to give his report. Delegate Weital?

Delegate Weital: Thank you, Mr. President. Your Committee of the Whole spent one and a half minutes discussing Committee Proposal No. 25 after a report was given by the Chairman of the Special Committee. With few remarks made by the Chairman, your Committee of the Whole accepted the report and the action of the Special Committee. I move that this oral report be accepted.

Delegate Tun seconded, and the motion carried to accept the oral report of the Committee of the Whole.

Delegate Falcam: Point of information. I failed to hear the report include filing of Committee Proposal No. 25.

President Nakayama: I believe the Chairman was about to make a motion to file the Proposal.

Delegate Weital: That is correct, Mr. President. (Laughter) I advise again that we listen to the report carefully. (Laughter)

President Nakayama: Please proceed.

Delegate Weital: Mr. President, I now move that we file Committee Proposal No. 25.

Delegate Tun seconded, and the motion carried to file Committee Proposal No. 25.

Delegate Weital: Kilisou chapur (thank you very much).

Floor Leader Tmetuchl: With the indulgence of the Convention, since there is another report now being distributed, I move that we suspend the order of the day and go back to Standing Committee Reports--Item No. 9--in order to dispose of Committee Report No. 66.

Delegate Tacheliol seconded, and the motion carried to suspend the Order of Business.

REPORTS OF STANDING COMMITTEES

The Chair recognized Delegate Tun.

Delegate Tun: Thank you, Mr. President. I move for the acceptance of Committee Report No. 66.

Delegate Falanruw seconded, and the motion carried. Committee Report No. 66, from the Committee on General Provisions, submitting Resolution No. 27, entitled "Resolution relating to public education on the Micronesian Constitution.", was accepted by the Convention.

Floor Leader Tmau: For the information of the Delegates, Resolution No. 27 is now on the Resolution Calendar for action.

INTRODUCTION OF DELEGATE PROPOSALS

None

INTRODUCTION OF RESOLUTIONS

Resolution No. 37, entitled "Resolution relating to the permanent site of the capital of the Federated States of Micronesia.", was introduced by Delegate Ngiraked.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: I have introduced Resolution No. 37 which was referred to in disposing of Committee Proposal No. 25 in the Committee of the Whole as representing some consensus by the Delegations to dispose of the issue of the future capital of our government. I move that Resolution No. 37 be placed on our calendar under Item No. 16---Action on Resolutions.

Delegate Olikong seconded, and the motion carried to place Resolution No. 37 under Item No. 16, Action on Resolutions, in the Order of Business.

President Nakayama: We will proceed to take care of the Resolutions under Item No. 16 of the Order of Business.

ACTION ON RESOLUTIONS

Resolution No. 33, "Resolution requesting the Congress of Micronesia to establish a Transition Commission to promote a smooth and orderly transfer of the functions of government from the Trust Territory of the Pacific Islands to the Federated States of Micronesia."

Resolution No. 36, "Resolution relating to possible conflicts between the Constitution of the Federated States of Micronesia and agreements on the future political status of Micronesia."

Resolution No. 37, "Resolution relating to the permanent site of the capital of the Federated States of Micronesia."

Resolution No. 27, "Resolution relating to public education on the Micronesian Constitution."

The Chair recognized Delegate Tun.

Delegate Tun: Thank you, Mr. President. I move for the adoption of Resolution No. 33.

Delegate Falanruw seconded the motion.

Delegate Tun: This Resolution was referred to your Committee on General Provisions along with Resolution No. 34. Resolution No. 34 deals not only with transition problems but also with political status-related questions. So, it is the recommendation of your Committee on General Provisions to leave Resolution No. 33, which deals solely with transition problems, intact and recommend its adoption as is to the Convention. Those features of Resolution No. 34 which deal with transition are covered by Resolution No. 33. Those features dealing with the political status question will have to be included in a different resolution dealing solely with political status-related questions. So, the Committee will yet have to come up with a new resolution, but it is the recommendation of the Committee that the Convention adopt Resolution No. 33.

There being no discussion, the motion carried to adopt Resolution No. 33.

The Chair recognized Delegate Falcam.

Delegate Falcam: Mr. President, as the Delegates will note, Resolution No. 36 deals also with future political status, primarily issues presently proposed in the Draft Compact which are in conflict with certain provisions of the Constitution under review at this time. This Resolution merely expresses the sense of the Convention that those provisions presently included in the Draft Compact that are in conflict with the provisions in the Constitution be renegotiated in order to conform to the provisions in the Constitution. It is essential that these opposing provisions be reconciled through renegotiation. Consequently, Mr. President, I urge that this Convention consider favorably Resolution No. 36. Thank you.

Floor Leader Tmun: I move for the adoption of Resolution No. 36.

Delegate Tun seconded, and the motion carried to adopt Resolution No. 36.

The Chair recognized Delegate Ngiraked.

Delegate Ngiraked: I move that the Convention adopt Resolution No. 37.

Delegate Toribiong seconded the motion.

Delegate Ngiraked: Mr. President, during the recess several Delegates expressed their concern about some of the language in the last two lines of the subject Resolution beginning on line 5. I wish to make a motion to delete some of the language on those two lines. Therefore, I move to suspend Rule 62a.

Delegate Toribiong seconded, and the motion carried to suspend Rule 62a.

Delegate Ngiraked: Mr. President, I move that we amend the Resolution by deleting all the wording after the word "Interior" on lines 5 and 6 and by inserting a period after the word "Interior".

Delegate Toribiong seconded the motion.

Delegate Salii: This is a very minor but necessary amendment. If you are going to delete that, then we must delete the comma after the words "High Commissioner" and insert the word "and" prior to "the Secretary of the..."

President Nakayama: Yes, that is a technical correction.

Delegate Otter: Mr. President, I would like to propose an amendment to the Resolution under consideration in accordance with the understanding that your Committee on Administration came to before the drafting of the subject Resolution. On line 1 after the word "Palau" insert ", Ponape or Truk", and on line 2 in front of the word "site" insert the word "possible" and change the word "site" to "sites". I move for the adoption of the amendment.

Delegate Falanruw seconded the motion.

Floor Leader Tmetuchl: Mr. President, there is still another motion on the floor and we are inundating this Resolution with further amendments. Could we take a short recess to come up with a single amendment?

The President declared the Convention in recess, subject to the call of the Chair, at 7:00 p.m.

RECESS

The Convention was called to order at 7:01 p.m.

President Nakayama: If we may dispose of the first motion to amend, then we will come to the second motion because they are trying to amend two different areas in the Resolution and it is difficult for the Convention to take a vote on two different things. If you will bear with me, I am going to put the question to you. We will now vote on the first amendment--that is to delete the words on lines 5 and 6 after the word "Interior" and in lieu place a period right after that.

The motion carried to amend Resolution No. 37 by deleting the words: "and be attached to the Constitution of the Federated States of Micronesia".

The Chair recognized Delegate Olter.

Delegate Olter: Mr. President, as an amendment to Resolution No. 37, as amended, I would like to insert on line 1 after the word Palau the words ", Ponape or Truk", and on line 2 in front of the word "site" I would like to insert the word "possible" and change the word "site" to"sites". I move for the adoption of the proposed amendment.

Delegate Falanruw seconded the motion.

Delegate Cabrera: Could the Secretary read the amendment?

The Chair requested that the Convention Secretary read the proposed amendment, as follows:

> "BE IT RESOLVED, that this Convention recommends Palau, Ponape or Truk as the possible sites of the permanent capital of the Federated States of Micronesia."

Delegate Apis: Mr. President, just a point of information. I am kind of confused. We just adopted something awhile ago that we should be silent about and now there is this Resolution. If we take a stand on this, what does it mean?

President Nakayama: It merely means that the Convention has officially expressed an opinion as to the question on the future capital of Micronesia.

Delegate Fritz: Point of information, Mr. President. I recall that in the early part of this Convention the Yap Delegation also expressed their willingness to accommodate the capital of Micronesia. Are we not concerned with putting Yap also in the amendment?

President Nakayama: I think the sentiment is already in the Journal, but if the Yap Delegation would want to express that same sentiment in a formal Resolution, it is up to them.

Floor Leader Tmetuchl: Mr. President, our sentiments still and will stand. However, for the unity of Micronesia we will always subject our Delegation to majority agreement.

There being no further discussion, the question was put to a vote which was inconclusive. A division of the house was called for. By a show of hands, the motion carried to amend Resolution No. 37, as amended.

The Chair recognized Floor Leader Tmun.

Floor Leader Tmun: Mr. President, I don't think we are being nice to each other. We have agreed that the Constitution should be silent on the question of where the capital of Micronesia should be located. That silence will automatically permit the national legislature to decide where that capital will be. Even if this Resolution passes this Convention, I for one, and my Delegation will not be committed by it. We will abide by the decision of the national legislature.

Delegate Ngiraked: In deciding on the question we were, in a way, making room for a special solution to the problem. I am very sorry that we have turned it into a joke. I am very much concerned.

Delegate Apis: I asked the same question awhile ago and I am very happy to say that Delegate Tmun answered my question. Thank you very much.

Delegate Nakamura: I move for a short recess.

Delegate Toribiong seconded, but the motion was defeated.

Delegate Nimwes: This is a point of information. I think at our meeting it was generally agreed that Palau would be one of the possible sites of the capital. Based on that agreement, it was decided that a Resolution to that effect would be introduced indicating that Palau be considered as one possible site of the future capital of Micronesia. I am just sharing what was discussed at our meeting and the general understanding. Thank you, Mr. President.

Delegate Salii: Mr. President, I am a little bit confused as to what the amendment was in the Committee. I am even more confused with the action taken on this Resolution on the floor, and I do not know why people did not vote to take a short recess for purposes of consultation. If the agreement, as I understand it, has been violated, I think it is a very serious violation with the way we have proceeded to try to resolve these problems, and it is going to have a bearing on my action with respect to this Constitution.

Delegate Nimwes: I move for a short recess.

Delegate Nakamura seconded, and the motion carried. The Convention recessed at 7:12 p.m., subject to the call of the Chair.

RECESS

The Convention was called to order at 7:50 p.m.

The Chair recognized Delegate Toribiong.

Delegate Toribiong: Thank you, Mr. President. During the recess we consulted amongst ourselves concerning the Resolution and what we thought was the intent of what you have called the "Gentlemen's Agreement" reached during the Administration Committee meeting concerning this subject. We still believe that the Constitution of Micronesia may still be silent on the question, but it is our belief that the intent of the Committee, or the Gentlemen's Agreement, was to express an opinion concerning this subject. Therefore, Mr. President, I wish to offer an amendment which I and my Delegation have prepared with all due consideration for the intent of the Gentlemen's Agreement, but because of a lack of time we have not been able to type it out and distribute it to all the Delegates. Therefore, I move that we suspend Rule 62a so that I can make my oral amendment to Resolution No. 37.

Delegate Ngiraked seconded, and the motion carried to suspend Rule 62a.

Delegate Toribiong: Mr. President, on the strength of what we believe was the Gentlemen's Agreement reached this morning, I wish to move to delete all the words in Resolution No. 37 and insert in lieu thereof my proposed amendment. Since the amendment is quite lengthy, I wish to request that the Secretary read my proposed oral amendment to the Convention.

The Chair requested that the Convention Secretary read the proposed oral amendment, as follows:

Proposed Amendment to Resolution No. 37

RESOLUTION relating to the permanent site of the capital of the Federated States of Micronesia.

WHEREAS, there is insufficient information before the Delegates to this Convention on the advantages and disadvantages of the various possible locations for the permanent site of the capital of the Federated States of Micronesia; and

WHEREAS, certain political events which will occur only after the work of this Convention has been concluded will permit the making of a more reasoned judgment of the optimum national site, while acting now would not alone be premature but, indeed, presumptuous; and

WHEREAS, some of the Districts, particularly Palau, have already offered to make land available for the capital of the Federated States of Micronesia, and undoubtedly there are comparable sites also available in other Districts, but much yet remains to be done by way of technical evaluation before their suitability can be ascertained and a decision reached; now, therefore,

BE IT RESOLVED, that the decision on the location of the permanent site for the capital of the Federated States of Micronesia shall be deferred until a more appropriate time when the national government of the Federated States of Micronesia will be in possession of all the necessary, relevant information for it to reach a reasoned decision on the capital site; and

BE IT FURTHER RESOLVED, that in selecting a site for the permanent capital of the Federated States of Micronesia, consideration shall be given to the offer made by Palau first and then to every other state which at that time desires that the capital be located within its border; and

BE IT FURTHER RESOLVED, that copies of this resolution shall be sent to the presiding officers of both houses of the Congress of Micronesia and to the High Commissioner, and be made a part of the permanent records of the decisions made by the Delegates to the Micronesian Constitutional Convention of 1975.

Delegate Toribiong: Mr. President, that's the amendment I intended to offer, and so now I move that Resolution No. 37, CD?, be so amended.

Delegate Carl Heine seconded the motion.

Delegate Falcam: For consultation purposes, I move for a short recess.

Delegate Toribiong seconded, and the motion carried. The Convention recessed, subject to the call of the Chair, at 8:00 p.m.

RECESS

The Convention was called to order at 8:15 p.m.

President Nakayama: Before the Convention is the proposed amendment as offered by Delegate Toribiong to Resolution No. 37, CD2.

Delegate Apis: I just want to say that any amendment or even the original of this Resolution still, to me, is unfair. What has been referred to as the Gentlemen's Agreement has been followed since the Special Committee was composed. This one here--I don't think we are being fair. We have been following the Gentlemen's Agreement all the way through. I don't know why--we took a consensus of the Convention awhile ago and yet we are talking about something that has nothing to do with this Constitution. Thank you very much.

Delegate Nakamura: Yesterday I made a motion to refer Committee Proposal No. 25, including Proposal No. 25a, to the Special Committee for a Resolution and to smooth out or iron out the differences of these two proposals. Since the Special Committee has come up with the Resolution introduced by Delegate Toribiong, it more or less indicates the Gentlemen's Agreement by various Delegates for which I strongly urge every Delegate to vote on favorably. Thank you.

Delegate Robert: I just want to state my personal discomfort over the resolving clause in this Resolution which gives first preference to Palau when it comes to consideration of the capital. As food for thought for this Convention, I would like to share some information regarding the survey done in 1972 by the Joint Committee on Program and Budget Planning on the permanent site of the capital of Micronesia. In that survey first preference was given to Saipan; however, if Saipan was to secede, then the second choices were either Moen in Truk or Palikir in Ponape. The same report further stated that Palau, Yap and the Marshalls were thought to be less acceptable. However, because of this so-called Gentlemen's Agreement which has been reached in which my Delegation was also a part, and in view of the fact that we do not have so many ladies in the Convention to make another Ladies' Agreement to counter the Gentlemen's Agreement, I will be forced to support the Resolution.

There being no further discussion, the motion carried to adopt the amendment to Resolution No. 37, CD2, as offered by Delegate Toribiong.

By voice vote, the motion carried to adopt Resolution No. 37, CD3, and the Convention applauded its passage.

The Chair recognized Delegate Tun.

Delegate Tun: Mr. President, there is still a Resolution on which action should be taken. That's Resolution No. 27, and I move for its adoption.

Floor Leader Tmau seconded the motion.

Delegate Toribiong: Point of information, Mr. President. In this Resolution I believe the Convention is creating what is known as a "Post-Convention Committee". Is there a budget for this?

President Nakayama: May I answer the question? There is a budget for it. We have about $10,000 for Post-Convention activities.

There being no further discussion, the motion carried to adopt Resolution No. 27 (attached to Committee Report No. 66).

MISCELLANEOUS AND UNFINISHED BUSINESS

The Chair recognized Delegate Nimwes.

Delegate Nimwes: Mr. President, I wish to beg the indulgence of this Convention to please recognize the presence of one of our dignitaries from Headquarters who is the Deputy Director of Health Services who is here with us in the gallery, Dr. Ngas Kansou. (Applause)

Delegate Salii: Mr. President, if I may I would like to ask the Convention to recognize a very prominent lady from Palau who is in the gallery with us this evening. Ladies and gentlemen of the Convention, I would like to introduce to you Miss Augusta Ramarui from Palau. (Applause)

Delegate Yoma: Mr. President, I would like to take this opportunity to introduce to this Convention an official of the Trust Territory Government who is in the gallery. I don't think that this Convention is heading for a disaster; therefore, I would like the Convention to recognize the presence in the gallery of Mr. and Mrs. Jonathan Koshiba, the Disaster Control Officer for the Trust Territory Government. (Applause)

President Nakayama: Is it true that there is a storm heading this way, that we are in Condition 3?

Delegate Cabrera: We have two special guests that I wish to introduce to the Convention, but before I do that, Mr. President, I should like to inform everyone that they are the Convention's special guests as a result of the President's visit to Guam. In talking to the Micronesian students in Guam and by request, we have invited two representatives from the student organizations in Guam to come and observe the last day of our Convention. Ladies and gentlemen, I present to you the President of the Trust Territory Student Organization, Sabiniano Gbal (Applause) With Mr. Gbal is also another Micronesian who is President of the Guam United Micronesian Students Association. He is not with Mr. Gbal right now. I don't see him. I guess he had to go home to San Roque. Nick Cantos is his name. (Applause)

Delegate Apis: If there is no objection from the Convention, I wish to submit Part II of my document which was inserted in the Journal yesterday. This document is just, as I said, Part II and so I move that it be inserted in the Journal of the 89th Day. Thank you very much.

Delegate Falanruw seconded and the motion carried to insert Delegate Apis' statement, Part II, in the Journal of the 89th Day, as follows:

"Mr. President:

I would like to make a few remarks for the record. My remarks concern the document which we are about to complete. I would like to make my views known for the sake of my own conscience and so that my children will know and respect the role their father played in this historic event and so posterity can be made aware that there was at least one dissenting voice with regard to some of the actions we have taken.

This statement will appear to some to be excessively negative, to accentuate the negative and belittle the positive. I don't intend my statement to be taken that way. I think there have been many positive things come out of this exercise--most notable among them, unity. But I feel that there have also been some serious mistakes made and I would like to discuss them.

First and foremost, democracy in Micronesia has been dealt a serious blow. The Constitution establishes a national governmental structure with a legislature partially based on population but with each district having equal voting power on legislation. Given the great disparity in population between the largest district (35,000 people) and the smallest (4,000 people), the concept of one man-one vote has been destroyed. The idea of

"democracy is that voters participate in their government by electing public officials and that each voter has approximately the same power as each other voter. This Constitution grossly violates the concept of democracy by greatly diminishing the voice of the individual voter in the large districts and greatly enhances the power of the individual voter in the smaller districts. A voter in a small district, consequently, has a much greater voice in the affairs of the national government than does a voter in a large district.

The job of the chief executive is to lead the nation. He is the highest elected official. The people must respect him and his policies. They must support the chief executive in good times as well as bad if the operation of government is to be effective and responsive to the needs of the people. The chief executive must be a person of wisdom and character, with a national perspective in mind. He must not be overly concerned with the parochial concerns of his district, but instead must have the problems of the nation in mind. The chief executive thus must be a product of a national electorate. He must go out and campaign among the people, learn about their problems first hand. If all the people are to support him he must be, and be thought of, as a true Micronesian rather than a Trukese, or Marshallese, or Palauan.

This Constitution, however, establishes a system which almost guarantees that the chief executive will not have national support. The chief executive is elected by Congress from among the six or seven "at large" members of Congress. He is a member of Congress, elected from a particular district to represent the interests of that district. Yet, at the same time, he has taken an oath of office to represent the interests of the nation. It is said that a man cannot serve two masters, and yet our Constitution dictates that the chief executive must do precisely that.

This Constitution provides that grant funds from foreign governments are to be divided equally among the districts. This superficially innocuous and fair-sounding provision virtually assures an annual war over the distribution of funds from the United States Congress. If the national government subverts the meaning of this provision by seeing to it that all U.S. grant funds are earmarked for special projects and therefore not subject to equal distribution, the smaller districts, which want this provision, can be expected to revolt and force an annual Constitutional crises. If, on the other hand, the spirit of this provision is carried out and United States funds are actually distributed equally among the districts, the larger districts will be forced to either secede or become impoverished. The provision, if carried out, means that the people in the smallest district of Micronesia with a population of 4,000 people would get as much money to provide governmental services to their citizens as the people in the largest district with a population of 35,000. This is yet another example of how the Constitution relegates the rights of the citizens of the larger districts to second-class status. Not only does such a citizen get a much smaller say in the conduct of the national legislature, not only does his vote count much less in the choice of a chief executive, but, in addition, his district gets five or ten times less money per capita to provide governmental services. That means that his hospital care will be five or ten times poorer, his chance for an education five or ten times less, and the prospects for economic development and a job remote.

The Constitution grants regulatory control over deep ocean minerals, those found between 12 and 200 miles from the nearest island, to the national government. This is as it should be. These mineral resources are not part of any island or even close to any island.

"They are resources found out in the middle of the ocean up to 200 miles from an island. However, the Constitution goes on to require that the national government share the revenue derived from these resources on a fifty-fifty basis with the district nearest to where the minerals were found. This distribution is grossly unfair because it creates the possibility that one district may become very rich from such mineral wealth while the other districts get no benefit. If Micronesia is fortunate enough to discover oil or manganese nodules within its ocean space, it is likely to be in a single spot. Thus by an accident of geography and geology, the citizens of a single district may become very wealthy while the rest of the citizens of Micronesia continue to suffer from lack of adequate government services, and economic development. Such mineral wealth, if it exists, is a gift of God which should be shared by all, not selfishly hoarded by a few.

The Convention approved a provision to be included in the Constitution which would prevent non-Micronesian citizens from owning land in Micronesia. I want to say for the record that I support the position of the Convention that Micronesians must be protected from losing their property. Land is life to a Micronesian as money is to a non-Micronesian. But, on the other hand, Mr. President, I feel that the Convention has probably gone beyond its mandate by preventing a Micronesian from giving away his land in return for, or to show appreciation for good deeds done to him by a non-Micronesian friend. I must agree with my good friend from the Marshalls, Delegate Isaac Lanwi, that a Micronesian has the right to give away his land to show appreciation for good deeds done to him by a friend. The giving of land to show appreciation is an important part of Micronesian custom and tradition which must be retained.

Mr. President, during the early part of this Convention I introduced two Proposals to create a Department of Agriculture and a Department of Marine Resources. I did this in the hope that creation of these departments by the Constitution will give some sense of priority to these two important areas of our economy so that we can get on with the job of developing relevant programs in these two areas. These two important areas of economic development have been neglected during the past 30 years, and I am disappointed that the Proposals which I introduced are buried somewhere and will not even see the light of the 90th day of this Convention. I am told that the argument against creating departments by Constitutional means is the general consensus that the Constitution should deal only with general principles, leaving details to subsequent legislation. While I find some merit in this approach, I also find it quite unfortunate that the importance of these two areas of economic development must be sacrificed in the interest of brevity.

The Constitution is intended to establish a new order, to create a new structure for government. It creates new institutions like a unicameral legislature, a federal judicial system and an elected Micronesian chief executive. It does not need to deal with the fundamental elements of our social structure—the extended family, the clan, kinship ties, land tenure. Those things are part of each and every Micronesian. It is not necessary to talk about them in a constitution, or to protect them in a constitution. The same can be said of traditional leaders. They are the pinnacle of the hierarchy of our society. We need not talk about them in our Constitution. To discuss them in the Constitution does not add or detract from their place in our society. To speak of traditional leaders in the same document which creates such infant, unproven institutions as a unicameral legislature or the office of public

"auditor is to demean them. The effect of our frequent references to the traditional leaders in this Constitution is the opposite of what was intended. Instead of exalting their position, it has reduced them to the level of ordinary institutions of government.

Thank you, Mr. President."

ANNOUNCEMENTS

The Chair recognized Delegate Williander.

Delegate Williander: Thank you, Mr. President. I have good news to announce. I wish to announce to the members of your Committee on Style and Arrangement to please either remain or go home and come back at nine o'clock for a review of the Constitution that we are writing. The Draft Constitution is being printed, so it is one of our duties, or the most important duty, to work tonight and report back the Draft to the Convention either tomorrow or whenever we finish. That's the announcement, Mr. President. (Applause)

Delegate Weital: With the permission of the Chairman of the General Provisions Committee, I now request the members of that Committee to remain after this Plenary and meet with me here. Thank you, Mr. President.

Delegate Ismael: I have an announcement to make to the Delegates of this Convention on behalf of the people of Kusaie--the famous Kusaie Island.

Mr. President and fellow Delegates, throughout this Convention there have been seven coconuts on display outside this hall. Six of the coconuts are old and familiar to us. They are brown and worn. They show the marks of time. But one coconut is green and young and bursting with health. The best part of its life is in front of it. That coconut, of course, represents my home state of Kusaie.

As all Delegates should know by now, Kusaie will become a separate state of Micronesia in January of 1977. At last the most beautiful, the most fertile, the most hospitable island in the Pacific will begin to receive the recognition it deserves. As this Convention draws to a close, I would like to remind all of you to watch out. Get ready and make room for Kusaie. (Applause)

Moreover, on behalf of the people of Kusaie, I would like to invite all of you to the historic ceremonies which will mark our becoming a separate state. Please come to these gorgeous ceremonies. Be my guest. Be the guest of Kusaie.

I cannot promise to pay your transportation to Kusaie, but I can promise you that once you arrive you will be welcomed, well fed and well entertained. I personally guarantee this. My house will be your house.

Moreover, I suggest that you bring your wives, your family, your children, and what have you to Kusaie because, otherwise, you may never see them again. For once you have set foot on this loveliest of shores, you may never want to leave.

So, once again, please know that you will be welcome on Kusaie in January of 1977. Kusaie will be expecting to hear from you. And you, all of you, had better expect to be hearing from Kusaie.

Thank you. (Applause)

Delegate Carl Heine: I have one last announcement as Chairman of your Committee on Civil Liberties. Your Committee on Civil Liberties is going

to meet tonight at the Royal Taga bar. I am inviting all the members of that Committee, their interpreters and the staff. I understand that Delegate Falanruw will be buying three rounds and I will buy two, and if the music gets bad, he might buy two more rounds and I might buy four. So, please come as soon as we finish here. Thank you, Mr. President.

Delegate Apis: Being the closest, beautiful island near the state of Kusaie, I would like to give advance congratulations to the beautiful island of Kusaie. Thank you very much. (Applause)

President Nakayama: May I make a short announcement that all of the Delegates and staff members are cordially invited to a reception to be hosted by the High Commissioner tomorrow night between 6:00 and 8:00 p.m. in the room that they call Oceania at the Continental Hotel.

I just received a note from the people who have been taking care of us here in providing coffee and taking care of the Convention hall that if you are hungry they will feed you with soba at the counter. This is compliments of Mr. Ichikawa. (Applause)

May I ask the Chairman of the Committee on Style and Arrangement to suggest a time for us to meet tomorrow?

Delegate Williander: Mr. President, I would suggest that we meet somewhere around nine or ten o'clock. This would be a good time in order to allow our staff to reprint the Draft Constitution.

Floor Leader Tman: I have one announcement for the group of diners. For those who want to eat there will be no meeting.

I move that the Convention recess and reconvene at ten o'clock tomorrow morning.

Delegate Falanruw seconded the motion.

Delegate Olter: Mr. President, I wonder if the Chairman of the Style Committee got the gist of the question asked earlier? If I am not mistaken, he is referring to the meeting tonight and not tomorrow.

Delegate Williander: For the information of Delegate Bailey Olter, there will be a meeting tonight of the Style Committee, tentatively planned for nine o'clock, and I think I answered the inquiry from the President by suggesting that the Plenary Session meet somewhere around nine or ten o'clock tomorrow morning. Does that answer the inquiry by Delegate Olter?

Delegate Olter: Yes, Mr. President.

Delegate Falcam: I resign from the Style and Arrangement Committee. (Laughter)

There being no further discussion, the motion carried. The Convention recessed at 8:30 p.m.

Respectfully submitted,

for Victorio Uherbelau
Convention Secretary

Pursuant to the authority vested in me as the President of the Convention, as the same appears on page 556, I hereby approve the Convention Journal for the 89th Day.

Date: November 12, 1975

Tosiwo Nakayama, President

The Convention was ca... ...ay, November 8, 1975

President Nakayama: Befo... offered by Delegate Tori... ...er at

Delegate Apis: I just... of this Resolution st... the Gentlemen's Agree... composed. This one... following the Gentl... we took a consensu... something that has... ...ed States of

Delegate Nakamura... No. 25, includi... and to smooth ... the Special C... Toribiong, it... Delegates fo... Thank you. ...re were 45 Delegates ..., Kijiner, Isaac Lanwi, ...xcused. A quorum was ...d Iroij Tomeing were present for ... Constitution of the Federated

Delegate F... resolving... when it ... this Co... done i... perman... ence ... seco... rep... les... wh... o... ...a OF THE JOURNAL ...at the Journal of the 88th Day be adopted. ...nd motion carried. The Journal of the 88th ...ention. ...moved that the Journals of the 89th Day, 90th Day, ... of the Micronesian Constitutional Convention of 1975 ... President of the Convention. Delegate Ngiraked seconded, ...d.

REPORTS OF STANDING COMMITTEES

...iliander: Thank you, Mr. President. Before I move for acceptance ...ommittee Report, I would like to say a few things on behalf of your ...tee on Style and Arrangement. On behalf of the members of your ...ittee on Style and Arrangement, I am happy and proud to inform the ...nvention that the Committee has completed its work. Your Committee is now ready to present to the Convention a Draft Constitution for the Federated States of Micronesia. Shortly, the Draft Constitution contains a Preamble, articles which are numbered by Roman numerals, sections and subsections which are numbered as "a, b, c", etc. Often proposals and provisions are rearranged and relocated. I wish to mention this so Delegates will know that their particular proposals and provisions are rearranged and relocated. We also recommend that section titles not be adopted as part of this Constitution. The reason is that the Committee feels that legal ambiguities might possibly be created. The courts might make use of the titles as an aid to interpretation in the belief that titles were an official indication of the Convention's intent. So, by not assigning titles we can avoid this possibility. Your Committee on Style and Arrangement attempted to render the Constitution in simple and concise English. We tried to eliminate complex, legalistic, and archaic expressions, but wherever possible, we did this without changing the substantive meaning. When a change was required and it affected the intent and meaning of the proposal, your Committee also consulted with the chairman and staff attorney of the appropriate committee. However, when your Committee felt that wording of the provision did not express the intent of a certain proposal, amendments were offered to the Convention for consideration. So, Mr. President, on behalf of the members of your Committee on Style and Arrangement, I want to assure the Convention that this Draft Constitution of the Federated States of Micronesia incorporates the provisions of all Committee Proposals adopted by this Convention, as amended. We spent long hours checking and re-checking every article, section, paragraph, sentence, comma, semi-colon, colon, quotation mark and period to make sure that every

single word was properly placed. I wish to make special mention of Delegate Johnson Toribiong, who was nicknamed as "Mr. Bic Pencil Mr." (Laughter and Applause) Now, Mr. President, I move for the acceptance of Committee Report No. 67 from your Committee on Style and Arrangement.

Floor Leader Tman seconded, and motion carried. Committee Report No. 67 was accepted by the Convention.

THIRD READING OF COMMITTEE PROPOSALS - FINAL ACTION

Adoption of the Draft Constitution for the Federated States of Micronesia.

Delegate Williander: Mr. President, I move for the adoption on Third and Final Reading of the Preamble for the Constitution of the Federated States of Micronesia.

Delegate Tun seconded the motion.

The Convention Assistant Secretary read the Preamble.

President Nakayama: We will now vote by roll call on the motion to adopt the Preamble. It will require a minimum of 34 "aye" votes to pass the measure.

The Convention Assistant Secretary reported that there had been 45 affirmative votes. The Preamble to the Draft Constitution for the Federated States of Micronesia had passed Third and Final Reading.

Floor Leader Tman: Mr. President, with the unanimous adoption of our Preamble upon which this Draft Constitution is based, and with the assurance of the Chairman of the hardworking Committee on Style and Arrangement that the Committee has gone thoroughly and very carefully reviewing the Draft Constitution now before us, I wish at this point that we suspend Rule No. 59, requiring adoption article by article, so that we can adopt the Draft Constitution as a whole package. I move to that effect, Mr. President.

Delegate Tun seconded, and motion carried. Rule No. 59 was suspended by the Convention.

Delegate Williander: I now move to adopt the Draft Constitution for the Federated States of Micronesia.

Floor Leader Tman seconded the motion.

Delegate Williander: Mr. President, as evidence of the total work of your Committee on Style and Arrangement, this morning three or four minor typographical omissions have been spotted. I move to amend the Draft Constitution by the following:

On page 6, Section 1, the last line, strike the word "law" and insert in lieu thereof the word "statute". Secondly, on page 12, Section 10, the second sentence, strike the word "Each" and insert in lieu thereof the word "A". Then, on page 15a, Section 7, on the first sentence strike the word "and" and insert in lieu thereof the word "or", so that it reads "the President or Vice-President". Next, on page 17a, Section 10, insert the word "The" before the word "Congress". I so move for the amendments, Mr. President.

Floor Leader Tman seconded the motion.

Floor Leader Tman: Mr. President, if there is no objection from the Convention, let the record reflect that Rule No. 62(a) has been suspended for this purpose.

Delegate John Heine: Point of information. I'm sorry, Mr. President, but on Section 10 we did not quite hear the amendment.

At the request of the President, the Convention Secretary read the proposed amendment to Section 10, page 17a.

Motion to adopt the proposed amendments to the Draft Constitution, as offered by Delegate Williander, carried. Such amendments were adopted by the Convention.

Floor Leader Tman: Mr. President, for the record, we now have before us the Draft Constitution, CD1.

President Nakayama: We will now vote on the motion to adopt the Draft Constitution, as amended. It will require a minimum of 34 affirmative votes by roll call.

Following roll call vote, the Convention Secretary reported that there had been 43 "aye" votes and 2 abstentions. The Draft Constitution, CD1, had been adopted by the Convention. (Applause)

Delegate Nimwes: Point of privilege, Mr. President. Now that the Constitution of the new government of Micronesia is finally adopted, before us we have the verses of the Micronesian Anthem. I wish at this time to request the Convention to please stand up and let's all sing together that song.

Delegate Cabrera: Point of privilege, Mr. President. I would like to suggest that Delegate Nimwes lead the singing. (Applause)

President Nakayama: I was going to say that there could be no other person more appropriate to sing the song -- or to lead it --than my good friend, Chutoma Nimwes. (Laughter and Applause)

Delegate Nimwes: I am sorry, Mr. President. (Laughter) I do not want to deny the request, but I would rather see the only lady in this Convention lead the song. (Applause)

Delegate Apis: Thank you, Mr. President. If there is no objection from the Convention, I have a message from one of the observers who is representing the election district which I represented and he would like me to read this to the Delegates. This is his statement, and I quote:

> I, Yasuwo I. Yamada, as an observer from Ponape, especially representing Pingelap and Kolonia, would like to extend our most congratulation to the Micronesian Constitutional Convention that we had no belief in the beginning which is now have come to the reality of what we afraid of most in unity. And now we are united, beginning from the origin point that you in this Convention have proven to you and us. We had no other thought but without you it's not going to be Micronesia as we now going to be standing together. Let's work together, help each other, and build this nation as our only nation and God bless it.

And, Mr. President, if I may proceed, I would like to support this message. Thank you very much. (Applause)

Delegate Bossy: Point of privilege, Mr. President. I would like to make a short statement before we sing that song.

Mr. President, Comrade traditional leaders and fellow Delegates:

A small candle, a candle of hope for unity, was lit on July 12, 1975 and we, the Delegates to this historic event, were given the responsibility to keep it burning until the time when by its own very nature ceased to shine no more. Today, Gentlemen and Lady, that candle by virtue of the fact that its creator gave it only a 90-day lifespan, may no longer shine in this very chamber for possibly the executioner may come to claim its soul and possibly along with that soul, the soul of our very brittle, delicate and most sought after unity which like a candle can easily be put out by a small unexpected breeze.

Although there were few turbulent times when forces in this Convention almost turned this chamber into darkness, we have succeeded in protecting our candle of hope for unity right down to its very last breath of life. We have drafted a social contract, a product of Micronesian compromises, our Constitution. In the name of unity, let us affix our signatures to it and work for its eventual acceptance by our people so we can be nearer to our long cherished goal of self-government. Gentlemen and lady, it is now or never.

Mr. President, I represent a very small portion of the population in my district--the chiefs and traditional leaders. I thank this Convention for making it possible for those whom I represent to be adequately protected by this Draft Constitution.

With this Constitution, I sincerely hope that our fellow Micronesians from Palau do remain with us now and forever, for Palau has shown and proven to my satisfication, through its Delegation, that it has extremely capable, effective negotiators, leaders who can reach goals. Having them with us, I know Micronesia will never lack effective leadership in our new government.

I end my short remark with a most heartfelt hope that we take the remnants of our candle of hope for unity and breathe life into them, light them up in each of our districts, sending a message to each and every Micronesian wherever they may be, and to our brothers in the Pacific as well as the outside world, letting them know of our genuine desire to strive for what we seek from each: peace, friendship, cooperation, preservation of our past heritage, and love and respect for our fellowman. I ask for your help and God's in the difficult time that is before us. Thank you. (Applause)

INTRODUCTION OF DELEGATE PROPOSALS

President Nakayama: Believe it or not, I am going to ask if there are any Delegate Proposals for introduction. There being none, we will proceed to the next item on our Order of Business.

INTRODUCTION OF RESOLUTIONS

Resolution No. 38, entitled "Resolution relating to the implementation of the Constitution of the Federated States of Micronesia.".

Delegate Tun: Mr. President, I move for the adoption of Resolution No. 38.

Delegate Cabrera seconded the motion, and motion carried. Resolution No. 38 was adopted by the Convention as follows:

Resolution No. 38

Resolution relating to the implementation of the Constitution of the Federated States of Micronesia.

WHEREAS, adoption of the Constitution of the Federated States of Micronesia by this Convention is an historic step toward the fulfillment of the trust obligations mandated by the United Nations and assumed by the Administering Authority under the Trusteeship Agreement to promote the political advancement of the people of Micronesia and their progressive development towards "self-government or independence"; and

WHEREAS, the Trusteeship Council has expressed the expectation that the "forthcoming constitutional convention may well (bring) an increased degrée of internal self-government...in the period before the termination of the Trusteeship"; and

WHEREAS, the Congress of Micronesia is the body legally competent to undertake appropriate actions to facilitate implementation of those provisions of the Constitution which are not in fundamental conflict with the United Nations Charter and the Trusteeship Agreement; now, therefore,

BE IT RESOLVED by the Micronesian Constitutional Convention that the Congress of Micronesia is hereby requested to arrange with the United States Government for the implementation of those portions of the Constitution of the Federated States of Micronesia not in fundamental conflict with the United Nations Charter and the Trusteeship Agreement; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the High Commissioner of the Trust Territory of the Pacific Islands, the President of the Senate and the Speaker of the House of Representatives of the Congress of Micronesia, the Secretary of State of the United States Government and to the Trusteeship Council of the United Nations.

MISCELLANEOUS AND UNFINISHED BUSINESS

Delegate Cabrera: Mr. President, last night I called the Convention's attention to two special guests from Guam who had arrived to observe the last days of the Convention. One of the special guests was missing when I made the introduction, and I would now like to ask the Convention to recognize the presence of Nick Santos, who is the President of the Guam United Micronesian Students Association. (Applause)

Delegate Carl Heine: May I also take this opportunity, Mr. President, to introduce a visitor from the Marshall Islands. He is a student at the University of Guam. He has shown a great deal of interest in this Convention and he has come to this island to observe the activities of the Convention. I would like to introduce to this Convention Mr. Lucky Titus. (Applause)

Delegate Epériam: Mr. President, I would like to take this opportunity to introduce to this Convention a gentleman from Ponape who has been here on Saipan for quite a while. He has given a great deal to the Saipan community, besides being the manager of Saipan Stevedoring Company. The gentleman is Mr. Alfred Santos. (Applause)

Delegate John Heine: Mr. President, I would like to beg the indulgence of this distinguished gathering here today to recognize the presence of two very young visitors to our deliberations, John and Philip Philippo. (Applause) Mr. President, I introduced them because I think that the Constitution we adopted today will center around their lives in the future. I hope that more of that kind of people come and visit us.

Delegate Falcam: Mr. President, the Convention has taken for granted some very, very important people who have worked so hard to assist the Delegates in drafting this Constitution. I am referring to the young people who serve as our interpreters and translators for the traditional chiefs of the Convention. I would like the Convention to recognize all of them now, and ask all of them to take a bow. Thank you. (Applause)

Delegate Weilat: Mr. President. I have just received a note from my Naniken, who is from the District of Madolenihmw, the State of Ponape, on behalf of the group that is observing this Constitutional Convention from the State of Ponape. Mr. Klemens Hadley, Naniken of Madolenihmw District, on behalf of the group congratulates the Constitutional Convention, especially the Delegates, for the job well done. Thank you. (Applause)

Delegate Heinrich Iriarte: Thank you very much, Mr. President. I would like to make a very short remark.

Mr. President, Honorable Chiefs, Fellow Delegates:

I would like to take this opportunity to express my sincere appreciation to the Convention and especially to the Committee on Governmental Structure for the outstanding Constitution which this Convention has drafted. I am especially grateful to the members of the Structure Committee who have spent many long hours discussing and helping to draft this historic document. I would like to extend to each of them my special thanks.

Today we have proved to the world that Micronesia can govern itself. When this Constitutional Convention started, there were scoffers and doubters who said that we could never reconcile our differences and draft our own Constitution. Each of us knows that there were some very troublesome questions confronting this Convention; we all had difficult moments during the last few months; and everyone felt discouraged at one time or another. However, Mr. President, we have overcome these problems and now we have before us a Draft Constitution in a spirit of brotherhood and unity.

Today we are going to sign a Constitution for ourselves, our children, and our children's children. But we have accomplished something more than just this. We have achieved national unity and an identity as one people--Micronesians. For the first time in Micronesia, we have come together from each of the different districts and worked together on our own, solely as Micronesians. We talked, we discussed, and we debated in the Micronesian way, and using our Micronesian way, we overcame our differences and forged a Constitution which many people thought would never be drafted.

Working with the Convention and with the Structure Committee has been one of the most rewarding experiences of my lifetime, and probably the most significant thing I will ever do on this earth. Mr. President, I would like to thank you, each of my fellow Delegates, and our staff for working so hard to make this Constitution a reality. I think each and every one of us is to be congratulated for a really outstanding job.

Thank you very much. Kaselehlia, Kupwur Karos. (Applause)

President Nakayama: Before we take a recess, we will sing the song. I believe the request was that the only lady Delegate lead the singing of the Micronesian Anthem. Please rise to sing.

(Delegate Mary Lanwi led all Delegates in singing the Micronesian Anthem, as follows:

MICRONESIAN SONG

1. 'Tis here we are pledging with heart and with hand,
Full measure of devotion to thee our native land.
Full measure of devotion to thee our native land.

2. Now all join the chorus, let union abide,
Across all Micronesia join hands on every side.
Across all Micronesia join hands on every side.

3. We all work together, with hearts, voice and hand,
'Til we have made these islands another promised land.
'Til we have made these islands another promised land.

[Applause]

President Nakayama: We have yet to come together to affix our signatures to the final Draft Constitution.

Delegate Williander: Mr. President, I have a document before me that I request be inserted in today's Journal.

President Nakayama: Is there any objection to the insertion into the Journal of the document from the Chairman of the Committee on Style and Arrangement?

(There being no objection, the document is as follows:)

October 17, 1975

Senator Tosiwo Nakayama
President of the Senate
Congress of Micronesia
Saipan, Mariana Islands 96950

and

Representative Bethwel Henry
Speaker, House of Representatives
Congress of Micronesia
Saipan, Mariana Islands 96950

Dear Sirs:

We, the undersigned, delegates to the Micronesian Constitutional Convention, give our full support to the intentions expressed in Resolution No. 30, concerning the possibility of separate administration of any part of Micronesia prior to termination of the Trusteeship and Referendum on the Constitution.

Due to the sensitive nature of this resolution and very limited time remaining for Convention business, we hereby urge the Congress of Micronesia to adopt identical legislation early during its next session.

/s/'s: Delegates Williander, H. Iriarte, Nimwes, Heldart, Joseph, Albert, Fritz, Mateak, Bossy, Mwety, C. Heine, Sigrah, Apis, Igisomar, Sound, Robert, Ismael, Philippo, J. Heine, I. Lanwi, Ngiraked, Otter, M. Lanwi, Sawaichi, Lanki, Toribiong, Kalles, Tomeing, Kijiner, Sony, Tun, M. Iriarte, Luktun, Mathey, Stephen, Gibbons, Termeteet, Weital, Rasa, Falanruw and Kperiam.

Attachment - Resolution No. 30.

A Resolution expressing the sense of the Micronesian Constitutional Convention concerning the possibility of separate administration of any part of Micronesia prior to termination of the Trusteeship and referendum on the future Constitution of Micronesia.

WHEREAS, on July 18, 1947, the United Nations and the United States of America entered into a Trusteeship Agreement for the former Japanese Mandated Islands, pursuant to which the islands of Micronesia were united as the Trust Territory of the Pacific Islands; and,

WHEREAS, under and pursuant to Article 6 (1) of the said Trusteeship Agreement, the United States of America, as Administering Authority for the Trust Territory of the Pacific Islands, obligated itself to "promote the development of the inhabitants of the Trust Territory toward self-government or independence as may be appropriate to the particular circumstances of the Trust Territory and its peoples and the freely expressed wishes of the peoples concerned"; and,

WHEREAS, in 1964, the United States of America, through the Secretary of Interior, established the Congress of Micronesia, and Department of the Interior Order No. 2918, as amended, presently

provides that "the legislative power of the Congress of Micronesia shall extend to all rightful subjects of legislation"; and

WHEREAS, since 1969, the Congress of Micronesia, through the Joint Committee on Future Status and its predecessors, has been engaged in negotiations with the United States of America toward the termination of the Trusteeship Agreement and the establishment of a new political status for Micronesia; and

WHEREAS, the Fifth Congress of Micronesia adopted Senate Joint Resolution No. 38, declared that "the Trust Territory of the Pacific Islands is one single and indivisible political unit, and the Trusteeship may not be terminated or modified as to one part thereof while other parts remain under Trusteeship", and declared that the Congress of Micronesia, through the Joint Committee on Future Status, is the sole authority in the Trust Territory which is legally authorized and empowered to conduct negotiations with regard to the Trust Territory, including all parts thereof, and that the Congress of Micronesia has the sole responsibility to negotiate on behalf of and provide for the future political status of the entire Trust Territory; and

WHEREAS, the United States of America has made it known it is considering the possibility of the separate administration of one of the districts of the Trust Territory, prior to the termination of the Trusteeship, regardless of whether or not the Congress of Micronesia has granted its assent to the dismembering of the Territory in such manner, and regardless of whether or not the people of the district concerned have had the opportunity to participate in a referendum on the future Constitution of Micronesia; and

WHEREAS, by conducting separate negotiations with one of the districts of the Trust Territory, the United States has demonstrated the contempt in which it holds the recommendations of the United Nations Trusteeship Council and its 1973 Visiting Mission; the primacy of its own selfish interests over those of Micronesia which it has sworn to uphold and protect; and the complete and utter disregard which it has for the wishes of the people of Micronesia, as expressed through their lawful representatives in Congress assembled; and

WHEREAS, opponents of separate administration have been denied the opportunity to express their views before the Congress of the United States of America; now, therefore,

BE IT RESOLVED by the Micronesian Constitutional Convention that dismemberment of any part of the Trust Territory without the opportunity having been given to the inhabitants thereof to vote on the future Micronesian Constitution constitutes a violation of the obligations of the Administering Authority under the Charter of the United Nations and under the Trusteeship Agreement, and a breach of its solemn obligations to the people of all Micronesia; and,

BE IT FURTHER RESOLVED that the Micronesian Constitutional Convention hereby states in the strongest possible terms its unequivocal and total opposition to and condemnation of separation prior to the holding, throughout all parts of the Trust Territory, of a referendum on the proposed constitution for Micronesia; and

BE IT FURTHER RESOLVED that the Senate of the United States and its appropriate committees are hereby respectively requested to defer final action on the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America until representatives of the Congress of Micronesia and the minority in the Mariana Islands District have had an opportunity to be heard in the Congress of the United States on this vital issue; and

BE IT FURTHER RESOLVED that certified copies of this resolution be transmitted to the Chairmen of the United States Senate Committees on Foreign Relations, Armed Services, and the Interior and Insular Affairs, to the Secretary General of the United Nations, the President of the United Nations General Assembly, the Security Council, and the Trusteeship Council, to the President of the United States and his personal representative for Micronesian Status Negotiations, to the Secretaries of State, Defense, and Interior, and to the High Commissioner of the Trust Territory of the Pacific Islands.

Floor Leader Tman: Mr. President, I have before me an editorial from the Honolulu Star Bulletin dated September 2, 1975, which raised many questions and doubts whether this Convention could come up with a draft Constitution for the United and Federated States of Micronesia. Our action today will respond to that editorial, and I wish this editorial be inserted in today's Journal.

President Nakayama: If there is no objection, it will be inserted.

"Honolulu Star Bulletin

September 2, 1975

MICRONESIA'S CAPITAL

A lot of discussion at the Micronesian constitutional convention on Saipan is being devoted to the location of Micronesia's capital.

But it is still uncertain that Micronesia as a political entity will survive the termination of the United Nations trusteeship in any form; many more important decisions must be made if Micronesia is to survive. So the problem of the capital's location should have a low priority for discussion.

Nevertheless, five of the six districts of the Trust Territory of the Pacific Islands have made offers at the convention to provide a capital site. The latest offer came from the Marianas district, which is noteworthy because the Marianas have elected to separate from the rest of Micronesia and become a U.S. commonwealth. If the Marianas proposal were accepted, Micronesia would have a capital outside its borders.

There was an undeniably practical reason for the Marianas offer—from the Marianas' point of view. The capital of the Trust Territory is on Saipan, in the Marianas, and it was pointed out that removing the capital would mean the loss of jobs for 500 Saipanese. Another argument: Saipan would be neutral ground—because the Marianas would not be part of Micronesia—and thus be a less divisive choice.

It is unlikely that these advantages will prove persuasive with the other delegates. The Palauans startled the convention earlier with a take-it-or-leave-it set of demands. Either the capital is located in Palau, they declared, or Palau will not join Micronesia.

But the capital site is not the only problem confronting the convention. Progress on the entire constitution has been discouragingly slow in the first 45 days. (The delegates are in a two-week recess).

There is reason to doubt that the convention will succeed in writing a constitution within its authorized 90 days of deliberations. The Micronesians seem unhappy working under strict schedules, and they prefer to avoid disagreements rather than resolve them.

What will happen if the convention winds up without a constitution isn't clear. But it should postpone the moving of the capital, and that at least ought to please the Marianas."

Delegate Falcam: Point of information, Mr. President, regarding our Order of the Day and the program for the remaining part of our business, will there be a chance for each Delegation to say something before we conclude, or should we do it now?

President Nakayama: We have a program scheduled at four o'clock this afternoon where each Delegation, either through its chairman or someone else, will be given a chance to say something, or make an address.

Delegate Tacheliol: Thank you, Mr. President. I would like to take this opportunity to introduce a special guest in our gallery today. She has been observing this Convention for a few days but has never been introduced. Mrs. Gloria Hunter. (Applause)

Delegate Sony: Thank you, Mr. President. I have been waiting for this opportunity to make a very short introduction. Many people have been asking around as to who are the members of the Devil's Advocates Club. So, let me take this opportunity to introduce them. The Club started with only two members and now it is increased by one. (Laughter) So, first of all, let me introduce Delegate Maketo Robert. (Applause) And the new member is Delegate Kikuo Apis. (Applause) And, of course, myself. (Laughter and Applause) Thank you, Mr. President.

Delegate Ngiraked: Mr. President, I have one important item of unfinished business, and I beg the indulgence of the Convention to dispose of it. We have had serving with us for the entire duration of the Convention, Mr. President, a very able, diligent and hardworking Sergeant-at-Arms from Ponape. His name is Thomas Naron. And, Mr. President, I move that we promote him by adding to his rank one more stripe. (Laughter and Applause)

Delegate Falcam: I second the motion.

Floor Leader Tman: Mr. President, I think our Sergeant-at-Arms should have seven stripes. (Laughter)

President Nakayama: I just wonder if he has room on his shirt to have more stripes. We gave him one at the beginning of the Convention. (Laughter) We'll look into it and be happy to recommend that he receive an additional stripe because he deserves it.

Floor Leader Tman: Mr. President, I venture this motion that we recess until 4:00 p.m. this afternoon to conclude the 90th Day of this Convention.

Delegate Tacheliol seconded the motion.

Floor Leader Tman: Mr. President, before you put the question to a vote, there is a consensus of the Delegates that when we reconvene at four o'clock to conclude our 90th Day session, we come in island attire (whatever that means). So, we come as we came this morning.

Delegate Olter: Mr. President, since we have completed our work--finally--I would like to invite the members of your Committee on Finance and Taxation; and since I know that most of us are broke--the machines are open at the Royal Taga and the lucky ones should play the machines and all the proceeds should go to the drinks and sandwiches after this recess. Thank you, Mr. President.

Delegate Ismael: Mr. President, before concluding this session I feel compelled to say a few words and to thank the members of your Governmental Functions Committee for the fine job they have done throughout this Convention. I would like to say in passing that your work, distinguished, excellent though it may be, is not completed yet, without your support in your respective districts. I look forward to seeing each and every one of you and each and every one of the Delegates as we take on the responsibility of selling the Constitution to our constituents. Thank you very much. (Applause)

Delegate Apis: Thank you, Mr. President. I would like to make my last request. That is to request that each Chairman of a Delegation pick up the coconut with the name of his district and plant it in his district as fruit for unity. Thank you very much. (Applause)

President Nakayama: Would that coconut marked "Kusaie" grow, I wonder? (Laughter)

The motion carried to recess until four o'clock. The Convention recessed at 1:50 p.m.

RECESS

The Convention was called to order at 5:10 p.m.

President Nakayama: I will now ask the Sergeant-at-Arms to please escort Father Arnold Bendowski to the podium to give the invocation.

Father Bendowski: Let us rise for a moment of prayer.

> Almighty and Eternal God, it was in Your name that this journey was begun. It was through Your guidance and watchful care that the work was first carried on. May we pause to thank You for Your guidance and for Your help. May we pause also to thank You for the opportunity of working together as members of one family to form a new nation, and we ask You to be with us today as this work is carried to completion. We bow before You in silent prayer asking You for Your graces and Your blessings upon all of us and our families and upon all the people who are living in this period of history. This we ask through Christ, our Lord. Amen.

President Nakayama: The Chairman of the Yap Delegation, Delegate Petrus Tun, will give a brief remark.

Delegate Tun: Thank you, Mr. President. In accordance with our Order of Business and at the instruction of my chiefs, I wish to make a few brief remarks.

The Yap Delegation to the Micronesian Constitutional Convention is very happy to sign the Constitution. We are very happy, especially because Yap has always been the last on the priority list of the Trust Territory, historically. Being the last to be considered, we are happy today to be the first to be called upon to sign the Micronesian Constitution.

My Delegation, Mr. President, came to this Convention with two things in mind. They are, one, to draft and complete a constitution for the future government of Micronesia and, two, to create a true Micronesian unity, to preserve and advance it. Although we knew that drafting a constitution was no easy task and although it was our anticipation that the Convention would run into a great deal of difficulties and turbulence in the process of drafting a constitution, we were and have always been, since the first day of this Convention, very hopeful and confident that this Convention could and would succeed in completing a draft constitution. We came here with very clear mandates from our constituents--the Yapese people. We were and have always been, since the opening of this Convention, ready to compromise and even sacrifice the interest of our district when necessary in the interest of Micronesian unity. Today, Mr. President, we are very happy to see a complete Constitution and to see that, after all the differences and verbal fights we have had, all the Delegations are now ready to sign the Constitution.

Again, Mr. President, at the request of my chiefs, I ask all the members of the Yap Delegation to sign the Constitution. Thank you. (Applause)

President Nakayama: At this time, the members of the Yap Delegation will come forward to sign the Constitution. (The signed Constitution is included on the following pages.)

MICRONESIAN CONSTITUTIONAL CONVENTION OF 1975

CONSTITUTION OF THE FEDERATED STATES OF MICRONESIA

PREAMBLE

WE, THE PEOPLE OF MICRONESIA, exercising our inherent sovereignty, do hereby establish this Constitution of the Federated States of Micronesia.

With this Constitution, we affirm our common wish to live together in peace and harmony, to preserve the heritage of the past, and to protect the promise of the future.

To make one nation of many islands, we respect the diversity of our cultures. Our differences enrich us. The seas bring us together, they do not separate us. Our islands sustain us, our island nation enlarges us and makes us stronger.

Our ancestors, who made their homes on these islands, displaced no other people. We, who remain, wish no other home than this. Having known war, we hope for peace. Having been divided, we wish unity. Having been ruled, we seek freedom.

Micronesia began in the days when man explored seas in rafts and canoes. The Micronesian nation is born in an age when men voyage among stars; our world itself is an island. We extend to all nations what we seek from each: peace, friendship, cooperation, and love in our common humanity. With this Constitution we, who have been the wards of other nations, become the proud guardian of our own islands, now and forever.

ARTICLE I

TERRITORY OF MICRONESIA

Section 1. The territory of the Federated States of Micronesia is comprised of the Districts of the Micronesian archipelago that ratify this Constitution. Unless limited by international treaty obligations assumed by the Federated States of Micronesia, or by its own act, the waters connecting the islands of the archipelago are internal waters regardless of dimensions, and jurisdiction extends to a marine space of 200 miles measured outward from appropriate baselines, the seabed, subsoil, water column, insular or continental shelves, airspace over land and water, and any other territory or waters belonging to Micronesia by historic right, custom, or legal title.

Section 2. Each state is comprised of the islands of each District as defined by laws in effect immediately prior to the effective date of this Constitution. A marine boundary between adjacent states is determined by law, applying the principle of equidistance. State boundaries may be changed by Congress with the consent of the state legislatures involved.

Section 3. Territory may be added to the Federated States of Micronesia upon approval of Congress, and by vote of the inhabitants of the area, if any, and by vote of the people of the Federated States of Micronesia. If the territory is to become part of an existing state, approval of the state legislature is required.

Section 4. New states may be formed and admitted by law, subject to the same rights, duties, and obligations as provided for in this Constitution.

ARTICLE II

SUPREMACY

Section 1. This Constitution is the expression of the sovereignty of the people and is the supreme law of the Federated States of Micronesia. An act of the Government in conflict with this Constitution is invalid to the extent of conflict.

ARTICLE III

CITIZENSHIP

Section 1. A person who is a citizen of the Trust Territory of the Pacific Islands immediately prior to the effective date of this Constitution and a domiciliary of a District ratifying this Constitution is a citizen and national of the Federated States of Micronesia.

Section 2. A person born of parents one or both of whom are citizens of the Federated States of Micronesia is a citizen and national of the Federated States by birth.

Section 3. A citizen of the Federated States of Micronesia who is recognized as a citizen of another nation shall, within 3 years of his 18th birthday, or within 3 years of the effective date of this Constitution, whichever is later, register his intent to remain a citizen of the Federated States and renounce his citizenship of another nation. If he fails to comply with this Section, he becomes a national of the Federated States of Micronesia.

Section 4. A citizen of the Trust Territory of the Pacific Islands who becomes a national of the United States of America under the terms of the Covenant to Establish a Commonwealth of the Northern Mariana Islands may become a citizen and national of

the Federated States of Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months of the date he became a United States national.

Section 5. A domiciliary of a District not ratifying this Constitution who was a citizen of the Trust Territory of the Pacific Islands immediately prior to the effective date of this Constitution, may become a citizen and national of the Federated States of Micronesia by applying to a court of competent jurisdiction in the Federated States within 6 months after the effective date of this Constitution or within 6 months after his 18th birthday, whichever is later.

Section 6. This Article may be applied retroactively.

ARTICLE IV

DECLARATION OF RIGHTS

Section 1. No law may deny or impair freedom of expression, peaceable assembly, association, or petition.

Section 2. No law may be passed respecting an establishment of religion or impairing the free exercise of religion, except that assistance may be provided to parochial schools for non-religious purposes.

Section 3. A person may not be deprived of life, liberty, or property without due process of law, or be denied the equal protection of the laws.

Section 4. Equal protection of the laws may not be denied or impaired on account of sex, race, ancestry, national origin, language, or social status.

Section 5. The right of the people to be secure in their persons, houses, papers, and other possessions against

unreasonable search, seizure, or invasion of privacy may not be violated. A warrant may not issue except on probable cause, supported by affidavit particularly describing the place to be searched and the persons or things to be seized.

Section 6. The defendant in a criminal case has a right to a speedy public trial, to be informed of the nature of the accusation, to have counsel for his defence, to be confronted with the witnesses against him, and to compel attendance of witnesses in his behalf.

Section 7. A person may not be compelled to give evidence that may be used against him in a criminal case, or be twice put in jeopardy for the same offense.

Section 8. Excessive bail may not be required, excessive fines imposed, or cruel and unusual punishments inflicted. The writ of habeas corpus may not be suspended unless required for public safety in cases of rebellion or invasion.

Section 9. Capital punishment is prohibited.

Section 10. Slavery and involuntary servitude are prohibited except to punish crime.

Section 11. A bill of attainder or ex post facto law may not be passed.

Section 12. A citizen of the Federated States of Micronesia may travel and migrate within the Federated States.

Section 13. Imprisonment for debt is prohibited.

ARTICLE V

TRADITIONAL RIGHTS

Section 1. Nothing in this Constitution takes away a role or function of a traditional leader as recognized by custom and

tradition, or prevents a traditional leader from being recognized, honored, and given formal or functional roles at any level of government as may be prescribed by this Constitution or by statute.

Section 2. The traditions of the people of the Federated States of Micronesia may be protected by statute. If challenged as violative of Article IV, protection of Micronesian tradition shall be considered a compelling social purpose warranting such governmental action.

Section 3. The Congress may establish, when needed, a Chamber of Chiefs consisting of traditional leaders from each state having such leaders, and of elected representatives from states having no traditional leaders. The constitution of a state having traditional leaders may provide for an active, functional role for them.

ARTICLE VI

SUFFRAGE

Section 1. A citizen 18 years of age may vote in national elections. The Congress shall prescribe a minimum period of local residence and provide for voter registration, disqualification for conviction of crime, and disqualification for mental incompetence or insanity. Voting shall be secret.

ARTICLE VII

LEVELS OF GOVERNMENT

Section 1. The three levels of government in the Federated States of Micronesia are national, state, and local. A state is not required to establish a new local government where none exists on the effective date of this Constitution.

Section 2. A state shall have a democratic constitution.

ARTICLE VIII

POWERS OF GOVERNMENT

Section 1. A power expressly delegated to the national government, or a power of such an indisputably national character as to be beyond the power of a state to control, is a national power.

Section 2. A power not expressly delegated to the national government or prohibited to the states is a state power.

Section 3. State and local governments are prohibited from imposing taxes which restrict interstate commerce.

ARTICLE IX

LEGISLATIVE

Section 1. The legislative power of the national government is vested in the Congress of the Federated States of Micronesia.

Section 2. The following powers are expressly delegated to Congress:

(a) to provide for the national defense;

(b) to ratify treaties;

(c) to regulate immigration, emigration, naturalization, and citizenship;

(d) to impose taxes, duties, and tariffs based on imports;

(e) to impose taxes on income;

(f) to issue and regulate currency;

(g) to regulate banking, foreign and interstate commerce, insurance, the issuance and use of commercial paper and securities, bankruptcy and insolvency, and patents and copyrights;

(h) to regulate navigation and shipping except within lagoons, lakes, and rivers;

(i) to establish usury limits on major loans;

(j) to provide for a national postal system;

(k) to acquire and govern new territory;

(l) to govern the area set aside as the national capital;

(m) to regulate the ownership, exploration, and exploitation of natural resources within the marine space of the Federated States of Micronesia beyond 12 miles from island baselines;

(n) to establish and regulate a national public service system;

(o) to impeach and remove the President, Vice-President, and justices of the Supreme Court;

(p) to define major crimes and prescribe penalties, having due regard for local custom and tradition; and

(q) to override a Presidential veto by not less than a 3/4 vote of all the state delegations, each delegation casting one vote.

Section 3. The following powers may be exercised concurrently by Congress and the states:

(a) to appropriate public funds;

(b) to borrow money on the public credit;

(c) to promote education and health; and

(d) to establish systems of social security and public welfare.

Section 4. A treaty is ratified by vote of 2/3 of the members of Congress, except that a treaty delegating major powers of government of the Federated States of Micronesia to another government shall also require majority approval by the legislatures of 2/3 of the states.

Section 5. National taxes shall be imposed uniformly. Not less than 50% of the revenues shall be paid into the treasury of the state where collected.

Section 6. Net revenue derived from ocean floor mineral resources exploited under Section 2 (m) shall be divided equally between the national government and the appropriate state government.

Section 7. The President, Vice-President, or a justice of the Supreme Court may be removed from office for treason, bribery, or conduct involving corruption in office by a 2/3 vote of the members of Congress. When the President or Vice-President is removed, the Supreme Court shall review the decision. When a justice of the Supreme Court is removed, the decision shall be reviewed by a special tribunal composed of one state court judge from each state appointed by the state chief executive. The special tribunal shall meet at the call of the President.

Section 8. The Congress consists of one member elected at large from each state on the basis of state equality, and additional members elected from congressional districts in each state apportioned by population. Members elected on the basis of state equality serve for a 4-year term, and all other members for 2 years.

Each member has one vote, except on the final reading of bills. Congressional elections are held biennially as provided by statute.

Section 9. A person is ineligible to be a member of Congress unless he is at least 30 years of age on the day of election and has been a citizen of the Federated States of Micronesia for at least 15 years, and a resident of the state from which he is elected for at least 5 years. A person convicted of a felony by a state or national government court is ineligible to be a member of Congress. The Congress may modify this provision or prescribe additional qualifications; knowledge of the English language may not be a qualification.

Section 10. At least every 10 years Congress shall reapportion itself. A state is entitled to at least one member of Congress on the basis of population in addition to the member elected at large. A state shall apportion itself by law into single member congressional districts. Each district shall be approximately equal in population after giving due regard to language, cultural, and geographic differences.

Section 11. A state may provide that one of its seats is set aside for a traditional leader who shall be chosen as provided by statute for a 2-year term, in lieu of one representative elected on the basis of population. The number of congressional districts shall be reduced and reapportioned accordingly.

Section 12. A vacancy in Congress is filled for the unexpired term. In the absence of provision by law, an unexpired term is filled by special election, except that an unexpired term of less than one year is filled by appointment by the state chief executive.

Section 13. A member of Congress may not hold another public office or employment. During the term for which he is elected and 3 years thereafter, a member may not be elected or appointed to a public office or employment created by national statute during his term. A member may not engage in any activity which conflicts with the proper discharge of his duties. The Congress may prescribe further restrictions.

Section 14. The Congress may prescribe an annual salary and allowances for members. An increase of salary may not apply to the Congress enacting it.

Section 15. A member of Congress is privileged from arrest during his attendance at Congress and while going to and from sessions, except for treason, felony, or breach of the peace. A member answers only to Congress for his statements in Congress.

Section 16. The Congress shall meet in regular, public session as prescribed by statute. A special session may be convened at the call of the President of the Federated States of Micronesia, or by the presiding officer on the written request of 2/3 of the members.

Section 17. (a) The Congress shall be the sole judge of the elections and qualifications of its members, may discipline a member, and, by 2/3 vote, may suspend or expel a member.

(b) The Congress may determine its own rules of procedure and choose a presiding officer from among its members.

(c) The Congress may compel the attendance and testimony of witnesses and the production of documents or other matters before Congress or any of its committees.

Section 18. A majority of the members is a quorum, but a smaller number may adjourn from day to day and compel the attendance of absent members.

Section 19. The Congress shall keep and publish a journal of its proceedings. A roll call vote entered on the journal shall be taken at the request of 1/5 of the members present. Legislative proceedings shall be conducted in the English language. A member may use his own language if not fluent in English, and Congress shall provide translation.

Section 20. To become law, a bill must pass 2 readings on separate days. To pass first reading a 2/3 vote of all members is required. On final reading each state delegation shall cast one vote and a 2/3 vote of all the delegations is required. All votes shall be entered on the journal.

Section 21. (a) The Congress may make no law except by statute and may enact no statute except by bill. The enacting clause of a bill is: "BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:". A bill may embrace but one subject expressed in its title. A provision outside the subject expressed in the title is void.

(b) A law may not be amended or revised by reference to its title only. The law as revised or section as amended shall be published and re-enacted at full length.

Section 22. A bill passed by Congress shall be presented to the President for approval. If he disapproves of the bill, he shall return it with his objections to Congress within 10 days. If Congress has 10 or less days remaining in its session, or has adjourned, he shall return the bill within 30 days after presentation. If the President does not return a bill within the appropriate period, it becomes law as if approved.

ARTICLE X

EXECUTIVE

Section 1. The executive power of the national government is vested in the President of the Federated States of Micronesia. He is elected by Congress for a term of four years by a majority vote of all the members. He may not serve for more than 2 consecutive terms.

Section 2. The following powers are expressly delegated to the President:

(a) to faithfully execute and implement the provisions of this Constitution and all national laws;

(b) to receive all ambassadors and to conduct foreign affairs and the national defense in accordance with national law;

(c) to grant pardons and reprieves, except that the chief executive of each state shall have this power concurrently with respect to persons convicted under state law; and

(d) with the advice and consent of Congress, to appoint ambassadors; all judges of the Supreme Court and other courts prescribed by statute; the principal officers of executive departments in the national government; and such other officers as may be provided for by statute. Ambassadors and principal officers serve at the pleasure of the President.

Section 3. The President:

(a) is head of state of the Federated States of Micronesia;

(b) may make recommendations to Congress, and shall make an annual report to Congress on the state of the

nation; and

(c) shall perform such duties as may be provided by statute.

Section 4. A person is ineligible to become President unless he is a member of Congress for a 4-year term, a citizen of the Federated States of Micronesia by birth, and a resident of the Federated States of Micronesia for at least 15 years.

Section 5. After the election of the President, the Vice-President is elected in the same manner as the President, has the same qualifications, and serves for the same term of office. He may not be a resident of the same state. After the election of the President and the Vice-President, vacancies in Congress shall be declared.

Section 6. If the office of the President is vacant, or the President is unable to perform his duties, the Vice-President becomes President. The Congress shall provide by statute for the succession in the event both offices are vacant, or either or both officers are unable to discharge their duties.

Section 7. The compensation of the President or Vice-President may not be increased or reduced during his term. They may hold no other office and may receive no other compensation from the Federated States of Micronesia or from a state.

Section 8. Executive departments shall be established by statute.

Section 9. (a) If required to preserve public peace, health, or safety, at a time of extreme emergency caused by civil disturbance, natural disaster, or immediate threat of war, or insurrection, the President may declare a state of emergency and issue appropriate decrees.

(b) A civil right may be impaired only to the extent actually required for the preservation of peace, health, or safety. A declaration of emergency may not impair the power of the judiciary except that the declaration shall be free from judicial interference for 30 days after it is first issued.

(c) Within 30 days after the declaration of emergency, the Congress of the Federated States of Micronesia shall convene at the call of its presiding officer or the President to consider revocation, amendment, or extension of the declaration. Unless it expires by its own terms, is revoked, or extended, a declaration of emergency is effective for 30 days.

ARTICLE XI

JUDICIAL

Section 1. The judicial power of the national government is vested in a Supreme Court and inferior courts established by statute.

Section 2. The Supreme Court is a court of record and the highest court in the nation. It consists of a Chief Justice and not more than 5 associate justices. Each justice is a member of both the trial division and the appellate division, except that sessions of the trial division may be held by one justice. No justice may sit with the appellate division in a case heard by him in the trial division. At least 3 justices shall hear and decide appeals. Decision is by a majority of those sitting.

Section 3. The Chief Justice and associate justices of the Supreme Court are appointed by the President with the approval of 2/3 of Congress. Justices serve during good behavior.

Section 4. If the Chief Justice is unable to perform his duties he shall appoint an associate justice to act in his stead. If the office is vacant, or the Chief Justice fails to make the appointment, the President shall appoint an associate justice to act as Chief Justice until the vacancy is filled or the Chief Justice resumes his duties.

Section 5. The qualifications and compensation of justices and other judges may be prescribed by statute. Compensation of judges may not be diminished during their terms of office unless all salaries prescribed by statute are reduced by a uniform percentage.

Section 6. (a) The trial division of the Supreme Court has original and exclusive jurisdiction in cases affecting officials of foreign governments, disputes between states, admiralty or maritime

cases, and in cases in which the national government is a party except where an interest in land is at issue.

(b) The national courts, including the trial division of the Supreme Court, have concurrent original jurisdiction in cases arising under this Constitution; national law or treaties; and in disputes between a state and a citizen of another state, between citizens of different states, and between a state or a citizen thereof, and a foreign state, citizen, or subject.

(c) When jurisdiction is concurrent, the proper court may be prescribed by statute.

Section 7. The appellate division of the Supreme Court may review cases heard in the national courts, and cases heard in state or local courts if they require interpretation of this Constitution, national law, or a treaty. If a state constitution permits, the appellate division of the Supreme Court may review other cases on appeal from the highest state court in which a decision may be had.

Section 8. When a case in a state or local court involves a substantial question requiring the interpretation of the Constitution, national law, or a treaty, on application of a party or on its own motion the court shall certify the question to the appellate division of the Supreme Court. The appellate division of the Supreme Court may decide the case or remand it for further proceedings.

Section 9. The Chief Justice is the chief administrator of the national judicial system and may appoint an administrative officer who is exempt from civil service. The Chief Justice shall make and publish and may amend rules governing national courts, and

by rule may:

(a) divide the inferior national courts and the trial division of the Supreme Court into geographical or functional divisions;

(b) assign judges among the divisions of a court and give special assignments to retired Supreme Court justices and judges of state and other courts;

(c) establish rules of procedure and evidence;

(d) govern the transfer of cases between state and national courts;

(e) govern the admission to practice and discipline of attorneys and the retirement of judges; and

(f) otherwise provide for the administration of the national judiciary.

Judicial rules may be amended by statute.

Section 10. The Congress shall contribute to the financial support of state judicial systems and may provide other assistance.

Section 11. Court decisions shall be consistent with this Constitution, Micronesian customs and traditions, and the social and geographical configuration of Micronesia.

ARTICLE XII

FINANCE

Section 1. (a) Public money raised or received by the national government shall be deposited in a General Fund or special funds within the National Treasury. Money may not be withdrawn from the General Fund or special funds except by law.

(b) Foreign financial assistance received by the national government shall be deposited in a Foreign Assistance

Fund. Except where a particular distribution is required by the terms or special nature of the assistance, each state shall receive a share equal to the share of the national government and to the share of every other state.

Section 2. (a) The President shall submit an annual budget to Congress at a time prescribed by statute. The budget shall contain a complete plan of proposed expenditures, anticipated revenues, and other money available to the national government for the next fiscal year, together with additional information that Congress may require. The Congress may alter the budget in any respect.

(b) No appropriation bills, except those recommended by the President for immediate passage, or to cover the operating expenses of Congress, may be passed on final reading until the bill appropriating money for the budget has been enacted.

(c) The President may item veto an appropriation in any bill passed by Congress, and the procedure in such case shall be the same as for disapproval of an entire bill by the President.

Section 3. (a) The Public Auditor is appointed by the President with the advice and consent of Congress. He serves for a term of 4 years and until a successor is confirmed.

(b) The Public Auditor shall inspect and audit accounts in every branch, department, agency or statutory authority of the national government and in other public legal entities or nonprofit organizations receiving public funds from the national government. Additional duties may be prescribed by statute.

(c) The Public Auditor shall be independent of administrative control except that he shall report at least once a year to Congress. His salary may not be reduced during his term of office.

(d) The Congress may remove the Public Auditor from office for cause by 2/3 vote. In that event the Chief Justice shall appoint an acting Public Auditor until a successor is confirmed.

ARTICLE XIII

GENERAL PROVISIONS

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

Section 2. Radioactive, toxic chemical, or other harmful substances may not be tested, stored, used, or disposed of within the jurisdiction of the Federated States of Micronesia without the express approval of the national government of the Federated States of Micronesia.

Section 3. It is the solemn obligation of the national and state governments to uphold the provisions of this Constitution and to advance the principles of unity upon which this Constitution is founded.

Section 4. A noncitizen, or a corporation not wholly owned by citizens, may not acquire title to land or waters in Micronesia.

Section 5. An agreement for the use of land for an indefinite term is prohibited. An existing agreement becomes void 5 years after the effective date of this Constitution. Within that time, a new agreement shall be concluded between the parties. When the national government is a party, it shall initiate negotiations.

Section 6. The national government of the Federated States of Micronesia shall seek renegotiation of any agreement for the use

of land to which the Government of the United States of America is a party.

Section 7. On assuming office, all public officials shall take an oath to uphold, promote, and support the laws and the Constitution as prescribed by statute.

ARTICLE XIV

AMENDMENTS

Section 1. An amendment to this Constitution may be proposed by a constitutional convention, popular initiative, or Congress in a manner provided by law. A proposed amendment shall become a part of the Constitution when approved by 3/4 of the votes cast on that amendment in each of 3/4 of the states. If conflicting constitutional amendments submitted to the voters at the same election are approved, the amendment receiving the highest number of affirmative votes shall prevail to the extent of such conflict.

Section 2. At least every 10 years, Congress shall submit to the voters the question: "Shall there be a convention to revise or amend the Constitution?". If a majority of ballots cast upon the question is in the affirmative, delegates to the convention shall be chosen no later than the next regular election, unless Congress provides for the selection of delegates earlier at a special election.

ARTICLE XV

TRANSITION

Section 1. A statute of the Trust Territory of the Pacific Islands continues in effect except to the extent it is inconsistent with this Constitution, or is amended or repealed. A writ, action,

suit, proceeding, civil or criminal liability, prosecution, judgment, sentence, order, decree, appeal, cause of action, defense, contract, claim, demand, title, or right continues unaffected except as modified in accordance with the provisions of this Constitution.

Section 2. A right, obligation, liability, or contract of the Government of the Trust Territory of the Pacific Islands is assumed by the Federated States of Micronesia except to the extent it directly affects or benefits a government of a District not ratifying this Constitution.

Section 3. An interest in property held by the Government of the Trust Territory of the Pacific Islands is transferred to the Federated States of Micronesia for retention or distribution in accordance with this Constitution.

Section 4. A local government and its agencies may continue to exist even though its charter or powers are inconsistent with this Constitution. To promote an orderly transition to the provisions of this Constitution, and until state governments are established, Congress shall provide for the resolution of inconsistencies between local government charters and powers, and this Constitution. This provision ceases to be effective 5 years after the effective date of this Constitution.

Section 5. The Congress may provide for a smooth and orderly transition to government under this Constitution.

Section 6. In the first congressional election, congressional districts are apportioned among the states as follows: Kusaie - 1; Marianas - 2; Marshalls - 4; Palau - 2; Ponape - 3; Truk - 5; Yap - 1. If Kusaie is not a state at the time of the first election, 4 members shall be elected on the basis of population in Ponape.

ARTICLE XVI

EFFECTIVE DATE

Section 1. This Constitution takes effect 1 year after ratification unless the Congress of Micronesia by joint resolution specifies an earlier date. If a provision of this Constitution is held to be in fundamental conflict with the United Nations Charter or the Trusteeship Agreement between the United States of America and the United Nations, the provision does not become effective until the date of termination of the Trusteeship Agreement.

SIGNATURES

Tosiwo Nakayama, President

Petrus Tun

Samuel Falanruw

Belarmino Hathey

Francisco Luktun

Hilary Tachelio

Luke M. Tman

Chutomu Nimwes

Chiro Albert

Fichita Bossy

Soukichi Fritz

Sasano Haruo

Kotaro Heldart

Kintoky Joseph

Soiter Mwety

Frank Nifon

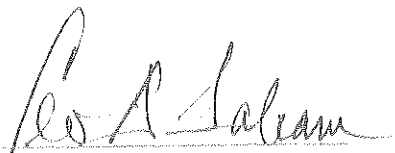
Maketo Robert

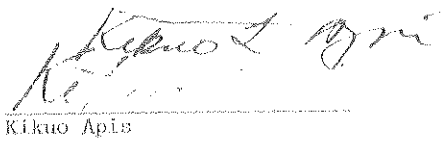
Iskia Sony

Manuel Sound

Tatasy Wainit

Sam Wiliander


Leo Falcam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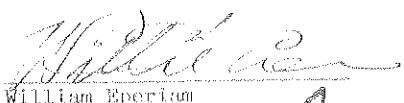
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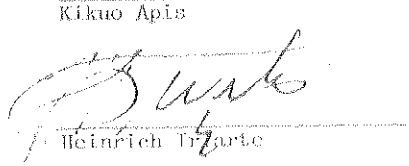
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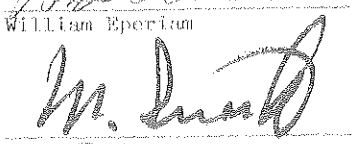
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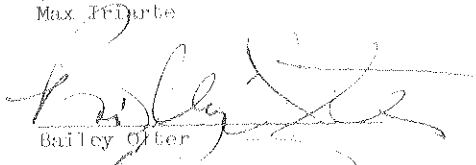
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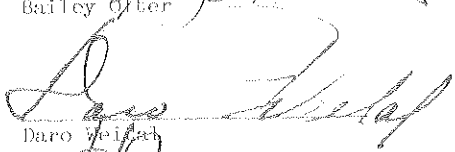
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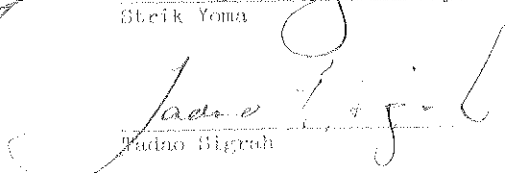
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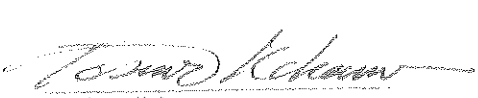
John Ngiraked


Ibedul Gibbons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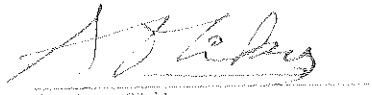
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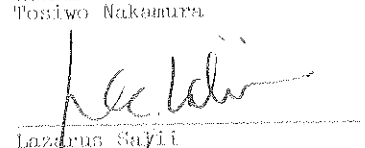
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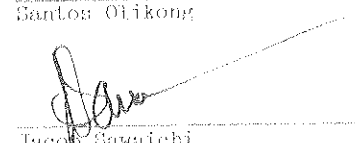
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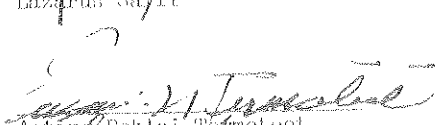
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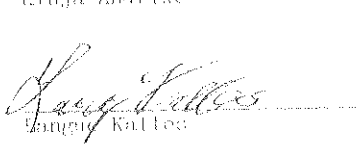
Johnson Toribiong


Carl Heine


Kinza Andrike


John Heine


Yangeo Kallop

Wilfred Kendall

Tom Kijiner

Isaac Lanwi

Mary Lanwi

Tipne Phillipod

Lorenzo LG. Cabrera

Olympio T. Borja

Alonzo Ngesomar

Luis Limes

Benjamin Manglona

Alfonso Rasa

(The members of the Yap Delegation affixed their signatures to the Constitution of the Federated States of Micronesia.)
(Applause)

President Nakayama: Please come forward to receive your Certificates, attesting to your participation in the historic Micronesian Constitutional Convention. The Honorable Edward E. Johnston, High Commissioner, will present the Certificates beginning with your Delegation, Mr. Chairman.

(Chairman Petrus Tun, on behalf of the Yap Delegation, accepted the Certificates, presented by the Honorable Edward E. Johnston, High Commissioner of the Trust Territory of the Pacific Islands.)
(Applause)

President Nakayama: May I now call on the Chairman of the largest Delegation, Delegate Chutomu Nimwes of Truk.

Delegate Nimwes: Thank you, Mr. President. In recognition of our customs and tradition, I wish at this time to yield from speaking to allow Popuisom Kintoky Joseph to deliver our remarks.

Delegate Chief Joseph: Thank you, Mr. President, The Chairman of the Truk Delegation asked me to say a few words on behalf of the Truk Delegation.

Mr. President, fellow traditional leaders and honorable Delegates: First, let me proudly announce to this Convention that the Truk Delegation is very, very happy to sign the Constitution. Let me also take this opportunity, on behalf of the Truk Delegation and the Honorable Chief and Mayor, Fichita Bossy, to express our most sincere appreciation to the following: the United States Government for its financial assistance which helped create this Constitutional Convention, to the Trust Territory Government for its administrative and moral support, and to the Congress of Micronesia for making this Convention a reality. For without these supports and assistance this historic Micronesian Constitutional Convention would not be able to come into reality.

Mr. President, drafting a Constitution for Micronesia is not an easy job. However, let me proudly say that I am very, very happy to see that the Convention has accomplished its mandated mission and its purpose. I am even prouder, Mr. President, to see that this Convention can and is able to come up with this Constitution. This signifies that despite our differences, there is unity. After the final adoption of the Draft Constitution this morning, I was happy to tell myself, "Yes, my dream for unity of our islands comes true." I am now convinced that all of us here want unity, for unity of Micronesia is the backbone and the key to success--success in the development and the growth of our young nation.

Now that our mission has been accomplished, let us not forget that our second mission has just begun. This is a difficult one---more difficult than this first mission that we just accomplished. When we go back to our respective districts, let us try our best to make our people appreciate and accept the product of our hard labor here. I know this will not be an easy job, but let us try our very best. It will be very much disappointing to see a district fail to ratify this Constitution because the blame for not ratifying this Constitution will be directed to the respective delegations to this Convention. So let us try our very best, for if our people do not ratify this Constitution, we both lose.

Mr. President, once again, let me say this on behalf of our Chairman and the members of the Truk Delegation. It is our great pleasure to work with all of you. It is very interesting and very enjoyable. It is more interesting when we express our different points of view and try to come up with the solution.

Our special thanks go to the staff of this Convention for their hard work in trying to make this Convention a success.

The Truk Delegation also wishes to express its appreciation to the people of Saipan for their great hospitality.

Beginning tomorrow some of us will start traveling back to our respective districts. Departing from one another after so many days being together is just a very sad thing to do, but when you go, please remember us as we will always remember you all. Have a nice trip home and God bless you all.

At this time, let me ask the members of the Truk Delegation to sign the Constitution.

Kilisou Chapur (thank you very much). (Applause)

(The members of the Truk Delegation, with the exception of Delegates Sasauo Haruo and Frank Nifon, affixed their signatures to the Constitution of the Federated States of Micronesia.) (Applause)

President Nakayama: May I ask the Chairman of the Truk Delegation to step forward and receive the Certificates.

(Chairman Chutomu Nimwes, on behalf of the Truk Delegation, accepted the Certificates, presented by High Commissioner Johnston.) (Applause)

President Nakayama: I will now call upon the Chairman of the Ponape Delegation, Delegate Leo Falcam, to give his remarks.

Delegate Falcam: Thank you very much, Mr. President.

Mr. President, Honorable traditional leaders, High Commissioner Johnston, fellow Delegates, distinguished guests, ladies and gentlemen:

With the permission of our traditional leaders, I have been asked to represent the Delegation from Ponape District and say a few remarks.

Mr. President, on behalf of the Ponape Delegation and the people of Ponape District, I would like to leave the following thoughts with you.

The time has come for this Micronesian Constitutional Convention to cease to exist. We are returning to our homes, to our families, to our people. At home we will be faced with old commitments to our businesses, careers, families. Many of these responsibilities have been put aside and ignored while we wrote our Constitution.

And yet the hardest part of our job as Delegates is still in front of us. We are going to have to return home and face our people. We are going to have to talk to the people who elected us. We are going to have to make sure that they understand this Constitution. And we are going to have to make sure that they ratify this Constitution. This may not be easy. Our efforts to meet with people and our efforts to write a Constitution, to me, have been successful. Our efforts to explain the Constitution may conflict with our jobs and businesses. We will not be full-time Delegates any more.

Mr. President, we knew before we were elected, before we came to Saipan, that it was not the job of the Administering Authority to write this Constitution, nor was it the job of the Congress of Micronesia. Writing this Constitution was our job; so is explaining it and defending it.

At home, in front of our people, we are going to have to forego the luxury of dissent. We are going to have to support the Constitution as a whole. Minority reports, losing votes, rejected proposals, are all behind us and besides the point. Forget them. The final decision from the people

of Micronesia will be a simple "yes" or "no". Let us make sure that the answer is "yes".

Presenting this Constitution to our people, defending it in front of them is a massive job in itself, and yet there is still another task that we will have to undertake. This Convention must take special interest in seeing that the Constitution, once ratified, is put into effect in a smooth and orderly fashion. We will have to see that our recommendations for a transition commission are put into effect. The experience of many new nations around the world has shown that the transition from one form of government to another can be confusing, chaotic, even tragic. As Delegates to this Convention, we will have to make sure that our transition problems will be handled peacefully and well.

It would be nice and easy if we could all sign this Constitution and go home, confident that things will just naturally turn out well. It would be nice to think that this Constitution explains itself and that our people will need no help in understanding it. It would be nice to think that once the Constitution is ratified the change to a new form of government will happen automatically. But none of these assumptions is warranted. The hardest part of our job is still in front of us. Let us go home and set about doing it.

Mr. President, Honorable traditional leaders and fellow Delegates, this Convention has been a success. It has succeeded in the face of fear and skepticism, obstacles and delays. It has succeeded in the face of demands that were said to be non-negotiable and negotiations that were said to be hopeless. It has succeeded because all of us cared enough about the future of Micronesia. Now, with this Constitution, our future has never been brighter. I thank everyone who has made this Convention a success. Now that we have succeeded on Saipan, let us see that we succeed in the districts. Let us bring our success home to our people and share it with them.

The Ponape Delegation, the observers who have come from Ponape to be with us at this historic moment, and the people of Ponape thank you very much. (Applause)

I would like at this time, Mr. President, to invite the Ponape Delegation to sign the Constitution.

(The members of the Ponape Delegation affixed their signatures to the Constitution of the Federated States of Micronesia, during which time the President recognized Floor Leader Tman.)

Floor Leader Tman: I beg the indulgence of this Convention and I ask all of the Delegates to take note that Delegate Ismael and Delegate Sigrah from Ponape are now signing the Constitution of the Federated States of Micronesia--the Delegates from the future State of Kusaie. (Applause)

Mr. President, Yap is now very happy to relinquish the long distinction of being the smallest state. (Laughter and applause)

President Nakayama: May I ask the Chairman of the Ponape Delegation, Delegate Falcam, to step forward to be followed by Delegate Ismael, representing the newest, smallest state of Micronesia, to receive their certificates.

(Chairman Leo A. Falcam, on behalf of the Ponape Delegation, and Delegate Hirosi Ismael, on behalf of the future State of Kusaie, accepted the Certificates, presented by High Commissioner Johnston.) (Applause)

President Nakayama: I will now call on the Chairman of the Palau Delegation, Delegate John Ngiraked, to say a few words.

Delegate Ngiraked: Thank you, Mr. President. The privilege to represent the Palau Delegation and the future of Palau on this important occasion properly belongs to the two traditional leaders we brought from Palau, the High Chief Ibedul and the High Chief Rektai. So, at this point I yield the floor to the two Chiefs and I ask Mr. Abel Suzuky to deliver a message from Palau on their behalf.

Abel Suzuky: Mr. President, honorable High Commissioner, honorable Chiefs and fellow Delegates:

With the indulgence of this Convention, I have been asked to deliver a message from the two Chiefs of Palau, High Chief Ibedul and High Chief Rektai.

We began our task against great odds. The possibility of failure was very real. After 90 days of hard work, heated and sometimes passionate discussions, we have proven that our differences do not divide us; they enrich us and make us stronger. The seas between our islands do not separate us; they bring us together. The waves that wash the Marshalls also wash the shores of Ponape, Truk, the Marianas, Yap, and Palau.

No longer is Micronesia a group of tiny islands separated by miles of ocean. Rather, we have become the nation with the greatest ocean territory in the world.

Mr. President, the people of Palau do believe in the unity of Micronesia based upon recognition of our differences and respect for our various customs and traditions. We believe that the government which we have created today will bring us together into a real political union in the genuine spirit of unity manifested here today.

Mr. President, our success today is a product of the individual effort of each Delegate and the dedication of each Delegation to unity in Micronesia. Our efforts and endeavors during the last 90 days have been difficult and painful at times. There were points during the Convention when the unity of Micronesia appeared to be impossible to achieve. We are very happy that finally, on this 90th Day, the people of Micronesia have shown to the world that they can resolve their political differences in order to achieve a greater goal—unity in diversity.

We in this Convention have tilled the soil and planted the seeds of unity and self-government for Micronesia. This is not enough. It is our responsibility to cultivate and to nourish these seeds until they bear fruit.

Let us not be complacent. Our work has not been finished. We have only just started on the long and arduous road ahead of us. The challenges of the future require the same united efforts and dedication of all Micronesians working together. We are optimistic, Mr. President.

Thank you. (Applause)

Delegate Ngiraked: I cannot take the liberty to come up to the table and to finish our work without attributing some of the credit to the people who deserve those credits.

Mr. President and fellow Delegates, if we were to attribute this success to any one, singular man, I would like to place the credit on the man whose wide experience and ingenuity in government and public leadership has lighted and guided the way at times when the road was tough and uncertain. The man whose courage to face up to challenge has been a source of determination and endurance in this Convention in the pursuit of our objectives. Ladies and gentlemen, I am talking about the Convention President, the Honorable Tosiwo Nakayama. (Applause)

Mr. President, if I may continue, a lot of credit goes to the one man

who was instrumental in getting the United States people, the Congress of Micronesia and the Congress of the United States to give us the money that helped to complete this work. Ladies and gentlemen, I am talking about our High Commissioner, the Honorable Edward E. Johnston. (Applause)

(The members of the Palau Delegation affixed their signatures to the Constitution of the Federated States of Micronesia.) (Applause)

President Nakayama: May I ask the Delegation's Chairman to step forward to receive the Certificates.

(Chairman John O. Ngiraked, on behalf of the Palau Delegation, accepted the Certificates, presented by High Commissioner Johnston.) (Applause)

President Nakayama: I will now call on the Chairman of the Marshalls Delegation, Delegate Carl Heine, to give short remarks.

Delegate Carl Heine: Thank you very much, Mr. President.

Fellow Delegates, High Commissioner Johnston and other distinguished guests in this Convention:

Before I give my few remarks, I would like to say that I sincerely regret the fact that others in the Marshalls District were not able to make it to this Constitutional Convention, not only our traditional leaders, although we have two of our traditional leaders here with us, but there are others more qualified to have represented the people of that district who were not able to make it to this Constitutional Convention.

Mr. President, I need not, and I don't think it is necessary, to repeat the recent political history of turmoil with respect to representation to the Constitutional Convention from that district. However, I want to say on behalf of this Delegation here--the Marshalls Delegation which has been participating in this Convention from the beginning--that it was with a very strong desire to work toward the common goal of unity for Micronesia that we came to participate with every member of this Constitutional Convention.

Mr. President, this has been an act of self-determination. It was a promise made in the United Nations Charter and the Trusteeship Agreement. I believe that a new age in Micronesia has arrived--an age of cooperation and interdependency. We have found that we need each other, both here and abroad, and we must help one another. Our differences are our asset. This Convention has made a beginning in the long road toward our self-autonomy and our self-respect. It is now up to the people of Micronesia to complete and finish the task of self-determination.

We have come a long way in this struggle for human freedom and dignity. It is for the people of Micronesia that the promises of this Constitution will become a reality. For a society that is traditional in nature and character, Mr. President, this Constitution makes some promises and guarantees a new way of life for Micronesia. Of all the Bills of Rights in the Declaration of Rights in the present Constitution, Mr. President, I believe the freedom of expression and the clause on discrimination will go a long way in changing and bringing a new society in Micronesia. These rights, Mr. President, are not unique and also not new, but the very fact that we in this Convention have given them the sanction in this Constitution signifies a very important step in the new Micronesia that we are trying to create. Without this freedom of expression, I doubt very much, Mr. President, whether Micronesia can survive as a nation. To the thousands of women throughout Micronesia, I can say that under the new clause on discrimination I believe a new way of life has almost begun for them. This Bill of Rights guarantees in the new Constitution that citizens of Micronesia can only be punished from here and now for

their acts only and never for their thoughts, or beliefs, or creed.

Mr. President, on behalf of those of us here who came to this Constitutional Convention, I want to thank all of the other districts who were and who have been able to accommodate us in this process of Constitution making. On behalf of the people of the Marshall Islands District, we accept this Constitution. I will ask the members of this Delegation to come forward and sign the Constitution after one of our traditional leaders, Iroij Tomeing, has made short remarks of his own. Thank you, Mr. President. (Applause)

Iroij Tomeing: Thank you, Mr. President.

Mr. President, Mr. Chairman of our Delegation, High Commissioner Johnston, traditional leaders, fellow Delegates, honorable guests:

I am not speaking to you today as a Chief from the Marshall Islands, but I am talking to you as a fellow Delegate.

Mr. President, today marks the happiest day in the life of all Micronesians, including my people in the Marshall Islands. Before I came to this Convention I had my doubts as to whether the task and the mandate assigned to all the Delegates would be a dream realized, but now my thinking is changed. When we affix our signatures to the newly-drafted Constitution of the Federated States of Micronesia, we are, in fact, saying that we, the Micronesian people, are no longer a ward of anyone but ourselves if we should fail to ratify the same document I mentioned.

Today is no different from a graduation day. November 8, 1975 shall always be remembered as a new beginning for all of Micronesia and the birth of our new nation. Today will never be remembered as the end of an effort, but the dawn of a new day. From this day on we are committing ourselves to a new task of making Micronesia another nation among other nations.

Therefore, Mr. President, in closing, may I thank all the Delegates, and especially the Chiefs from Ponape and the other traditional leaders who made it possible for the Chiefs from the Marshalls to witness this historic moment.

I shall go home and share my experience. I shall tell my people not to lose faith in the union of Micronesia. There are others who believe in this union and they are: Kusaie, Ponape, Truk, Saipan, Yap and Palau. Let's now join hands and take a step forward. Let's make Micronesia a peaceful place to live, and a nation among other nations.

Thank you very much, Mr. President. (Applause)

Mr. President, this statement of mine was made on very special material. I would like to see that this Convention accepts it as a remembrance of my being in contact with the distinguished Delegates gathered during the trying Con Con days. Mr. President, I am now submitting this document to be included in our 90th Day Journal. I so move, Mr. President. (Applause)

Delegate John Heine seconded the motion.

President Nakayama: Motion carried. (Laughter)

(Said document is part of the permanent records of the 1975 Micronesian Constitutional Convention)

(The members of the Marshall Islands Delegation, with the exception of Delegates Kiuja Andrike, Tom Kijiner, and Isaac Lanwi, affixed their signatures to the Constitution of the Federated States of Micronesia.) (Applause)

President Nakayama: Will the Chairman of the Marshalls Delegation please step forward for the Certificates.

(Chairman Carl Heine, on behalf of the Marshall Islands Delegation, accepted the Certificates, presented by High Commissioner Johnston.) (Applause)

President Nakayama: I now call on the Mariana District Delegation Chairman, Delegate Larry Cabrera.

Delegate Cabrera: Thank you, Mr. President.

Mr. President, Fellow Delegates, High Commissioner Johnston, distinguished guests, ladies and gentlemen:

The thought that my Delegation wishes to leave with you is but a short one, but asks that you share it with us.

Today, indeed, is a happy day for all of us as we have successfully accomplished the monumental task we have been elected to do. We have framed a Constitution of our own choosing, which we all are proud of, a Constitution that will establish the form of government we all believe we can live and prosper under.

For sure, we have gone through a painstaking process which, at times, was agonizing, but all this is surmounted by the gratifying feeling that we have before us a product that is reflective of the varied interests we represent.

As I am sure you will all agree, the product before us is not an item that you would put on the shelf in a store. We have yet to undertake an enormous task of selling it. But I have every confidence that the Micronesian people will readily ratify the Constitution as it was designed and framed with their diverse interests in mind.

I want you all to know that before and during the Convention I sincerely appreciated your counsel, enjoyed your company, and most of all the opportunity to have worked with you.

The experience we all gained from this Convention is invaluable and will undoubtedly aid all of us when we begin the process of drafting our own constitution.

Mr. President, I shall close my brief remarks by taking the opportunity on behalf of my Delegation, the people of the Marianas, and more particularly the people of Saipan, to thank each and every Delegate in this Convention for a time well spent on Saipan. We hope you enjoyed your stay as we have enjoyed your company.

Thank you very much. (Applause)

(The members of the Mariana Islands Delegation, with the exception of Delegates Olympio T. Borja, Benjamin T. Manglona, and Alfonso C. Rasa, affixed their signatures to the Constitution of the Federated States of Micronesia.) (Applause)

President Nakayama: May I ask Delegate Cabrera to step forward and receive the Certificates for his Delegation.

(Chairman Lorenzo LG. Cabrera, on behalf of the Mariana Islands Delegation, accepted the Certificates, presented by High Commissioner Johnston.) (Applause)

President Nakayama: I will now ask the Floor Leader of the Convention, Delegate Inike Tmau, to say a few words.

Floor Leader Ekam: Thank you, Mr. President.

Mr. President, members of this Convention, I beg your indulgence. Nature did not grant me the talent of eloquence, but I shall proceed on in the characteristic manner of my being a laconic speaker.

Mr. President, and to all the Delegates to this Convention, I wish to thank you all for bearing with me as your Floor leader. I thank you for your cooperation, understanding and your patience. I wish also, Mr. President, to thank all the staff who are the real people behind the success of this Convention. The list is exhaustive and, therefore, Mr. President, if there is no objection from the Convention, I request that all staff names be inserted in the Journal along with these short remarks. (The President granted the request, see page "v".) Thank you, Mr. President.

I have a few other remarks to make. On a very unhappy note, one of our Delegates will be leaving on Monday to go directly to the hospital on Guam. Let us join together in a silent moment of prayer to wish a speedy recovery to Delegate Kikuo Apis.

Mr. President, I wish also for the record to note that I have a very special feeling, as a Delegate, towards certain staff with whom we have worked together during this Convention. I have forgotten their surnames. I only know them as Vic, Asto, Joan, Evelyn, Janet and Stacy. (Applause)

If I may proceed, Mr. President, I wish also for this Convention to appreciate the very hard work that he has done to make this Convention a success. I am speaking of Professor Norman Meller. (Applause)

Behind him, Mr. President, is, of course, the Lady, Mrs. Norman Meller. (Applause)

Mr. President, with the concurrence of this Convention, I wish to suggest that before you, as the President, sign the Constitution that we invite the two observers who came from Guam, Sabiniano Sbul, President of the Trust Territory Student Organization, and Nicholas Santos, President of the Guam United Micronesian Students Association, to stand with you, to be with you when you sign the Constitution. These are the future leaders of Micronesia. (Applause)

Mr. President, I have a lot more to say but my eyes are blurred with tears, tears of joy that this Convention is a success. I thank you all and Godspeed. With that, I relinquish my capacity as the Floor Leader. (Applause)

President Nakayama: May we rise for a moment of silent prayer for Delegate Kikuo Apis.

May the two guests from Guam take the seats in the front. I will join you later. Before I sign the Constitution as President of the Convention and before I give a short remark, I will ask our High Commissioner, Edward E. Johnston, to please say a few words to us.

High Commissioner Johnston: Thank you, Mr. President.

Distinguished Delegates to the Micronesian Constitutional Convention, ladies and gentlemen:

I can certainly, truthfully say that in the six and one-half years I have been privileged to hold this extremely rewarding position, I have never had a happier or prouder moment than I have had here with you this evening.

As many of you have said tonight, when you started this Constitutional Convention there were skeptics who didn't think you could complete the job,

but you, all of you, working together with the leadership of your President and the other officers of the Convention, have now drafted a Constitution for the new Federated States of Micronesia. On behalf, I am sure, of all the citizens of the Trust Territory and also on behalf of the United States, as the Administering Authority, I congratulate you on a job very well done. Earlier this evening I was asked to extend to you also the most hearty congratulations of Mr. Fred Zeder, the Director of Territorial Affairs, and the Honorable Tom Kleppe, the new Secretary of the Interior.

I am sure that any one of my distinguished predecessors who has served as your High Commissioner would have hoped that he could have shared this moment with you, and I feel that, in a way, I am extremely fortunate to be sharing it with you on behalf of all of them. It has been a long road and at times a hard road, and tonight it has reached its conclusion.

As I drove here this evening I couldn't help but compare, in a way, this Constitutional Convention to one of America's greatest industries—the automobile industry. The manufacturer sometimes feels that he has accomplished a great goal when he has produced a beautiful Lincoln Continental, a beautiful Cadillac, or a beautiful Chrysler Imperial, but actually he has only begun the process that will lead to success for his company because if that car sits in the showroom and is never sold to the people, his company will surely fail. I think it is significant that every one of the District Delegation leaders this evening has pointed out so aptly and so capably that the big job lies ahead of you, that you must now go back to your districts and sell what I consider an excellent and outstanding product to all the citizens of the new Federated States of Micronesia.

All I can do is pledge to you, as I have pledged before, the complete resources of the Executive Branch of the present Trust Territory Government to assist you in any way when called upon to finish the job which you have so successfully started and have concluded in the first phase today.

Again, my sincere congratulations to all of you and my very best wishes as you return to your districts with the tremendous satisfaction of having done a wonderful job in drafting a Micronesian Constitution. (Applause)

President Nakayama: I will now step down to sign the Constitution. I will invite the High Commissioner to please be with me and my two friends from Guam while I sign the Constitution.

(President Tosiwo Nakayama affixed his signature to the Constitution of the Federated States of Micronesia and accepted the Certificate presented by the Convention Secretary.) (Applause)

President Nakayama: Before I give my farewell remark, I would like to recognize our good friend, Kikuo Apis.

Delegate Apis: Thank you, Mr. President. I am not representing any district, but on behalf of myself and my family for what the Convention has done for me. If you will recall, at one time I interrupted this Convention because of my illness and there was much that was done for me—two silent prayers—and tonight I am compelled, with what the Floor Leader has done on my behalf, to thank all the members of this Convention. I think I have been a very noisy Delegate in this Convention, being one member of the Dovit's Advocates Club, and yet I have been recognized very much. For this, I thank the President of this Convention, and again on behalf of my family who join me in thanking you all, thank you very much. (Applause)

President Nakayama: High Commissioner Johnston and honored guests:

Fellow Delegates, I cannot let you leave this Convention Hall without sharing my happiness with you. Four months ago we began a difficult assignment. This evening this assignment is completed. It is a job well done.

Working here, you have confirmed my faith in Micronesia. You have renewed my hopes for the future. If I never hold another public office, never attend another public meeting, it's all right with me. If I retired today, I would be happy. Being a part of this Convention is the most important thing I've ever done.

Now I can go back to my home in Truk. I will see my family; I will even go fishing. I will meet with my people, and I will tell them that Micronesia has a Constitution that works. Micronesia has a way of solving its problems, and Micronesia has the leadership necessary to build a nation.

Thank you for coming here. Thank you for staying. Thank you for working. Thank you for enriching my life.

Thank you. (Applause)

I will now ask the Sergeant-at-Arms to please usher our friend Mack Williams up here to give the benediction.

Reverend Williams: Would you please stand.

Our Father, thy people requested You to guide them in writing a Constitution. They sought Your leadership the very first day in prayer, and each day since that time they have desired You to lead them. You have heard them, and now at the end of a job that is well done, we want to say thank you, thank you so very much.

Thank you for the strong desire for unity that has made the impossible, possible. Thank you, Lord, for each one of these Delegates. They disagreed but later agreed; they debated but kept open minds; they had different ideas but the same goal. Having been divided, they have found unity.

Our Father, with Your help they have completed this Constitution of the Federated States of Micronesia and now, in one accord, we request Your blessings upon this Holy contract between thy people.

Bless this Constitution that has been produced by thy people under thy sure leadership. Bless it, and bless them. Dear God, bless Micronesia.

May I ask you as Delegates now, could we close by praying together solemnly in unison the prayer that our Father has taught us?

Our Father, who art in Heaven,
Hallowed be thy name.
Thy Kingdom come, Thy will be done,
On earth as it is in Heaven.
Give us this day our daily bread,
And forgive us our trespasses,
as we forgive those who trespass against us,
And lead us not into temptation,
But deliver us from evil,
For thine is the kingdom, and the power,
and the glory forever. Amen.

May the Lord's peace and grace rest upon you. May His face smile upon you. May He protect you as you go home to your family, and may He watch over Micronesia. Amen.

The Chair recognized Delegate Falcam.

Delegate Falcam: Thank you, Mr. President. To commemorate this historic occasion, I would like to advise all Delegates, guests, staff, everybody in this Convention hall, that to perpetuate the Ponape hospitality we will pour champagne after we adjourn. Thank you. (Applause)

President Nakayama: There being no further business before the Convention, I hereby declare the Convention adjourned sine die. (Applause)

The Micronesian Constitutional Convention of 1975 adjourned sine die at 6:50 p.m., on Saturday, November 8, 1975.

Respectfully submitted,

for Victorio Uherbelau
Convention Secretary

The following Delegates to the Micronesian Constitutional Convention of 1975 signed the Constitution after the closing ceremonies of the 90th Day:

Kinja Andrike
Sasano Haruo
Frank Nifon
Alfonso C. Rasa

Delegates Isaac Lanwi and Tom Kijiner were unable to sign the Constitution due to unavoidable circumstances.

Pursuant to the authority vested in me as the President of the Convention, as the same appears on page 556, I hereby approve the Convention Journal for the 90th Day.

Date: November 12, 1975

Tosiwo Nakayama, President