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of the

MICRONESIAN CONSTITUTIONAL CONVENTION



of 1975

VOLUME II

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MICRONESIAN CONSTITUTIONAL CONVENTION

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VOLUME II

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Re: Resolution No. 1, "Resolution declaring a consensus of the Constitutional Convention that a federation of autonomous states be established as the sovereign government of Micronesia."

Chairman: Delegate Hirosi Ismael

Floor Leader Ngiraked moved for adoption of Resolution No. 1. Delegate Olikong seconded.

Delegate Ikemo requested more time to consider the effect of the resolution.

Delegate Nimwes requested enlightenment on the intent of the resolution from the Chairman who introduced the resolution.

Chairman Ismael said he signed it on behalf of the Committee on Governmental Functions, and the intent and purpose was to expedite and initiate the thinking of the Delegates so as to come to grips with the direction in which the Convention is going relative to the Constitution. This proposes a loose type of federation with each state retaining sovereignty so as to have six different states in a federation. He stated another resolution would be introduced during the next few days which will give a picture of a much stronger type of central government. This resolution was an effort to stimulate the Convention to come up with a basis on which the Convention should work.

Delegate Ngiraked questioned whether the adoption will commit the Convention to base all its decisions on the type of government outlined in the resolution. He mentioned that a lot of important things were included, and he would like to see the subject set out in more specific terms and details before serious action is taken on adopting the resolution. He stated that he was for it but would like to see more specific terms.

Delegate Carl Heine suggested that the attorneys assigned to the Committee elaborate on the basic difference between this resolution and the Palau proposal with respect to the relationship of the districts and the government.

Delegate Salii indicated this might be asking too much of the attorneys but stated that if they were willing to elaborate on it, he was willing to listen. He stated the resolution was in line with the position of the Palau Delegation, and he would urge that it be acted on now. He then yielded the floor to the attorneys.

(Attorneys Amaraich and Ramp represented the Committee.)

Attorney Ramp stated it is a difficult question, but comparing the functions of the central government, the resolution was more or less the same with the exception that the resolution places currency and banking regulation within the control of the central government and calls for the establishment of a supreme judiciary system in the central government, whereas the Palau proposal grants some additional functions to the central government, one being commerce between the districts and internationally, and the promotion of health, education, and so forth. Another difference is that the resolution would apparently permit a broader taxing power in the central government than the Palau proposal, whereas the Palau proposal specifically eliminates the taxing power. As to item 2 in the Palau proposal, there is nothing in the resolution about the nature of the legislative branch of the central government, whereas the Palau proposal provides for a unicameral structure with equal representation by each district. The Palau proposal also provides for equal sharing of foreign aid among the districts. The resolution has no such provision. The Palau proposal specifies the site of the headquarters, whereas the resolution does not so specify.

Delegate Salii asked whether the WHEREAS clauses in the resolution were binding if the resolution were adopted, or was it really only the first resolving clause.

Attorney Ramp stated he would assume if the resolution were adopted the various committees would use it as a guideline as called for in the second resolving clause, and, in that case, he would suspect they would take into consideration the matters stated in the WHEREAS clauses as to what a federation of autonomous states is.

Delegate Salii said that in that event he would suggest that no final action be taken as he would like to have time to amend the resolution to conform to the position of the Palau Delegation.

Delegate Ngiraked stated that earlier he had recommended the creation of a committee which came to be known as the Special Conference Committee, and one of its functions was to coordinate matters relating to status and the kind of government the Convention intends to make and the direction the Convention wishes to take. He stated he felt the committee was way, way behind schedule. The members have been appointed, but the organization has been postponed. He said he felt this kind of question properly belongs in that committee, and he recommended that the leadership expedite the organization of the committee, and when it is operating, assign the resolution to that committee before it is taken up on the floor.

Delegate Weital stated he agreed with Delegate Haruo that more study was required before final action.

Attorney Amaraich stated he wished it to be made clear that the resolution was not based on the Palau paper; it was drafted before the presentation of the Palau proposal. It was a result of the first meeting of the Committee on Governmental Functions where it was felt that unless some direction is given as to where we are going, our task is more difficult in assigning functions of the government. Therefore, the Committee on Functions needed direction and so suggested the resolution so that all the committees could have some direction.

Delegate Carl Heine stated he concurred that more time was needed for study and moved that the resolution be assigned to the Special Conference Committee.

Several Delegates seconded the motion.

Floor Leader Tmau said that according to the Rules of Procedure the Committee of the Whole does not have authority to assign measures to committees; that must be done in Plenary Session.

Delegate Heine withdrew his motion.

Delegate Ngiraked moved to delay action on the resolution.

Floor Leader Tmau stated that delaying action without a specific time is tantamount to postponing it indefinitely.

Delegate Ngiraked moved that the Committee of the Whole rise. Seconds were offered by several Delegates.

There were several other motions put forth; however, Floor Leader Tmau advised that the motion to rise took precedence and was not debatable.

The motion carried.

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

Re: Resolution No. 9, "Resolution relating to a recess of the Convention."

Chairman: Floor Leader Luke Tmun

Chairman Tmun called the Committee of the Whole to order at 11:15 a.m. and advised the Delegates that the Committee had before it Resolution No. 9, that copies had been distributed, and that he would entertain a motion to adopt Resolution No. 9.

Delegate Ngiraked so moved. Delegates Nawaiehi and Ngeriam seconded the motion to adopt Resolution No. 9.

Delegate Baruo suggested that the words "within eight days" on page two, line four, be deleted from the Resolution.

Delegate Weital suggested that it would be helpful in the discussion if somebody could explain why the words "within eight days prior to September 15" were included in the Resolution.

Delegate Pun expressed regret that the Delegate who initiated the idea was not present, but that he thought the purpose of arriving in Saipan, or wherever the Convention was to reconvene after the recess, a week in advance was to have the committees organize their work in preparation for the Monday, September 15, reconvening.

Delegate Weital agreed with Delegate Baruo's suggestion of deleting the eight-day requirement. He felt that there was no way of being sure that the committees would be assembled to do business eight days prior to September 15 and also that line four does not require all Delegates to be present, in that his interpretation of the line means that the Delegates could arrive five or seven days prior to September 15.

Chairman Tmun pointed out that the clause urges the members to be present. One of the reasons behind this clause was that if some members could arrive prior to September 15, they could organize, arrange meetings, and translate new proposals from the district level into formal proposals.

Delegate Ismael said that the words "within eight days" were definitely not binding. He also stated that in order to satisfy the intent of the Resolution outlined on page one, lines 11 through 14, the Delegates would have to travel long distances and were being urged to return as soon as possible in order for the Convention to begin its work after the recess.

Delegate Chief Bossy wanted to know why September 15 had been selected, if it was an arbitrary figure.

Delegate Pun said that September 15 falls on a Monday. Originally, the Committee on Administration decided to recommend a September 11 reconvening date which falls on a Friday. However, in past practice, a weekend recess is called on a Friday, so the Committee decided that it was best to include the weekend in the recess and to reconvene on a Monday to continue the work of the Convention for a whole week.

Delegate Borja clarified the position of the Marianas in that their delegation had no objection to the Con Con taking a recess to consult with their constituents and leaders. However, he felt that the eight-day requirement was not a mandatory one. He felt that the recess for a little over two weeks was shortened by requiring the Delegates to be present eight days prior to September 15 and suggested that a specific date be set in order for the Resolution to be more effective and strong, such as September 10. Also questioned was the last resolving clause starting on page two, line six,

"That the Convention will reconvene September 15 at a time and place to be decided by the Convention by Resolution." Delegate Borja felt that the place should be decided upon in the same Resolution so that the Marianas could be prepared if the reconvening site was to be outside of their district. However, he strongly recommended that it be held in Saipan.

Chairman Tman pointed out in response to Delegate Borja's last point that even though the two issues of time and place were related, it was best to discuss them as two separate and distinct issues. He also advised that the reconvening site would be dependent upon the financial situation and that the Administration Committee would make an appropriate recommendation when the whole financial picture was clear. He suggested that the Committee of the Whole deal with the issue of the Resolution and leave the question of the site as a separate issue.

Delegate Ngiraked stated that, as discussed by the Pre-Convention Committee, it was his understanding that the idea of having a recess was for the purpose of reporting back to the constituents for consultation purposes. He felt that it was too early to decide a practical date to take a recess. If they divided the Convention into phases of work, he considered the first phase or first half as being devoted to introduction of measures and establishing the necessary machinery to get the Convention set up to draft a Constitution. He felt that the intensity of the activity, the number of issues or problems raised and proposals introduced would help the Convention select a practical date for a practical purpose. He requested that the Committee of the Whole and the Chair defer action on the Resolution to a later time when a more practical date could be set.

Delegate Ngiraked moved that the Committee of the Whole defer action on the Resolution. Delegate Toribiong seconded the motion.

Chairman Tman reminded the Committee of the Whole that under the Rules of Procedure, Chapter 5, the Committee was not at liberty to defer action on a measure unless a specific date was set.

Delegate Ngiraked withdrew his motion, and, in its place, moved that action be deferred on Resolution No. 9 for one week (August 8). Delegate Gawaich seconded the motion.

Delegate Tun stated that while he was not anxious to decide when to have a recess, he suggested that a decision be made long in advance in order to make plane reservations because of the heavy air traffic during the summer months.

Delegate Ilario wanted to know if the maker of the motion to defer action had a date in mind that he could offer to the Convention if he had an objection to the date stipulated in the measure.

Chairman Tman asked that the Committee confine itself to the discussion of the motion to defer action.

Delegate Calvera concurred with his colleague from the Marianas with regard to a recess. He also stated that the idea of a recess had been the subject of discussion in several Administration Committee meetings, and the Committee finally decided that it should be August 22 because it falls very close to the mid-point in the Convention. The Committee assumed that the Convention would have received a number of proposals in order for the Delegates to return to their districts to discuss the work of the Convention with their constituents. He felt that the Committee had done a commendable job in coming up with a good compromise, as reflected in the Resolution, but did not understand the reason to defer action.

Delegate Ismael stated that in order for the Delegates to comply with the intent of the Resolution, messages had to be sent far in advance so that the mechanism for conferences with their constituents could be set up. He also raised the point that not all of the Delegates could reach their constituents by air, that some must go by boat. He urged that the Delegate from Tinian consider that fact. He felt that three weeks would give ample time

for them to set this mechanism in order, whereas it would be difficult to meet the deadline for reconvening if a decision on the date of recess was postponed.

Delegate Ngiraked stated that the Convention should be guided by one factor only in dealing with the question of a recess: the workload of the Convention. He felt that by Friday, August 8, the Convention would be in a better position to deal with a practical time for a recess.

There was no further discussion, and by voice vote the motion to defer action on Resolution No. 9 was defeated.

Delegate Olikong moved for a recess of five minutes. Delegate Ngiraked seconded, and the motion carried. The Committee of the Whole recessed at 11:05 a.m.

Upon reconvening at 11:15 a.m., Delegate Remo offered an amendment to Resolution No. 9, which was read by the Convention Secretary, as follows: "on page two, line four, delete the words 'within eight days'."

Delegate Ngiraked moved that the Committee of the Whole adopt the amendment. Delegate Olikong seconded the motion.

As there was no discussion, the motion carried to adopt the amendment to Resolution No. 9.

Delegate Ngiraked stated that the Palau Delegation had studied the amendment and agreed that it was appropriate for it had solved the problem of the Palau Delegation. He urged that the entire Convention approve the Resolution as amended.

Delegate Ismael stated that of all the delegations, Palau was the one that needed the recess the most. Because the Palau Delegation urged the adoption of the Resolution, he wished to convey his congratulations to them and hoped that the Resolution would be adopted.

Delegate Fritz questioned the amount of money appropriated in the Resolution for a recess. He felt that it would be quite costly for some of the Delegates who live in the outlying islands to discuss with their constituents the proposals submitted in the Convention.

Chairman Tmetuchl stated that the amount of money listed on line seven, page one, was the amount appropriated by the Congress of Micronesia for the Convention to take a recess or recesses. He further stated that under Public Law No. 6-67, it is required that the Convention operate within the amount allocated for that purpose.

As there was no further discussion, the motion carried to adopt Resolution No. 9, as amended.

Chairman Tmetuchl stated that if there were no objections, he would adjourn the Committee of the Whole in order to return to the plenary session.

The Committee of the Whole rose at 11:59 a.m.

Re: Resolution No. 10, "Resolution relating to relocating the Convention on Ponape after the recess."

Resolution No. 11, "Resolution relating to the reconvening of the Micronesian Constitutional Convention on Saipan."

Chairman: Vice President Lorenzo I.L. Cabrera

Chairman Cabrera called the Committee of the Whole to order at 11:07 a.m., and advised the Committee that they would first deliberate on Resolution No. 10.

Delegate Ismael stated that he would like to explain some of the background relative to the resolution because of the deep feeling in the district from which he comes.

Delegate Borja raised a point of order. He stated that before the Delegates could discuss the measure there must be a motion to adopt it.

Floor Leader Tmetuchl moved that Resolution No. 10 be adopted by the Convention. Delegates Olikong and Tachelial seconded.

Delegate Ismael stated that he strongly supports the move to Ponape and felt it would give more people an opportunity to witness the Convention. He further stated that the economic benefits of the Convention should be spread out and that since the Marianas has the Trust Territory Headquarters and, as such, has the economic benefit of the money spent by the three branches of government, it is fitting that another district share in the economic benefits of the Convention. He informed the Delegates that Ponape has enough facilities to accommodate the Con Con. There is enough space in hotels for housing and the new legislature building could be used for a Convention Hall, while the adjacent old legislature building could accommodate the committees and the staff. He felt that the theme of the Convention should be "Unity in Diversity", and the fact that Ponape District has more diverse cultures than any other district and yet is unified might be an inspiration to the Convention. Also, Ponape can offer hospitality perhaps unsurpassed anywhere in Micronesia.

In response to Delegate Carl Heine's remarks, Delegate Ismael stated that the Administration Committee had discussed the move and had come up with a figure showing that the move would save the Convention $86,000. [Delegate Carl Heine's remarks were made in plenary session -- see Journal of the 28th Day.]

Delegate Tmetuchl stated he, personally, would not mind reconvening on Ponape, or, for that matter, in any other district. He said he would assume that other Delegates have personal reasons, in some cases, for wishing to move the Convention to Ponape. Delegate Otter, for instance, might be very much in favor of reconvening the Convention in Ponape for obvious reasons. However, putting personal reasons aside, he wished to identify certain points which he felt should be seriously considered.

Delegate Tun's first point related to finances and other related factors. While some savings will be realized as a result of per diem rate being higher in Saipan than in any other district, and as a result of saving some of the funds presently earmarked for rentals for the White Sands Hotel facilities for a period in excess of three months, the following problems and factors should not be overlooked:

1. The Convention is currently using Congress staff and equipment at no cost to the Convention; however, should Con Con reconvene in a place other than Saipan, it would have to pay the transportation costs for the Congress staff to and from the new site. In addition, Con Con would have to pay for per diem and perhaps even housing allowances, as

is presently being done with other staff members. It is also possible that some members of the Congress staff may not be permitted by their supervisors or family obligations to travel to another site and remain there for a long period of time.

2. Most of the staff members are either local hires, meaning they are residents of Saipan, or they are recruited from outside the Trust Territory. If the Convention were to reconvene on Saipan, it would not be necessary to pay for transportation for any of these people from Saipan to the new site, and, in some cases, from there back to Saipan. Per diem for "local hires" would also not have to be paid by Con Con because all these people will remain on Saipan at least until the end of the Convention.

3. It is possible that some of Con Con's very valuable staff members have dependents and/or spouses working in Saipan, and for this and other personal reasons would not want to continue working for the Convention if it is reconvened somewhere other than Saipan. Possibly, some of these people came on board under the impression that the Convention would be held and concluded on Saipan.

4. Headquarters personnel representing the three branches of the territorial government and departments thereof will have to travel to and from the new Convention site, quite possibly at a cost to the Convention depending upon the availability of funds for travel. One thing for sure, these trips would be costly to the government, whether financed by the Convention or from other public sources.

5. Con Con's equipment and basic supplies would have to be moved from Saipan to the new site and shipment will not be free. There are probably other extra costs not yet known to any of the Delegates or even the administrative staff at this time. Delegates' accommodations may not be more costly in Ponape, but it will be more costly to the Delegates themselves because of the unavailability of apartments in Ponape. For that reason, most of the Delegates, if not all, as well as the staff, will have to live in hotels.

Delegate Tun's second point was that Saipan is more conveniently located than any other district center in Micronesia, as a result of its geographical location and in terms of air transportation system. Saipan, for instance, is the only point which could be reached from any district center in Micronesia within one day, and from which any district center could be reached also within one day. Hence, any Delegate could more expeditiously travel to his home district and return to the present Convention site, should a need for consultation arise. Conversely, district officials and leaders could come to Saipan much more expeditiously if and when they are called upon to do so in connection with the work of the Convention, or if they themselves decide to come to consult with their respective district delegations.

Point No. 3 is that, for the purposes of the Convention, Saipan is a neutral area — more so, at least at this point in time, than any other area in the Trust Territory. The political atmosphere in Saipan now, or even after the Marianas have administratively seceded from the rest of Micronesia, is such that it would in no way hinder or interfere with the work of the Convention. After the people of the Northern Marianas have expressed their political desires and aspirations through the referendum held recently, it is quite unlikely that any of these same people would exert pressure, political or otherwise, on the Convention as a whole or on the individual Delegates.

The fourth point is that in order for the Con Con staff to efficiently do the necessary research work which they are constantly called upon to do, the Library of the Congress of Micronesia, the best equipped legal library in Micronesia, and other Headquarters information sources are available and accessible to them. Headquarters personnel, representing all three branches of the territorial government, who will be called upon to provide information of one kind or another, to testify before the various committees, and to render any other type of assistance to the Con Con, are present and available on Saipan.

The last point Delegate Tun wished to make was what he personally considered as being the intent of Public Law 5-60, as amended. He stated that the Congress of Micronesia considered and finally passed a bill amending Public Law 5-60 which made it possible for Con Con to have a recess or recesses, the total length of which should not exceed 30 days, and appropriating funds for such recess or recesses. The bill, when signed into law, includes funds for compensating the Delegates while in recess, as well as funds for transportation for the Delegates and some staff to travel to their respective districts and return to Saipan. The bill, now a public law, did not include any funds for moving the Convention to another site, even though according to the language of the law it is possible for the Convention to reconvene at another site.

Delegate Tun said that when the bill was first considered for final adoption by the Senate, after passing the House of Representatives, it was defeated. This was on the final day of the session, and, therefore, some quick action had to be taken to revive the bill. After some maneuvering on the floor and outside the Senate Chamber, the bill was reconsidered and finally passed on Second and Final Reading. This took place after some members of the Congress were assured that the Convention would not be moved to another site unless it became absolutely necessary. Had it not been for the people who switched their votes and voted favorably, partly because they figured the Convention could not be moved without any funds appropriated for that purpose, the bill would definitely have been defeated.

Delegate Apis moved that the Committee of the Whole take a recess, subject to the call of the Chair. Delegate Olikong seconded.

Delegate Ngiraked said that before going into recess, he would like to find how some of the Ponape Delegates felt and how much they wanted the Convention in their district.

Delegate Heinrich Iriarte said that they would welcome the Convention to Ponape if the Delegates so desire, but they, themselves, like Saipan.

The motion to recess carried, and the Committee of the Whole recessed at 11:50 a.m.

The Committee of the Whole reconvened at 12:00 noon.

Delegate Wainit stated that the Administration Committee, which handled and deliberated on Resolution No. 10, recommended that Ponape be the next site of the Convention, and he did not feel the Committee would recommend Ponape for whimsical reasons, but for good and sound reasons. He stated that Ponape offers adequate facilities for use of the Con Con. The Committee feels that reconvening in Ponape offers the cheapest alternative to the taxpayers. Delegate Wainit said that Ponape is centrally located in Micronesia and offers the best chance for all people to witness the proceedings of the Convention in view of the accessibility to the Marshalls and Truk. He asked what there was to lose if the Convention does not reconvene in Saipan. He stated that the experience of the Con Con since its inception has been, because of the litigation over the site, rather unpleasant. He stated that other sites explored were either too small or not available and questioned why this very important historic body should deliberate in an unpleasant atmosphere. He felt that the drawing up of this important document should be done in a pleasant atmosphere which, he felt, exists in Ponape, and that this historic task should be done on Micronesian soil, which it would be in Ponape.

Delegate Borja stated he would be remiss if he did not extend the gratitude of the Marianas Delegation and the people for all the good points put out in support of having the Convention reconvene in Saipan. He stated he respected both pro and con arguments on the resolution. He said he had received the impression that some of the Delegates did not feel welcome on Saipan, and wished to assure them that they were accepted as part of the Marianas people. He noted that because of the housing shortage which exists, he asked his General Manager to vacate his concrete building, thereby permitting five of the members of the Truk Delegation to be housed there. He said he had seen no indication from the people of the Marianas that the Delegates were not

welcome in Saipan. He stated that the Mayor in his opening address to Con Con offered assistance and welcome to the Delegates, and if their hospitality is not enough, the Delegates should make that known so that the Marianas people can solve their problems, such as social activities in the evening.

Delegate Borja was interrupted by Delegate Cruz. Delegate Borja yielded.

Delegate Cruz stated he was somewhat embarrassed because most of the Delegates were losing money in the slot machines.

Delegate Borja reclaimed the floor and stated that he wished to inform the Delegates in favor of moving that he would not be selfish about wishing all the income from the Convention to come into Saipan. He stated that if it were absolutely necessary to move, the Marianas Delegation was willing to do so, but he felt that all the advantages and disadvantages should be considered. He stated that Delegate Ton's remarks about the passing of the bill in the Congress were accurate, and stated that he was the one who put in the vote which passed the bill. He stated he did it for humanitarian reasons since he feels 90 days is too long to work continuously. He stated he did not want Con Con to relocate because of the expense involved and felt that if money is saved it could be used for programs for the people of Micronesia. With respect to the lawsuit of the hotel, he did not feel this would have any effect on the Convention's work, but if it did, he felt there were other places on Saipan that could be used, such as the Congress of Micronesia, which could be expanded for only $2,000. He stated that, with regard to the political future of the Marianas, they are not sure about that, and they are here as Micronesians, and if the Senate disapproved the Covenant, they would be part of Micronesia. In conclusion, he stated that his door is open to the Delegates, his store is open to them, his cars are open to them, and he would do his best to make this an enjoyable and productive session.

Delegate Falcam stated he would like to clarify some points on behalf of his delegation. He felt it unfortunate that the resolution had generated some debate. He stated that whether Con Con moves or stays here, there would be practical problems to face. He stated the decision to move the site is a very important one. He stated that the people of Ponape would welcome the Convention if Con Con decided on that site, and stated that the Ponape Delegation understood the impact of such a move and would not shirk the responsibility of hosting and welcoming the Convention with open arms. He stated the decision was up to the Convention to make, and he did not want to match one district against another over this issue. Delegate Falcam said he felt the Delegates were all responsible individuals and could see both sides of the picture. He assured the Delegates again that the people of Ponape would welcome them with open arms, knowing all the practical problems they would face, and knowing all the problems facing the Con Con in Saipan, and he thanked the Delegates from the Marshalls, Yap, Truk, and lastly, but not the least, from the Marianas for their remarks.

Delegate Nanwi rose for a point of inquiry. He stated that he had noticed the resolution to relocate was signed by only one cosigner from Ponape, but the other resolution carried more cosigners from Ponape. He stated he was grateful for the offer from Ponape and stated that there were Marshallese who wanted the Con Con to come there, but he did not feel any district was ready to host the Convention. He said that although money might come in to the district which hosted the Convention, a lot of money would be spent on hospitality, according to the custom.

Delegate Sony said that with all due respect to the Delegates, the honorable traditional chiefs and paramount chiefs of Ponape, he would like to point out two things. He stated the Delegates should not forget their constituents' trust in them to accomplish this very important task of drafting a Constitution for Micronesia. He warned that if the Convention moved to Ponape, from his past experience at the Traditional Chiefs' Conference, it might not be able to accomplish its task because of their custom of Komalip, which might be breakfast, lunch, brunch, and on and on, and, therefore, the Delegates might not be able to have enough time to work on things.

Delegate Kony's second point was that with the Marianas moving out of Micronesia, it might be well to have the Constitution of Micronesia drafted on Saipan to show there is a genuine desire to have the Marianas remain with the other five districts. He added that this is a sensitive issue and for that reason he would like to move that the vote on it be by secret ballot.

Delegate Albert seconded, and the motion carried. The pages passed out ballots to the Delegates.

Floor Leader Tmetuchl pointed out that the vote of the Committee of the Whole would have to be formally adopted by the plenary session by a two-thirds majority.

Delegate Isaac Ilanwi asked if he might be excused from voting and was told that was not possible.

Delegate Carl Heine asked how many votes were needed in the Committee of the Whole and was informed by the Chairman that a simple majority was needed.

The Convention Secretary reported to the Committee of the Whole that the vote resulted in 15 Ayes and 32 Nays.

The Chairman asked for a motion to resolve the Committee of the Whole and report back to the plenary session. Delegate Weital so moved. Delegate Olikong seconded.

Delegate Borja raised a point of information. He stated he felt the Committee should also act on Resolution No. 11 before reporting back to the plenary session.

Floor Leader Tmetuchl stated that was correct. The Committee of the Whole ought to act on Resolution No. 11. The motion included the second resolution. He moved that Resolution No. 11 be adopted. Delegate John Heine seconded.

Delegate Nimwes stated he saw no reason to adopt Resolution No. 11 since it is just a contrary resolution to the one just defeated by the Committee of the Whole, and suggested it be deferred until next week, Friday.

Floor Leader Tmetuchl so moved. Delegate Philippo seconded.

Delegate Cruz stated he was somewhat lost. He stated that the Convention had already passed a measure on a recess, and he felt that if there is to be a recess, the Delegates should know where they will be reconvening.

Delegate Isaac Ilanwi stated that since the resolution to reconvene in Ponape was defeated, there is no point in discussing the one on Saipan, since it is the only place there is, unless someone introduces another resolution, and he said he felt his delegation would not approve reconvening in the Marshalls.

Delegate Borja stated he wanted to be on record as appreciating the motion by Delegate Nimwes to defer action, but if he did not know the timing of the deferment, he would be reluctant to vote on it. He further stated he would like to strike out all the WHEREAS clauses and just leave the resolving clause in Resolution No. 11.

Floor Leader Tmetuchl stated that the motion to defer action on the resolution until August 15 is in order.

Delegate John Heine stated he had heard in the discussion that this is a political event, and he would like to be on record that although this is a political event, he does not want it to be a political football to be kicked around. Therefore, he suggested the Committee vote and decide what it wanted to do.

Delegate Borja apologized to Delegate Nimwes and stated he had not heard the timing but was now satisfied.

The voice vote was inconclusive.

Delegate Cruz said he was concerned about the redundancy of what had been done that morning. He stated there were many important things to be done, and, therefore, he requested that the Committee act favorably on Resolution No. 11 and finish the issue once and for all.

Delegate Isaac Ismwi suggested a secret ballot.

Floor Leader Tmun said it was usual to vote on a motion to defer by voice vote or division, which means a show of hands.

The motion to defer was defeated by a show of hands.

Floor Leader Tmun stated that since the motion to defer was defeated, the main motion to adopt the resolution was now on the floor.

The motion to adopt Resolution No. 11 carried. Resolution No. 11 was adopted by the Committee of the Whole.

Delegate Tmun moved that the Committee of the Whole rise. Delegate Olikong seconded, and the motion carried.

The Committee of the Whole rose at 12:50 p.m.

Re: Committee Proposal No. 1, "A Proposal providing for Freedom of Speech and Press."

Chairman: Vice President Leo Falcam

Chairman Falcam called the Committee of the Whole to order at 11:33 a.m., and requested that the Convention Secretary read the text of the proposal in its entirety. The Convention Secretary read the following:

> "Freedom of Speech and Press. No law shall abridge the freedom of every person to speak, write, publish, photograph, illustrate, or broadcast on any subject or to gather, receive, or transmit knowledge or information, but each person shall be responsible for the abuse of that liberty."

Delegate Weital stated that the Convention is working to come up with a Micronesian Constitution, and he did not find in the report of the Civil Liberties Committee anywhere that it empowers a district to set up its own law regarding freedom of speech or freedom of press. He said that the people of Ponape had expressed to him before the Convention's inception their wishes on how to deal with this important subject. Mr. Weital stated that his concern is with the taboo that each district has with regard to speech and press. He said that to Ponapeans, the freedom of speech and freedom of press is not a custom. He said the point he was making was whether there was a possibility of treating these freedoms so that each district could handle them.

Delegate Wainit stated he was very much concerned about the extent of this proposal. He asked the members of the Civil Liberties Committee to enlighten the Convention as to just how far they want this right to go in Micronesia. For instance, the right to photograph -- he questioned whether it would allow photographing of, for instance, secret weapons, and asked for further clarification from the Committee.

Chairman Carl Heine, in reply, stated that the Committee on Civil Liberties had had extensive public hearings, as well as much discussion in committee covering the whole range of this particular right, the right of communication or expressing one's self, as well as the right to write and publish, and they felt that no right of expression and communication comes without the right of the publishers and printers. These go together. He stated that the committee debated extensively also the fact that there are customary restrictions in various districts of Micronesia, but it was their conclusion that since these rights are fundamental and basic throughout the world in these days, it was their feeling that rather than giving option to the districts, there should be a uniform policy throughout Micronesia in this regard. He stated he was not aware of top secrets in Micronesia, as indicated by Delegate Wainit, and said the committee felt that these rights -- freedom to speak, to write, publish, photograph, and so on, are very fundamental and very important, and they should not be restricted in any way. The Committee's approach to the matter is to leave certain room for the courts to determine the meaning of the Constitution rather than restrict and specify what can or cannot be done.

Delegate Chief Bossy asked the whole Convention to consider the Committee Proposal very carefully for two reasons. One, these freedoms are outside concepts and are not in Micronesian culture. He stated that if somebody says something bad or nasty, it may be okay in America, but in Truk the relatives can come and beat up the person who made the statements. The same can happen if someone draws a picture. American people drew ugly pictures of Nixon and it is okay, acceptable there, but in Truk one could also get hurt by drawing ugly pictures of someone's relative. So, in view of this, he asked that the Convention give serious thought to this and remember that it is only necessary for Micronesia to have information from the outside

and have communications between themselves.

Delegate Isaac Ianwi felt that it was not necessarily following the American style to have these rights. He stated he has a large family, and sometimes when they want to say something to him they cannot, because of the custom, and he would like to relieve them of this so that they could talk freely with him. For that reason, he said, he supports the proposal. Delegate Ianwi said he wanted to relieve all those under other authorities. For example, his wife could not say something because she is below him, and since we are trying in this Convention to liberate women, not to give them this right would be discriminating against them. He felt that if the proposal is no good, then he wouldn't allow any Trukese or Ponapeans to come to the Marshall Islands because their words are insulting the Marshallese because of the differences in the meanings of words in the different languages.

Delegate Bony pointed out that freedom of press and speech are very important links within the education of the public, to have an informed public. He stated he could not see why the leaders of the national government should be the only ones to know secrets, and asked, "What if the secret is detrimental to the public? Should it then be allowed to stay a secret from the public?" With regard to the statement of Delegate Weilad, that those two things are foreign, he wonders if the Convention is thinking of closing the door of Micronesia, and whether it is saying that Micronesia is incapable of assuming responsibility. He personally feels that each individual in Micronesia knows what a libelous statement is. He further stated he feels a person is free within his own circle, and asked that the Delegates not forget that each is free within his own circle.

Delegate Kallies wanted to point out that the people have responsibility and no one can just go up and insult somebody. He stated he agreed with Dr. Ianwi's remarks.

Delegate Weilad stated, in response to Delegate Bony, that he is not trying to close the door for freedom of speech and press, but he is relaying the desires of the people he represents. He stated he wanted to be on record that he is just extending the wishes of the people he represents and said that they had mentioned this to him that they don't want freedom of speech and press unless it is in accordance with the customs of Ponape. This was the reason for his question, and he is not trying to close the door of Micronesia. He felt it could be put in the Constitution in a Micronesian way.

Delegate Ngiraked said his question had to do with the language of the proposal. He felt it went much beyond the usual standard limits and asked if there was a specific reason for that.

Delegate Ehmes asked if Delegate Ngiraked could be more specific as to what he had in mind. He stated that it is his understanding that the Committee Proposal will go to the Style Committee for final wording and streamlining and stated he could not specifically answer the question without knowing what the gentleman had in mind.

Delegate Ngiraked stated that he was referring to the language that "no law shall deprive any person or abridge his right to enjoy freedom of expression," as in parliamentary law. This is maybe a technical question, he continued, but he felt the committee went much further, and he wanted to know the reason for that, because it seems that this law goes much further in the rights to be exercised in Micronesia than are usually applied.

Delegate Heine stated that the actual language of Section 2, which they are proposing to have in the Constitution, is in the proposal itself. He said the Committee Report is quite extensive, and the staff of the committee went beyond to give as much explanation to the members of the Convention as possible. The actual language, he felt, is quite standard in the normal usage of these two rights.

Delegate Ninwen raised a point of information, relating to line 5, which says, "... but each person shall be responsible for the abuse of that liberty." He asked whether this would encourage the people to abuse the right.

Delegate Heine said he may be mistaken but felt that was technical, legal language and that the lawyers would have to cope with that. It was his feeling that it meant that each person will be responsible for his actions in the exercise of his rights of free press and free speech.

Delegate Nimwes stated he felt this ought to be clearly explained so that the general public will not take for granted these rights should be abused. He further asked about publishing and photographing. He stated that he was sure most of the Delegates have gone abroad many times and seen bookstores, and he wondered if the types of books and magazines displayed there would be accepted throughout Micronesia, and he thought the proposal should specify certain areas in this regard.

Delegate Mainit said there is no question in his mind that everyone in the Convention would like some kind of freedom, but he thought that, being human beings and subject to our own preferences, some restraints should be put on these various rights.

Delegate Borja said, with all due respect to the Delegates who have expressed their reservations on the Committee Report on Proposal No. 1, it is true that some of the districts have differences in customs and traditions, but he felt in all fairness, he would like to go on record as supporting the report that the freedom of speech and press should be uniform throughout Micronesia. He stated he felt it was a basic principle of fundamental rights in Micronesia, and he would like to see it, whether or not the language was changed in the final proposal. He further stated it should be extended to each district and if abuses occurred, they could be taken care of by criminal or civil action in the courts. He stated that, with regard to line 5, for the past 30 years the Trust Territory Code has given certain freedoms, but still if a person is libeled or slandered, that person has the right to go to court for satisfaction and to recover his rights. He felt legislation could be made to take care of abuses, but he also felt that if these rights are limited in Micronesia because of certain traditions and customs, it would not be a democratic society. He stated the present TT Code recognizes rights and customs if they are not inconsistent with the law. He concluded by saying these points are very important for the Convention to consider for the people of Micronesia.

Delegate Philippe stated the Convention was building a nation, and they should not copy from the outside world something not applicable or according to traditional law. He stressed that the traditional ways should be applied to the Constitution as much as possible. He agreed that some restrictions or limitations should be put into the Proposal. He stated he agreed with Delegate Nimwes that there were publications which were not good for children to see. He also stated he supported the statements of Delegate Chief Bossy. He said he was not against the proposal but wishes to have it specific.

Floor Leader Tmetuchl, in order to get the Convention on the proper course, moved for adoption of Committee Proposal No. 1. Delegate Tun seconded.

There was discussion about the proper procedure, and it was the consensus that the Committee of the Whole could proceed with discussion.

Delegate Chief Bossy stated he wanted the Convention to understand that he is not wholeheartedly against the proposal, but just offered some of the reasons why he did not agree with it completely. He asked the Convention to remember that they are writing a Constitution for Micronesia, and hence must use Micronesian traditions and lifestyles as a basis for drawing up the Constitution. He stated that while it was true they could learn from the outside world, the good things should be taken and used, but the bad things should not be taken. He stated he would like to have these freedoms in the Constitution, but they should be restricted for the reasons he stated.

Delegate Mwoly stated it is not their custom to allow funny drawings; it is not their custom to write books or print pictures that are bad. He suggested that this be deleted from Freedom of speech and freedom of the press. He also suggested that this proposal provide that these freedoms be given to

Micronesians but each legislature should also provide in legislation restrictions on what is allowed in their specific district custom.

Delegate Robert stated that being from Truk, he knows how hard it is to take criticism; however, in framing the Constitution he hopes that the Convention does not have as a frame of reference only the present generation. He feels this should be a Constitution that would benefit posterity as well. He said he would like to bring attention to the fact that what the Delegates are actually doing here is creating a big monster, a monster that may delegate certain authorities and powers to certain people, and they should be very careful about these powers given to Congressmen, executive heads, department heads, because these people are only human, given to human weaknesses, and it is human nature to tend to abuse power sometimes, so there should be safeguards against this to protect the people from their leaders, who are also their servants. With regard to customs, he pointed out that it is not our custom to use cars; it is custom to walk. It is not our custom to use outboard motors; it is custom to use canoes. It is not custom to fly; it is custom to travel by sailing. This is changing because of necessity. It is the dictates of the times, and he felt, therefore, that restrictions should not be set from which posterity would suffer. [Applause.]

Delegate Ismael raised a point of information. He said the wording is "no law shall abridge the freedom of every person ..." and asked if this meant that any person could come out and take pictures. He asked if this meant any district legislature would not be able to make laws prohibiting this.

The Chairman further clarified the point of information by asking if this proposal would allow obscene pictures, things of that nature, and the district legislature would not be able to regulate it.

Delegate Heine replied that that could be left up to the courts. Someone could challenge it and take it to court, and the committee wanted to leave some room for that. As for the language, it is his understanding that there shall be no law abridging those rights to speak, write, publish, photograph, and so forth.

Delegate Ismael said that if there were any way to amend the proposal so it would give certain rights to the state or national government to legislate in the interest of people in the future, he would like to see that written in the Constitution. He would like to leave room for the legislature to legislate according to the need at the time.

Delegate Cabrera stated he was ready to cast a yes vote on the proposal, but before doing so he would like an assurance from the committee that there would be a proposal from the committee relative to the basic right and privilege to privacy. He stated the proposal deals with the right of an individual to write, speak, photograph, etc., but what rights does he have to protect him from this individual? He said he would like to see a part of the Constitution dealing with protection and the right to privacy.

Delegate Ngiraked stated it was obvious from the discussion that everyone in the Convention wishes to see some kind of freedom of expression exercised by the citizens of Micronesia, but he felt the main concern is to what extent. He felt the committee tried their best to come out with a proposal, and a lot of people who should have gone to the committee during their deliberations to express their views did not, and, therefore, he recommended that action be deferred on the proposal to provide an opportunity for those concerns to be expressed to the committee.

Delegate John Heine wished to go on record that he would like to support the proposal, but his only difficulty is with line 2 which says "no law shall abridge..." He stated it should read "the law shall guarantee..." He stated he would then feel more secure about it.

Delegate Isaac Ianwi stated he didn't feel the proposal was allowing people to do bad things. He stated all the Delegates came to draft a good Constitution, not to allow people to do bad things. He said this could be understood as the freedom to say good things, and if the Convention was worrying

about bad things, there must be censorship so that people could check on these things. He further stated that there is already a law on this.

Delegate Weilbal pointed out that in addition to his own judgment about this proposal, he is also speaking on behalf of the people he met before coming to the Convention.

Delegate Andrew said, with regard to Line 4, that the way it is now anybody could write or speak about anything, so he suggested that it be amended to add a restricting clause in there.

Delegate Remy said he was very surprised that although talking about customs, the Convention did not seem to know that there are customary laws. He felt it should be understood that saying something bad violates customary law. He said that regarding restraints, Micronesians have already learned those restraints since childhood, and they know the customs and should know what is bad and what will violate the customary law, so he felt there was no need to specify those things.

Delegate Carl Heine stated he was amazed by the extent to which the Convention has been able to talk in generalities. He assured the Convention that in the Constitution there would be adequate protection of customary laws and rights. He stated the Delegates were kidding themselves if they felt the Constitution would abolish all the problems in Micronesia. Problems of disputes and customary rights will continue. He pointed out that if the Convention is to build a new nation and a new society in Micronesia, they ought to realize the function and task here is to provide some guarantee in the Constitution to protect those who feel their rights might be violated later on, so they can go to court and defend their rights. He said he heard in the Convention this morning that it is our custom to write bad things, but he felt it was custom to write good things. He stated the members were dwelling on the negative and forgetting about the positive. He stated if all these things mentioned this morning were included, they would violate all the free society he would like to build for future generations. He stated it was his personal feeling that he is constructing a Constitution for unborn generations of Micronesians because he knows that custom and traditions will continue to exist in Micronesia. He said they have been talking about rights to liberate women, but he realized that would not happen in the next few years, but that these rights should be provided for so that young ladies in the future who have qualifications to deal in the world of man shall have those rights. This is the same thing with freedom of the press and freedom of speech. He said freedom involves responsibility, and he felt no man would violate his own responsibility. He stated thought is the wise achievement in the whole history of evolution and free thought everything emanates, even to having your own opinion of others. This, he said, in what the committee is trying to protect — each man should have the right to hold opinions, to think, to write, to publish what he writes. It is up to the court to punish him if he violates his own responsibility. Delegate Heine moved that the proposal be adopted and assured the Convention that it would be given to the Style Committee, and they would work on the language which seems to bother everyone, and then it would come back to the Convention for another reading.

Delegate Chief Rabbey seconded.

Floor Leader Tmetuchl stated that there was already a motion on the floor to adopt the Committee Proposal No. 1. He stated he had some difficulty with the provisions proposed. He said on the one hand it specified in some detail his rights, but on the other hand it is not clear what his responsibilities are. He stated he believes that his liberty ends where somebody else's rights begin, and in that respect he is not sure his responsibilities are adequately expressed.

Delegate Tmetuchl felt that freedom of speech and press is one of the basic tenets of individual liberties and ought to be included in our Constitution. He believes also that restrictions of some sort should be imposed. He further said that with regard to the language, while the Style Committee would take

a close look at the language, every committee should try to come up with acceptable language which would form a basis for discussion in the Committee of the Whole, as well as the Plenary Session. He felt there was also some fear that customs were not adequately protected under the proposal with regard to freedom of speech and press. He felt that no agreement would be reached in the Committee of the Whole, and, therefore, he requested that the Committee of the Whole report back to the Plenary Session that it is as yet unable to reach a consensus and that it should be given further time, until Thursday, to discuss it.

Delegate Weital seconded the motion.

Delegate Yoma said, with respect to the underlying concern about pornography expressed by the Delegates, that pornography is not protected by the Bill of Rights and can be regulated by local authorities or by legislation, and, therefore, if the concern is that there will be runaway pornography in the districts, that is not so. It is subject to law.

The motion to rise carried, and the Committee of the Whole rose at 12:15 p.m.

SUMMARY MINUTES COMMITTEE OF THE WHOLE AUGUST 13, 1975

Re: Resolution No. 16, "Resolution relating to the Convention's administration during the recess."

Chairman: Vice President Chalomo Mimmes

Chairman Mimmes called the Committee of the Whole to order at 11:17 a.m., and asked for a motion regarding Resolution No. 16.

Floor Leader Tmun moved for the adoption of Resolution No. 16. Delegate Techelial seconded.

Delegate Cruz asked if the author of Resolution No. 16, or the appropriate committee chairman, could explain some of the intention of the Resolution. He stated that he was somewhat confused to think that only recently the Convention had defeated a motion to move the Convention to another site off Saipan, even though Resolution 16 was somewhat self-explanatory. He said that the last receiving clause of the Resolution provided that the Convention could be relocated to a site other than Saipan.

Floor Leader Tmun explained that, while he was not the author of the Resolution, but the introducer of same on behalf of the Administration Committee, he would try to answer the question posed by Delegate Cruz. He stated that the primary intent of the Resolution was merely for the Convention to authorize the President, in consultation with other members of the Administration Committee, in case of emergency for one reason or another causing the Convention to be unable to reconvene in the White Sands complex, to relocate the site of the Convention either to Saipan or somewhere off Saipan. He further stated that they did not anticipate any problems, but the Resolution would cover any contingency that was not foreseeable at that time.

Delegate Weital questioned the fourth WHEREAS clause, from line 15 on page 1 to line 3 of page two. It seemed to him that the research staff of the Convention would continue to provide research, but questioned what the other staff members such as pages and clerks would do during the recess. He wanted to know if they were included in that provision.

Floor Leader Tmun stated that he believed the Administration Committee had not as yet received a recommendation from the Secretary and Director of Administration as to who would be affected during the recess. He said that the Convention Secretary, his assistant, the Director of Administration, and the Director of Research and Drafting and his staff, and perhaps others, would have to remain on during the recess in order to provide continued assistance in drafting and research for the various Delegates. Other staff, such as pages, had not had their status during the recess decided upon as yet. The district staff, he believed, were scheduled to return to their districts with their respective delegations.

Delegate Borja asked for further clarification of the response of the Floor Leader to Delegate Cruz' question. He said it seemed to him from page 1, lines 13 and 14, that if court action or legal cause barred the Convention from reconvening at the present site, then the President would be authorized to exercise Rule No. 7 with the Administration Committee. And they would then select another site for the Convention, with Saipan as a first preference, perhaps the Congress of Micronesia or the Continental Hotel, or any other place, and if that was impossible, then consideration would be for a site off the island of Saipan. He asked if under those circumstances, the Convention might be taking place in another district.

Floor Leader Tmun said that he felt the question answered itself.

Delegate Borja said he appreciated the enlightenment of the Floor Leader,

but he was trying to get a consensus that only through legal action barring the Convention from continued use of the present facilities, or only if it was necessary, would the Convention be relocated. If that was the case, he felt the Resolution was in order. He stated that only if relocation were undertaken because of legal action could he endorse the Resolution.

Floor Leader Tman said that in order to satisfy his good colleague from the Marianas and for the record, the legal question referred to in the third WHEREAS clause was the only foreseeable question, and that they were hopeful that it would not happen but they couldn't foresee that it would not happen. He stated that there were other contingencies, of course, which were not foreseeable at this time, but his good colleague from the Marianas was correct in that Resolution No. 16 does not supersede the other Resolution which was adopted by the Convention to reconvene in Saipan. He stated that this Resolution No. 16 gives flexibility and leeway in case of an emergency, and was needed to relocate from this complex, to allow the President to do so after consulting with other officers of the Convention.

Delegate John Heine said that the Floor Leader had explained the difficulty he had in his understanding of the Resolution to move to any other district but from this particular hotel in case there was some legal action which would prevent the Con Con from reconvening at the White Sands, but that the site would remain in Saipan as indicated by the first Resolution to move the site from Saipan to Ponape which was defeated. Therefore, he understood that the site was still Saipan. He thought that this Resolution talked in terms of a building and that the site was still Saipan. Was he correct?

Delegate Fuleam stated that he was not attempting to answer the question, but he would like to move for the previous question.

Floor Leader Tman stated that he regretted to inform the Committee of the Whole that the Committee is not at liberty to order the previous question.

Delegate Toribiong responded to the question raised by Delegate John Heine. He stated that in line 15 of the Resolution where it states "...the President is empowered to move the Convention to such other site on or off Saipan...", his understanding was that the President would be empowered to transfer the site to any other place if he could not secure a building to house the Convention. He stated that unless the words "or off" were deleted, the President would not be limited to Saipan.

Delegate Sony stated that he could not hear Delegate Toribiong's statement and asked that it be repeated.

Delegate Toribiong stated that he was responding to Delegate John Heine's question about whether or not the President could transfer the site of the Convention to a different place. In his reading of the Resolution, beginning on line 15, it states that he could. To him, the words "or off" left no doubt that he could move the Convention to any place; Tinian, Ponape, or Guam, or another place.

Floor Leader Tman stated that the observation made by Delegate Toribiong was correct, but he wished the Delegates to read it in the context of the whole Resolving clause which says "in case of emergency."

Delegate Isaac Ianwi said that the Resolution was to give the power to the President or the officers who remained during the recess to select another place in case of emergency. He stated that he was going to move for the previous question, but since Delegates were not supposed to "move", he moved to stop debate and wanted to know if that motion was in order.

Floor Leader Tman stated that he regretted it was not in order.

Delegate Sony stated he did not understand why these uncertainties should come up. He wanted to know if this Resolution was adopted, would it cancel

Resolution No. 2 adopted earlier.

Delegate Cabrera wished to make some observations with respect to the Resolution before the Committee. He said that he had every reason to believe that the Convention would not move away from the present site, and he believed it would not be moved to Guam or Palau or elsewhere. He did not want to seem patronizing because of the money that will be spent in Saipan by the delegates, but the Resolution merely provided for some mechanism so that if something happened during the recess, the Convention would have the means to relocate. In speaking of the present lawsuit, while he did not know the outcome, in case something happened the Resolution would give a safeguard.

Delegate John Reine said that he would like to amend the Resolution on page 2, line 15, to delete the words "or off." Fritz seconded.

Floor Leader Tmetuchl stated the motion was in order and that the line reading "...such site on or off..." would then read, if the proposed amendment was adopted, "...such other site on Saipan..."

Delegate Wainit questioned what would happen if there wasn't another site on Saipan to the point where it would tie up the Convention. He felt there would be some danger of not having another site, so he felt the language of the Resolution was in order.

Delegate Cruz stated that he did not understand why some of the delegates were concerned about the possible outcome of the litigation about the hotel. That it was a matter of logic. He believed that the dispute in question was over the ownership of the hotel, and that whoever was awarded the ownership would not interfere in any way for the Convention to continue its work. It would be for monetary reasons so it was only logical that whoever won the award would want the Convention to continue using these facilities. He stated that any facility is useless without business -- not making money. Also, there are other facilities on Saipan, the Continental Hotel for one, and the Congress of Micronesia for another. Therefore, he supported the amendment to Resolution No. 16.

Delegate Fulcrum stated that he was surprised that a simple Resolution had created such discussion because it was only a fallback proposition. He said that the Resolution was only the means to provide the mechanism that could be used in case, and be repeated in case, the Con Con had to move. He also stated that he did not think the Delegates should tie down the Convention or the Administration Committee by deleting the words "or off" from the Resolution. He felt that his friend from Truk's suggestion was in order, that the Resolution was quite clear. He didn't think it was necessary to delete the word "off" from the Resolution, that anything could happen. He cited as an example the fact that one of the officers Clouds when it rains heavily and said that if that continues the Convention would be facing one problem after another, and that the Resolution was very simple. He suggested that the Convention get on with it and go on with things that were more important.

Delegate Techelbel stated, as his colleague from Truk had stated earlier, that Resolution No. 16 and the Resolution that was adopted before were in conflict. He did not believe they were in conflict because the previous Resolution was to move the site to Ponape, not other places. Resolution No. 16 said to move the Convention either to the same site, meaning here on Saipan, or off some place else. He felt that the Resolution was in order and was ready to cast his affirmative vote.

Delegate Tordibum questioned whether the defeating of the former Resolution would supersede Ponape from being selected if Resolution No. 16 was adopted. He said it was immaterial whether "on" or "off" was in the Resolution and urged that the Resolution be adopted either with the "off" or without the "off".

Delegate Bony stated that he felt the proposed amendment was in order for the simple reason that the Resolution adopted would cause reconvening here in Saipan.

Delegate Isaac Ianwi felt that the Resolution was in order but that it was not proper to delete the word "off" because it provides a safeguard. He cited as an example Typhoon Jean and other Acts of God, and said that the Resolution was for the purpose of convenience.

Delegate John Heine stated that Resolution No. 16 was almost as serious as the other Resolution which had been discussed for over an hour -- that they were talking about moving the site from Saipan to another place. The Resolution to move the site to Ponape was defeated and that if they deleted the word "off" from Resolution No. 16, then the Convention could be moved to any site from Saipan, other than Ponape, because the other Resolution was still in order (to have the Convention reconvene on Saipan). He therefore urged clarification. He wished to remind the Delegates that if this Resolution was passed he felt sure that we would not be above moving the site to Ponape until we killed the other Resolution. In case of an Act of God, then they must go back and kill the other Resolution first and then act on this one.

Delegate Willmadee stated that with regard to Delegate John Heine's comments, as a member of the Administration Committee, he wished to assure Delegate Heine and other Delegates who were not members of the Committee on Administration that the Committee was not manoeuvering the moving of the Con Con from Saipan. He stated that the last resolving clause in this Resolution tries to empower the President first to find a new site in the light of the legal dispute of the ownership of the hotel. Second, it also gives leeway for the President and the Administration Committee, in case every other effort and all efforts failed, to find a place on Saipan. Therefore, the word "off" was included in the Resolution to safeguard the continuance and the making of a Constitution within the 90-day period.

Delegate Yoma stated that on behalf of the Ponape Delegation, if Resolution No. 16 was still in force and if Resolution No. 16 was passed, and the site had to be relocated, it was not fair because it means that the Convention could not go to Ponape District.

Delegate Paribiong stated that he had an observation to make; that the President should be empowered to move the Convention to any site on Saipan first, then any other site off Saipan, then that would satisfy everybody.

Chairman Niawes then asked if everybody was ready for the question on the motion to delete "or off" on line 15 of page two. The motion was defeated.

The Chairman then moved to the previous question, i.e., the motion to adopt Resolution No. 16. The motion carried by unanimous vote.

Floor Leader Tmetuchl moved that the Committee of the Whole resolve itself and report back to the Plenary Session. Delegate Falanruw seconded. The motion carried and the Committee of the Whole resolved at 11:52 a.m.

Re: Committee Proposal No. 1, "A Proposal providing for Freedom of Speech and Press.

Chairman: Vice President John Ngiraked

Chairman Ngiraked called the Committee of the Whole to order at 11:11 a.m.

Delegate Card Heine moved for the adoption of Committee Proposal No. 1 by the Committee of the Whole. Floor Leader Tmetuchl seconded.

Delegate Nimmes requested that the Convention Secretary read the text of the proposal in its entirety. The Convention Secretary read the following:

> "Freedom of Speech and Press. No law shall abridge the freedom of every person to speak, write, publish, photograph, illustrate, or broadcast on any subject or to gather, receive, or transmit knowledge or information, but each person shall be responsible for the abuse of that liberty."

Delegate Falcam stated that he would like to offer two amendments to Committee Proposal No. 1, if it was in order as far as the Convention rules were concerned. He suggested that the proposed amendments be considered while the Convention deliberated on Committee Proposal No. 1. Prior to offering the amendments, Delegate Falcam stated that they believe in the philosophy that fundamental rights of all human beings must be protected. At the same time, they recognize that they have in every district, separately or together, some cultures and some traditions dear to their hearts which must be protected and preserved. For these reasons, the following amendments were offered:

Amendment No. 1: On page 1, lines 2 and 3, delete the words "No law shall abridge the freedom of every person" and substitute the following: "Each person shall be free".

Amendment No. 2: On page 1, line 6, delete the period and substitute a comma and the following: "including violations of Micronesian customs, traditions, and standards of morality protected by District legislation."

Delegate Falcam further stated that they believe that the proposed amendment does not change the intent of Committee Proposal No. 1, that it merely upholds the different peculiarities that may exist in the districts of Micronesia. He urged the Delegates to give the proposed amendments serious consideration and favorable action.

The Chairman asked if Delegate Falcam would care to amend the motion to incorporate the proposed amendments. Delegate Falcam so moved and Floor Leader Tmetuchl seconded.

The Floor Leader requested that the sponsor of the proposed amendments read them again at writing speed. Delegate Falcam advised that he had just transmitted the proposed amendments in written form to the Convention Secretary.

The Chairman then requested that the proposed amendments be read and the Convention Secretary complied with the request.

The Chairman inquired if the maker of the motion had processed the proposed amendments through the Convention's legal staff to get their opinion as to whether or not the objective would be achieved from a legal standpoint.

Delegate Falcam answered in the affirmative, that the proposed amendments had gone through the drafting section of the Convention in accordance with the Rules of Procedure.

Delegate Walnit moved for a short recess in order to allow time for the distribution of the proposed amendment. Floor Leader Tmetuchl seconded.

The Chair declared the Committee of the Whole in recess, subject to the call of the Chair, at 11:20 a.m.

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

Delegate Carl Heine stated that if the Convention adopts the amendments, he felt that they might as well forget what they came for and go back home. He said that the amendments were tantamount to creating a police state out of Micronesia, that it will mean that every district legislature, every municipal council, and probably every other organized body in Micronesia could legislate the basic fundamental freedoms. He stated that what customary right is, is not understood, that they don't know, and that customary rights would be placed over basic fundamental rights if the amendments were adopted. He stated that the phrase "no law shall abridge the freedom of speech and press" refers to the freedom and not the abuses of the freedom. Thus, legislatures, while prohibited from enacting laws abridging freedom of speech and press, are obligated to enact laws to protect the general public from the abuses of these freedoms. As he did not see anything wrong with the phrase in the original proposal, he moved to amend the amendment and go on with the original.

Floor Leader Tmetuchl stated an objection with regard to a point of order.

Delegate Nimwes asked if, under the proposed amendments, it would mean that the district legislatures could legislate as to what their customs and traditions were.

Delegate Falcam stated that the answer to Delegate Nimwes' question was in the negative, that they merely recognize that there may be legislation on the books today in any one district affecting certain traditional rights and customs and that there may be future legislation to regulate this area. They want to protect those rights in existence, if any, and future potential legislation. He stated that the amendment is simply protecting realities as they exist today, that customary rights are rights that they all know -- cultures that they all appreciate. These rights are seen, felt and practiced today in all districts, that they are rights that should be recognized and protected. Further, a decision must be made as to whether they will be a Micronesian nation or a nation that has no recognition and no traditions upon which to base the new nation. He stated that traditions are fundamental to any society and that they don't want to grow out of their traditions, that that is what the amendment is about.

In order for the Delegates to understand the proposal if the amendments were adopted, the Chairman asked that the Convention Secretary read the text if the motion to amend were adopted, as follows:

> "Freedom of Speech and Press. Each person shall be free to speak, write, publish, photograph, illustrate, or broadcast on any subject or to gather, receive, or transmit knowledge or information, but each person shall be responsible for the abuse of that liberty, including violations of Micronesian customs, traditions, and standards of morality protected by District legislation."

Delegate Borja stated that there should be certain freedoms that will provide a base for a democratic society in Micronesia now and in the future, and that there were four freedoms that should be uniform throughout Micronesia: the freedom of speech, the freedom of press, the freedom of religion, and the freedom of the pursuit of happiness. These four rights be considered to be the most basic and fundamental rights which should be provided to the people of Micronesia. He stated that the reason why he loved the U.S.A. was because of their freedoms and asked how he could love Micronesia if district

legislatures place restrictions on those freedoms because of customary law in each respective district. Delegate Berju clarified his point that freedom should be uniform but that the districts should be given the power to control their own internal management affairs. He further stated that he was very impressed with the proposal made by the Palau Delegation and called attention to the section of the preamble with regard to exercising their rights to inherent sovereignty and their right to seek freedom. He felt that some of these rights would be limited if the amendments were adopted and that it would be detrimental to the preamble. He considers the freedoms of thought, religion, expression, peaceful assembly, etc., important and as a beginning. He further stated that they were here to write a Constitution to be the supreme law of the land, and if that Constitution was that flexible in giving the district legislatures the right to limit these freedoms, he would not agree to it because he would like to see the Constitution upheld as the supreme law of Micronesia. For these reasons, he supported the original presentation made by the Committee on Civil Liberties, and the one that was discussed previously -- to give the people of Micronesia real freedoms and not on a limited basis.

Delegate Ngeriam stated that they now have a very live picture of the freedom of speech, that this was the second day of debate on the freedom of speech. He felt that the problem they were running into was that each person is trying to express his freedom. There is also a consensus that they believe in unity in diversity. He is afraid that this Convention is now placing itself in an environment which is far beyond their control. In talking about fundamental rights, he stated that no one can tell him what his fundamental rights are and vice versa. The only way to compromise is to preserve their rights. For this reason, he supported the amendment to the proposal.

Delegate Isaac Lanwi asked how long they could discuss the matter, and the Chairman said as long as it takes to usefully and constructively discuss and understand the proposal.

Delegate Isaac Lanwi asked if the Chair could entertain a motion to move for the previous question, and the Chairman said that the floor was open.

Delegate Isaac Lanwi said that if he were a lawyer, he would include one word so it would not confuse their thinking. He felt that the amendment was all right, that it had the same meaning as the other one, but that the word "except" should be included. They anticipate their children and grandchildren doing some bad writing, picturing or talking, so there should be some protection in this area. Everybody is free to speak and express themselves, but if it is a bad thing there should be a law to abridge that, but he felt that it was understood now.

Delegate Cabecen stated that they all recognize the fact that freedom of speech and press was not a Micronesian thing prior to the arrival of their conquerors. For the last thirty years, they have been practicing what little freedom of speech and press they have, and he considers it to be a healthy thing. He feels that the people should have the right to speak against or to put in the press every belief that they may have that their government is not doing the kind of thing that it should be doing for the benefit of the people. He stated that they all came to adopt a Constitution that would sort of bind each and every one of them, and that the kind of bondage would be somewhat uniform. He feels that it is essential that each person in Micronesia be given the right to exercise the kind of freedom that he should have -- if necessary and if merited, to speak against his government or any public official. He reiterated that while it is not a Micronesian thing, it is a healthy thing for them to have.

Delegate Ngeriam stated that he may be out of order, but moved that the Convention let God draft the articles on speech and press for the Micronesian people.

Delegate Isaac Lanwi stated that while he had the floor he would second the motion; however, he did not believe that God would descend and sit with the lawyers to draft a proposal, that they were the ones directed by their people

to concentrate their thinking in the good ways by means of a good Constitution -- a supreme law for their nation. While he seconded the motion, he did not agree that his God would descend to draft the proposal, that they would have to go up to Mt. Sinai to draft it.

Delegate Ismael moved for the previous question, and Delegate Lauwi stated that he did not think they were supposed to move for the previous question in the Committee of the Whole.

Delegate Wainit offered an amendment to the proposed amendment No. 2 by inserting the words "laws," after "of" and deleting the word "district" in line 2, as follows:

> "...including violations of laws, Micronesian customs, traditions, and standards of morality protected by legislation."

This amendment, he felt, would accommodate unforeseeable needs by both the central as well as the district governments.

Floor Leader Tmetuchl stated that Delegate Wainit's amendment was merely an expression of wish or a desire to amend, but was not formally stated.

Delegate Wainit so moved to amend the amendment.

The Chairman stated that there seemed to be many questions still hanging in the air that needed to be brought down to earth before the Convention could responsibly deliberate on this very important provision in the Constitution. He, therefore, declared a short recess, subject to the call of the Chair, at 12:00 noon.

The Committee of the Whole reconvened at 12:10 p.m.

The Chairman requested the Ponape Delegation to make a statement on the proposed amendment.

Delegate Falcam stated that, as sponsor of the proposed amendment to Committee Proposal No. 1, he felt that there existed fundamental agreement in protecting and upholding the two freedoms. They only suggest that this Convention, in building a new nation, recognize the traditions upon which to build the new nation, as a society without tradition is a joke. He stated that their amendment requests are very clear and that while they subscribe to the idea of the fundamental freedoms, they should also allow each district to regulate what might be, now and in the future, offensive to their traditions and cultures. He again asked that the Convention act favorably on the proposed amendment.

Delegate Carl Heine said that he did not doubt that the intentions of everyone were well taken, that everyone wants to protect customary rights; however, he contended that they are dealing in some very highly technical, complicated legal language in trying to draft a Constitution for the future of Micronesia. He requested that the Chairman invite two legal experts, counsel for the Committee on Civil Liberties and the Convention Secretary, who is also a lawyer, to give the Convention the benefit of their understanding of the two amendments.

The Chairman asked if there were any objections to Delegate Heine's request.

Delegate Falcam stated that he did not object to seeking advice; however, he wished to remind the Delegates that the Convention is a policy-making body, and that they are seeking technical, legal advice from their counselors.

Delegate Salii stated that he had no objection to the Committee inviting anybody on the staff to help them clear up any technical or legal problems on the proposal and the amendments, but wished to say a few words with regard to the manner in which they were operating. He urged that as much as possible of the groundwork be done outside of the Plenary Session. More fundamentally, however, he stated that it is very easy in a situation like this to delay and prolong debate in a plenary session through the use

of parliamentary procedures and even more important through the lack of firm beliefs and lack of firm thinking on the part of individual delegates and individual delegations. He cited as an example the framework within which the Palau Delegation will judge any proposals coming to the floor, that they will try to avoid as much as possible debating on the floor, even though they could obviously do that if they chose not to accomplish anything. He feels that the issues being discussed are so fundamental that if anybody expected to do the necessary convincing right on the floor, they would be very mistaken. No matter how much eloquence you bring to bear in the debate on the floor, if you expect others to be moved and not to be prepared, then your expectations are wrong. He felt that the important thing is for the Delegates to let each other know where they stand on the different issues -- to debate to make known one's position and not to run down the other positions. This could be done more constructively before coming to the floor. Delegate Salii stated that while he had no objection to calling upon the lawyers, he was a little skeptical as to whether they would try to convince the Delegates on policy matters. If they were just technical, legal problems, he suggested that it could be done faster and easier outside of the Plenary Session.

The Chairman stated that the idea of inviting the legal staff to the Committee was predicated on the thinking that there are two philosophies in front of the Convention regarding the particular proposal. One is to provide a basic right in the Constitution, to guarantee that right by putting it beyond legislative meddling or the legislative reach of the district legislatures and lesser bodies. He stated that if that was the intent of the Convention, they have to make sure that everyone understands what they are voting for, and it was on this basis that the witnesses were requested to appear.

Delegate Salii stated that Proposal No. 1 and the proposed amendments by the Ponape Delegation bring forth the basic issues: whether to give the traditional freedoms to the people of Micronesia under the Constitution, or give recognition and protection to the customs. He felt that this is a fundamental issue that cannot be taken care of by the use of language or through legal footwork. There is a basic difference between the position of the Committee on Civil Liberties and the debate by the Marshall Islands, Truk and Ponape Delegations. He suggested that the Convention was not ready to vote on something like this and that informal work should be done. He further stated that if this was a reflection or an indication of the possible nature and quality of debate on the floor in the future, that it was very sad that a subject that he had hoped to be the least controversial section of the Constitution next to the preamble had generated two days of debate. If one prorated the time of the debate with the rest of the Constitution, he did not think that they would have enough time to do what they came to accomplish.

Delegate Carl Heine agreed with Delegate Salii's statement, but the reason he made the request for a legal explanation was because of the sudden amendments offered by the Ponape Delegation. He contended that there is a basic fundamental difference between "each person shall be free" and the other one which stated "no law shall abridge the freedom of speech and press." He felt that the differences between the two are not clearly understood.

Delegate Cabrera stated that while freedom of speech and press is nothing new to everyone in the Convention, they had discussed the proposal quite extensively, and it was time to take some action.

Delegate Mwoty stated that he believed the Delegates would agree that the basic freedom of speech and press should be provided to each and every Micronesian and that in providing this basic freedom some may wish to prevent abuses which may interfere with customs and traditions unique to each district. He believes that the only problem they are now faced with is simply the proper wording in a foreign language and inquired as to what would be wrong in acting favorably on the first amendment so that it will be possible for the Style and Arrangement Committee to take care of the technical wording.

The Chairman stated that the amendment is very basic but would drastically change the proposal as offered by the Committee, and again asked that the Convention speak on the subject of inviting the lawyers for legal advice.

Delegate Borja expressed his objection to inviting the legal staff and supported the sentiments expressed by Delegate Nalii. In the interest of saving time and the effectiveness of the Constitutional Convention, he said that they could go ahead and take any action at this time because this was only the second reading of the first phase. They could still go back to the Plenary and debate further, if necessary. There are still safety valves and protections, for the proposal will be referred to the Style Committee which will put the technical language in it. It will then come up at the Plenary Session, where it will need a two-thirds majority vote, and it will be subject to further discussion and debate before it is adopted in the Constitution. He suggested that instead of inviting the legal staff at this time that they prepare pros and cons in writing in order to defer action. He also suggested that this be done in a workshop or in committee rather than in the Committee of the Whole or the Plenary Session.

Delegate Toribiong stated that it appeared that the Delegates were torn between two values — one, the preservation of their culture and customs, and the other the protection of the freedom of speech and press for the citizens to enjoy. From the way the proposal was amended, it seemed to him that the proviso would subject the freedom of speech and press to the application of customs and traditions. He had no qualms about that; however, he wished to pose a question to the Delegates concerning the customs and traditions which would be in the way of the exercise of these freedoms. Customs and traditions have been spoken of in the abstract, and he asked that certain customs and traditions be identified for the benefit of the Delegates so that they could deliberate on the proposed amendments with information and full understanding.

The Chairman stated that there were some people who wished to benefit from the expert opinion of the legal staff, that he did not wish to deny them the opportunity of their services, and again invited the lawyers before the Committee if there were no objections.

Delegate Fritz stated that he did not know how many Delegates would agree with him, but he did not come here to be lectured to on terms and technicalities and asked why this couldn't be done at a public hearing or in a committee for those who wished to attend to do so and benefit from it.

The Chairman stated the proposal had been debated by the Committee on two separate days and asked if there was a point in postponing it again.

Delegate Nalii suggested that the decision be put to a vote.

The Chairman complied, and the request was denied.

The President moved that the Committee of the Whole recess for one hour for lunch. Delegate Olikong seconded the motion.

Delegate Nalii suggested that the recess be extended until three o'clock so that the Delegates who required the services of the lawyers could use the time, not only for lunch, but also to do the necessary consultation so that when they reconvened they could vote on the measure before the floor.

The President withdrew his motion in consideration of the new time offered.

Delegate Nalii moved that the Committee of the Whole recess and reconvene at three o'clock in the afternoon. There were several seconds, and the motion carried.

The Committee of the Whole recessed at 12:30 p.m.

Chairman Ngiraked called the Committee of the Whole to order at 3:10 p.m., and stated that a motion was on the floor.

Floor Leader Tuan said, as a point of information, that the motion on the floor was to adopt the proposed amendment to Committee Proposal No. 1.

Chairman Aglipay said he thought the more immediate motion was to amend Proposal No. 1.

Delegate Carl Reine stated that before the Committee of the Whole voted on the "Palaran amendment," he would like to make a few observations with respect to the proposal and the amendment. He explained he wanted to note the contrasts in the two, and stated, "Mr. Chairman, under Palaran's amendment, there will be no freedom of speech; it will be restricted; it will be regulated; it will be legislated. A legislature can enact laws under concepts, such as customs, traditions, or morality, which laws can abridge freedom. The legislature does not have to specify what customs or traditions as long as it is a statute that protects unspecified customs, tradition, or morality. In fact, the statute shall stand and freedom fall. Under the Committee Proposal, there is freedom of speech. It is guaranteed in the Constitution. The legislature can enact laws to control abuses, like obscenity, profanity, and other abuses. The legislature can also enact laws to protect specific communal values, such as customs, traditions, and morality, but such legislation must be specified as to custom, tradition, and morality. In fact, the basic difference, as I see it, between the two -- the Palaran proposal and the Committee Proposal -- is that under the Committee Proposal we are asking government to stay away from these birthright constitutional rights of freedom, and so forth. Under Palaran's amendment, we are inviting government to violate those rights."

Floor Leader Tuan said that he thinks "the basic question before the Committee is whether the provisions of our Constitution with respect to freedom of speech and press must completely and totally subscribe to that principle without regard to our customary laws and traditions, or whether the concept, the basic tenets of freedom of speech and press, must be accepted or be incorporated in our Constitutional provisions with modifications to recognize our customary laws and traditions. In order to decide on these two basic issues, both very fundamental, to subscribe to the freedom of speech and press and also recognize our customs as very unique in our society, I think it is very difficult to settle that question here in the Committee of the Whole. I think we need some more time to deliberate and analyze the question. It would seem to me, Mr. Chairman, that the question of recognizing the customary laws and traditions will not only be inherent in the article for the freedom of speech and press, but it will also come up in other bills of rights that this Convention will address itself to at a later time. For that matter, Mr. Chairman, it is my earnest recommendation that the proposed amendments and Committee Proposal No. 1 be referred to an appropriate committee, particularly, perhaps, the Special Conference Committee, so that committee can give us a procedural recommendation as to whether we do away with customary laws and traditions altogether in drafting our constitution, or must we recognize some of our customs and traditions, and that the committee come up with a procedural recommendation as to should we include customary laws and traditions when every individual bill of rights comes to the floor, or whether we should keep the traditional and customary question entirely separate as part of the Bill of Rights. That would be my recommendation, and if no other Delegates wish to address themselves to either the amendment or Proposal No. 1, I would venture a motion to the Committee of the Whole that the Committee rise and report back to the Plenary Session with the recommendation that this proposed amendment and Proposal No. 1 be referred to the Special Conference Committee with the instruction that the committee come up with a procedural recommendation as to treating the customary laws as a separate article in the Bill of Rights, or we should bring up the question every time a bill of rights comes up for discussion."

Delegate Tadeo seconded.

Delegate Palaran asked, as a point of information, to be enlightened on the meaning of "procedural recommendation."

Delegate Winnes raised another point of information by stating that under Rule 43 it says no referral shall be made to any other committee.

Floor Leader Penn, in response to Delegate Winnes' remarks, stated the Committee of the Whole was not referring the proposal and the proposed amendment to the Special Conference Committee, but merely making a recommendation to the Plenary Session. In response to Delegate Falsani's question, he said the procedural matter which he referred to was whether it would be the recommendation of the Special Conference Committee that it would be the consensus of the Constitutional Convention to deal with the question of customary laws in relation to every other section of the Bill of Rights, or whether the Convention should treat customary and traditional laws in separate sections in relation to other rights.

Delegate Carl Heine stated that the Committee on Civil Liberties had decided to deal with the matter of customary rights in a different section, apart from the basic fundamental rights, and that is what they intend to do. He stated further he did not see why this had to be referred to the Special Conference Committee, and felt the amendment could be voted on immediately to settle these things.

Chairman Nyhuskal said he thought the Floor Leader was asking the Committee of the Whole to try to deal with the problem of incorporating traditional laws and rights in the Constitution once and for all so that it doesn't have to be dealt with every time it pops up in the Constitution. He asked what the Committee of the Whole should report to the Plenary Session.

Floor Leader Penn said that the report to the Plenary Session should be to refer the proposed amendment and Committee Proposal No. 1 to the Special Conference Committee with the instruction that the committee come out with a procedural recommendation with respect to how the Convention recognizes customary and traditional laws with respect to the Bill of Rights.

The motion to rise carried, and the Committee of the Whole rose at 3:25 p.m.

SUMMARY MINUTES: COMMITTEE OF THE WHOLE AUGUST 25, 1975

Re: Committee Proposal No. 5, "A Proposal providing for the Right to Petition and Peaceably Assemble."

Chairman: Vice President Petrus Tun

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Chairman Tun called the Committee of the Whole to order at 11:27 a.m.

Delegate Carl Heine moved for the adoption of Committee Proposal No. 5. Floor Leader Uman seconded the motion.

The Chairman requested the Convention Secretary to read the title and text of Proposal No. 5, as follows:

"A Proposal providing for the Right to Petition and Peaceably Assemble.

"RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

"Right to Petition and Peaceably Assemble. The people have the right to assemble in a peaceable manner, to consult for the common good, to make known their opinion to their representatives, and to apply for redress of grievances."

Delegate Weital stated: I would like to ask a question of any one of the members of the Special Conference Committee. This morning we had a deliberation on the assignment given to the committee yesterday which dealt with the Freedom of speech and press. In relationship with these freedoms, I believe the item before us now is also included in those freedoms. Could anyone enlighten me with the forthcoming report of the Special Conference Committee in relationship with this in front of us today.

Chairman Tun requested the Chairman of the Civil Liberties Committee to respond to the point of inquiry, and the Chairman of Civil Liberties suggested that it would be proper for the Chairman of the Special Conference Committee to respond to the question.

Delegate Sawaichi stated that the report of the Special Conference Committee would be submitted tomorrow (Saturday) in the Plenary Session.

Delegate Ngiraked stated: I would like to divert this question to the Chairman of the Committee on Civil Liberties. How does this proposal stand with the corresponding section in the Palau Delegation proposal — language-wise and in substance?

Delegate Carl Heine stated: Your Committee on Civil Liberties has considered this particular bill of rights — the Right to Petition and Peaceably Assemble — and has submitted a report and has approved that it should be included in the Micronesian Constitution. In principle, the language does not differ very much from the Palauan proposal. Your Committee on Civil Liberties will deal specifically with the Palauan section on civil liberties some time this afternoon and hope to come back with a report perhaps Monday or Tuesday of next week. There might be differences in wording, etc., but in principle the two points are together with no problem.

Delegate Paluum said that he, along with others in the same corner, did not have Committee Proposal No. 5 and asked that they be provided a copy. The Chairman so directed.

Delegate Ngiraked stated: We have one more week before we take our recess.

I wish to state that in deliberating on the proposed section and part of the Constitution that the Convention also consider the corresponding parts or articles or sections in Proposal No. 100, labeled Palau Proposal, so that every time we discuss a subject matter proposed for the Constitution that the Palau Delegation is properly informed as to what stand is taken in relation to what we have proposed. Thank you very much.

Delegate Carl Heine stated: I wish to inform this Convention that the Committee on Civil Liberties will meet this afternoon at three o'clock to specifically consider the section in the Palau Proposal No. 100 as assigned to the Committee. I am hopeful that by Monday or sometime next week, we should be able to come up with a report of that section. I hope the other standing committees of this Convention will also take the necessary action on the sections assigned to them.

Delegate Ismael stated: My remarks here will be relative to the issue before us. I would like to urge the Chairmen and the Special Conference Committee, after we adjourn the Committee of the Whole, to submit our official report to the Convention relative to articles on the bill of rights. A lot of the Delegates in the Convention have some reservation relative to adoption of articles of bills of rights on account of the fact that we have not seen any provision to safeguard the traditions, customs, and standards of morality throughout Micronesia. I would like to offer at this time to support Committee Report No. 3 on the strength of the fact that the Chairman of the Special Conference Committee will come up with a report when we reconvene into the Convention. I just want to say that provisions will be made, and on account of that we should adopt these proposals.

Chairman Tun requested the Delegates to confine their discussion to Committee Proposal No. 2.

Delegate Willander stated: First of all, I wish to offer some comments on Committee Proposal No. 2. I do not think that this proposal has any conflict with customs and traditions because in the district I come from the customs provide for any group meetings and any kind of petitions, although it is oral petitions. I think all of us should not have any problems in accepting the right to petition and peaceably assemble. In our capacities as officers of the executive branch of our present government, we have been petitioned. Some of us in our capacities as members of the Congress of Micronesia have also been petitioned. Some of us in our private lives as citizens of Micronesia have petitioned our officials. Therefore, Mr. Chairman, I think Committee Proposal No. 2 has a right place in our Constitution.

Delegate Sony stated: I don't see why we don't adopt this proposal. I just want to point out that I believe all of us here know the purpose of government. A government is born out of the state of nature. A government exists for man but not man for the government. If we don't provide these rights for our people to petition and peaceably assemble, then we should know now that our future government will be for those in authority and not for the common man.

Delegate Ngiraked stated: The Palau position is very clear. We would like to have this freedom written in our Constitution. If we vote this morning the Palau Delegation will hold some reservations, not because we oppose the inclusion of this right in our Constitution, but because there is a difference in the language. We will hold our reservation until the Committee has had an opportunity to deliberate on this subject in light of the language in the Palau proposal.

Delegate Isaac Ianwi asked if he was in order for the previous question. The Chairman replied in the negative. Delegate Ianwi then asked for a point of privilege to meet some people outside, whereby he was excused by the Chairman.

Delegate Fuleom stated: I believe my fellow Delegate from Ponape, Delegate

Weitzel, pa. Perth a question regarding the Special Committee Report. I am not sure whether I have understood the answer relative to the provisions before the Convention on the Bill of Rights. We debated at great length yesterday and recommitted the Conference Committee for the procedural guidance. We are now talking on another bill of rights which is fundamental, and we all seem to agree that it should be included in our Constitution, except I am at a loss relative to the Special Committee Report.

Floor leader Mann moved for a short recess to clarify some other matters, subject to the call of the Chair. Delegate Dinkins seconded and the motion received. The Committee of the Whole recessed at 11:45 a.m.

The Committee of the Whole reconvened at 11:55 a.m.

Floor Leader Mann stated: I am aware that some delegates are wondering, since they have seen the final report of the Special Conference Committee distributed in front of them. It is the recommendation that the final report of the Special Conference Committee be taken up tomorrow because it recommends a very important substantive procedural question. The report should be written, signed and submitted as a Standing Committee Report, since these are guidelines. Some people have been wondering why we are acting on Committee Proposal No. 2 before acting on the report. I want to make it clear that even if the Committee of the Whole adopts Committee Proposal No. 2, it will not go through the second reading roll call during the subsequent plenary today. It will be committed to the Committee on Style and Arrangement, and after that committee reports it out, tomorrow, then it goes to Second Reading. I think we can consider Committee Proposal No. 2 now in the Committee of the Whole, and then if tomorrow the Convention adopts the proposed report from the Special Conference Committee, the Committee on Style and other committees which will be dealing with rights and traditional laws and customs will be guided by the report. I hope I have made it very clear here and now, so that we can expedite consideration of Committee Proposal No. 2.

Delegate Carl Heine stated: If this Convention is going to meet tomorrow to consider the Special Report of the Special Conference Committee and to act on the right to freedom of speech and press, I would like to defer action on this right to petition and peaceably assemble, so that your Committee on Civil Liberties will consider this and the particular section in the Paiva proposal and report them out in tomorrow's general session of this Convention.

Floor Leader Mann stated: Point of information. I only wish to have the record straight that the deferred action is until tomorrow. Is that correct?

Delegate Carl Heine stated that that was correct.

Delegate Kalii moved to defer action until tomorrow (Saturday, August 16, 1975). Delegate John Heine seconded, and the motion carried to defer action on Committee Proposal No. 2 until Saturday, August 16, 1975.

The Chairman announced that the Committee of the Whole was adjourned.

The Committee of the Whole rose at 12:00 noon.

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Re: Committee Proposal No. 1, "A Proposal providing for Freedom of Speech and Press."

Committee Proposal No. 2, "A Proposal providing for the Right to Petition and Peaceably Assemble."

Committee Proposal No. 3, "A Proposal relating to the power of eminent domain."

Chairman: Elmer Lenzier Luke Thurman

Chairman Thurman called the Committee of the Whole to order at 2:01 p.m.

Chairman Thurman: I believe we have under Second Reading calendar for consideration by the Committee of the Whole, Committee Proposals No. 1, No. 2 and No. 3. I understand that the Chairman of the Committee on Civil Liberties would like to defer action on Committee Proposal No. 1. I recognize him.

Delegate Carl Heine: I believe members of this Convention have received Amendment No. 1 to Committee Proposal No. 1. Since this has been introduced today, I wish to defer action on that amendment and on Committee Proposal No. 1, on the Freedom of speech and press, until Monday. I so move.

Several Delegates seconded, and the motion carried to defer action on Committee Proposal No. 1 and Amendment No. 1 to that proposal until Monday.

The Chairman requested the Convention Secretary to read the title of Committee Proposal No. 2, as follows:

> "A Proposal providing for the Right to Petition and Peaceably Assemble."

Delegate Carl Heine: This morning I have submitted Amendment No. 1 to Committee Proposal No. 2. There has been a minor correction in the wording of the right to petition and peaceably assemble. Since this is not a very substantive amendment, I wish to move that this right to petition and peaceably assemble be adopted by the Committee of the Whole on Second Reading. I so move.

Delegate Fulcrum seconded the motion.

Chairman Thurman: Mr. Heine, you indicated that you had a proposed amendment. The Chair will entertain a motion for adoption of that amendment.

Delegate Carl Heine moved for the adoption of Amendment No. 1 to Committee Proposal No. 2.

Delegate Fulcrum seconded the motion.

The Chairman requested the Convention Secretary to read the proposed amendment, as follows:

> Proposed Amendment No. 1. Delete the entire Committee Proposal No. 2 and insert the following:
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> > "Freedom of peaceable assembly, association and petition. No law shall deprive any person of or abridge his right to enjoy the freedom of peaceable assembly, association, or to petition for redress of grievances."

Delegate Falcon: I believe the proposed amendment to Committee Proposal No. 2 was also distributed today. I was wondering whether consideration of that, including Committee Proposal No. 2, could be deferred until Monday.

Chairman Tam: Procedurally, it is in order; however, it is the decision of the Committee of the Whole. If you feel it is premature at this time to discuss Amendment No. 1 to Committee Proposal No. 2, the decision will be by the floor.

Delegate Tamaki: I am fully in support of the amendment to Committee Proposal No. 2. I am also in support of the Special Conference Committee Report No. 2. Relative to Committee Proposal No. 4, there is a direct conflict. I would urge, therefore, that we defer action on Committee Proposal No. 2 in order to accommodate our concerns on where lies the protection of the traditional customs, and if it is possible for the Civil Liberties Committee to also come up with a different proposal relative to the dictates of the Special Conference Committee that was adopted by the Convention this afternoon.

Delegate Carl Heine: The reason I have asked to defer action on Amendment No. 1 is because that particular amendment is related to Committee Proposal No. 4, which is the preservation of local customs. This new amendment came as a result of the amendment offered by the Penange Delegate and also as a result of the Special Conference Committee. Those two are related, and since they are sections on traditional rights and will come up for Second Reading on Monday, I felt it was appropriate to delay action also on this new amendment on the freedom of press and delay those two for Monday. However, the other one on petition is a totally unrelated matter, and the change that was made was only minor. I believe that the motion to pass on Second Reading is in order.

Delegate Tamaki: I now realize what our Fellow Delegate, Carl Heine, is talking about. I now remove my reservation relative to Committee Proposal No. 2.

Delegate Kimwes: I see no harm for the Committee of the Whole to adopt Amendment No. 1 to Committee Proposal No. 2. I think we can proceed and adopt it for there is no harm in doing it.

There being no further discussion, the motion carried to adopt Amendment No. 1 to Committee Proposal No. 2.

Chairman Tam: The immediate question on the floor is the adoption by the Committee of the Whole of Committee Proposal No. 2, as amended by the Committee of the Whole. For clarification purposes, may I ask the Convention Secretary to read Committee Proposal No. 2, as amended by the Committee of the Whole?

The Convention Secretary read Committee Proposal No. 2, Committee of the Whole, Draft No. 1, as follows:

> "Freedom of peaceable assembly, association and petition. No law shall deprive any person of or abridge his right to enjoy the freedom of peaceable assembly, association, or to petition for redress of grievances."

There being no further discussion, the motion carried to adopt Committee Proposal No. 2, as amended by the Committee of the Whole.

The Chairman requested the Convention Secretary to read the title of Committee Proposal No. 3, as follows:

> "A Proposal relating to the power of eminent domain."

Delegate Ismael moved for the adoption of Committee Proposal No. 3. Delegate Falcon seconded the motion.

Delegate Ismael: I believe that Committee Report No. 4 has been distributed and most of us have read it. I believe, however, that I should explain some of the provisions that are recommended by your Committee on Governmental Functions relative to this extremely touchy matter which was under extensive consideration by your Committee on Governmental Functions. We realize that the sovereignty of any government must have this inherent power -- how and at what level of government should exercise such is the question that was under extensive study by the committee. In order to meet these potential requirements of both the district and central governments, your committee introduced the Committee Proposal in the form that is attached to this report. Under this proposal, the central government is required to first obtain the approval of the district government concerned before the former can exercise any eminent domain power. The approval of the district government is to be expressed to the central government in the manner provided by law enacted by the central government. The procedure to be followed in exercising the eminent domain power by the central government shall be established by law enacted by the central government. We would like to express our hope, desire and intention that the power of eminent domain be used only as a last resort and that every effort be made to lease private property instead of acquiring it in fee simple; that when private property is taken for public use that just compensation is paid; that in exercising the eminent domain power, the government must take care to ensure that no citizen or individual is rendered landless as a result; and that the government has the obligation to ensure that dislocated persons as a result of the eminent domain procedure are relocated and compensated for by the government. These are the wishes of the majority of the members of the Committee on Governmental Functions. Thank you, Mr. Chairman.

Chairman Tmetuchl: The Chair just recalled that with respect to Committee Proposal No. 3, yesterday there were two reports -- Majority Report No. 4 and Minority Report No. 4(A). I want the floor to understand that we are now discussing the proposal as recommended by the majority report. May I ask the Secretary to read Committee Proposal No. 3 in its entirety?

The Convention Secretary read Committee Proposal No. 3, as follows:

> "A Proposal relating to the power of eminent domain.
>
> "RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:
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> "The Power of Eminent Domain. The national government of Micronesia shall have the power to take private property for a public purpose upon the payment of fair compensation with the express approval of the appropriate district government. The manner in which approval of the district governments is expressed to the national government and the procedure for exercising the power of eminent domain by the national government shall be determined by national law."

Delegate Apis: Since the Chair has just explained about the Minority Report, I wish to move that the Committee of the Whole adopt Minority Report No. 4(A) as an amendment to Committee Report No. 4.

Chairman Tmetuchl: The motion is not in order. The Convention accepted the report yesterday; however, it can be treated as a proposed amendment to the majority position. You may proceed to make that motion if you wish.

Delegate Apis moved that the attachment to Minority Report No. 4(A) be treated as an amendment to Committee Proposal No. 3. Delegate Albert seconded the motion.

The Chairman requested the Convention Secretary to read the proposed amendment submitted by the minority, as follows:

> "The Power of Eminent Domain. The national government of

> Micronesia shall have the power, concurrent with the districts governments, to take private property for a public purpose upon the payment of fair compensation. The power of eminent domain shall be invoked only upon a demonstration of failure of a good faith effort by the government to acquire the property by purchase. The questions of public purpose and the fairness of compensation shall be judicially determined in the absence of agreement between the parties."

Delegate Chief Bossy: I have a question of the Committee on Governmental Functions. As stated in Rule 33 of our Rules of Procedure, I think it requires the Committee to inform the Delegate who introduced the proposal of their reasons why they are not accepting his or her proposal. I have a proposal with respect to the same topic, but, frankly, to this day I have never been consulted or invited to hear the views of that Committee. Thank you, Mr. Chairman.

Delegate Ismael: Your Committee on Governmental Functions has responded to Delegate Proposal No. 10, introduced by Delegate Falanruw of Yap. Relative to that particular proposal where it delineates the power of eminent domain to be under the jurisdiction of the district government, we have submitted this proposal and request that Delegate Proposal No. 10, entitled "A Proposal relating to the power of eminent domain.", be recommended for file. We have not responded yet to the proposal that was raised by Delegate Chief Bossy, in that the Committee is still working on it, presumably incorporating some of the ideas into this Committee Proposal. We shall, if necessary, deal with this at a later date and invite the Chief for consideration.

Delegate Chief Bossy: My question is, if we adopt this one with respect to Proposal No. 10, then what happens to Proposal No. 50? Since I was not informed and the committee admitted now that they haven't considered it yet, then what happened to it?

Delegate Ismael: In the consideration of the different levels of government having jurisdiction over eminent domain, your committee felt that we should identify whether it is the national or the district government that should have this jurisdiction. When it comes to the district, we feel that legislation would be necessary to establish such a power. In the Chief's proposal, it would seem to indicate that the exercise of eminent domain power should be left to the district government to so legislate. We have not gone into the detail of how eminent domain power is to be legislated. We are dealing with which level of government should have the jurisdiction over eminent domain power.

Delegate Chief Bossy: My real question was that by introducing this proposal on eminent domain, I have Proposal No. 50 which also deals with which level of government shall have that power, so it is relevant to the same issue we are talking about now; but, as required in the rules, they should tell the other person or notify him of their reasons why they are against it because I think by introducing this proposal, necessarily, they are rejecting the other one. So, I merely point out something that we aren't following our own Rules of Procedure.

Delegate John Heine moved to defer action on Committee Proposal No. 3 until Monday. Delegate Fritz seconded the motion.

Chairman Tmetuchl: Let me clarify one point. The immediate motion on the floor is the adoption of the minority proposal as an amendment to Committee Proposal No. 3. If that motion is deferred until Monday, if the motion is carried, then the main motion on the floor is still the adoption of Committee Proposal No. 3. Is that clear in everybody's mind?

Delegate John Heine called for a short recess. Several Delegates seconded, and the motion carried. The Committee of the Whole recessed, subject to the call of the Chair, at 2:05 p.m.

The Committee of the Whole reconvened at 2:50 p.m.

Delegate Jane Heiner: I would like to withdraw my motion to defer action on the proposed amendment, but I would also like to introduce a new motion to defer action on the motion to adopt the amendment, and, further, defer action on the main motion until Monday.

Delegate Partridge seconded the motion.

Delegate Hanson: I think this particular issue is a very difficult one, and even if we defer action on this issue until Monday there wouldn't be enough time to resolve the differences. Because we will be going for a short recess, at the same time we will be visiting with our constituencies, I suggest that we defer action on this particular proposal until we get back from the recess.

Delegate Hanson: If we defer action on this proposal without indicating when or we when date, wouldn't it be tantamount to deferring indefinitely?

Chairman Penn: That was merely a suggestion by Delegate Hanson. The main motion now on the floor is to defer action on the amendment to the main motion until Monday, which is in order.

Delegate Sony moved to amend the motion to defer action to the second day of the reconvening. Delegate Hanson seconded the motion.

Chairman Penn confirmed the date to be September 16, 1975.

There being no further discussion, the motion carried to amend the motion to defer action until Tuesday, September 16, 1975.

Chairman Penn: The motion, as amended, now is to defer action on the proposal and the amendment until September 16, 1975.

There being no further discussion, the motion carried to defer action on Committee Proposal No. 9 and the amendment until September 16, 1975.

The Chairman declared that the Committee of the Whole recess and report back to the Plenary Session.

The Committee of the Whole rose at 2:55 p.m.

Re: Committee Proposal No. 1, "A Proposal providing for Freedom of Speech and Press."

Committee Proposal No. 4, "A Proposal providing for the preservation of local customs."

Chairman: Vice President John Ngiraked

Chairman Ngiraked called the Committee of the Whole to order at 12:40 a.m., and stated that the assignment of the Committee was to deliberate on Committee Proposals Nos. 1 and 4.

Delegate Carl Heine moved for adoption of Committee Proposal No. 1. Delegate Olikong seconded.

Delegate Carl Heine also moved for adoption of Amendment No. 1 to Proposal No. 1 on Second Reading and final adoption. Floor Leader Tmau seconded.

The Chair requested the Secretary to read the amendment, and the Secretary read the following:

"Delete the entire Committee Proposal No. 1 and insert the following:

"Freedom of expression. No law shall deprive any person of or abridge his right to enjoy the freedom of expression."

Delegate Falcam stated he was still wondering about the consideration of his amendment to the proposal. He went on, "Related to that, Special Conference Committee Report, which was adopted by this Convention, stipulated that a provision regarding traditional matters be drafted by the Civil Liberties Committee and considered by this Convention. This has not been done, Mr. Chairman; however, we see amendments to Proposal No. 1 before the Convention. Before I cast my vote, I want to be very clear what happened to my amendment, which I strongly feel would protect the traditions that we enjoy in Micronesia."

The Chairman asked Chairman Heine of the Civil Liberties Committee to respond.

Delegate Heine stated that he thought the point put forth by Delegate Falcam was well taken and respectfully requested that Delegate Falcam transfer his amendment to the proposed Committee Proposal No. 4, which deals with customary laws and custom. He said that the reason that Committee was assigned to the Special Conference Committee was because the amendment by the Ponape Delegate touched on the whole concept of traditional and customary rights, and, based on that, the Special Conference Committee assigned to the Civil Liberties Committee the task of coming up with a proposal with respect to Micronesian rights and customs, and that was passed on Final Reading last Saturday and was up for Second Reading today. Delegate Heine said he felt it would be in order for the Delegate from Ponape to withdraw his amendment and attach it to the section on traditional customs.

Delegate Falcam stated this would not take care of his problem. He said that Proposal No. 4 merely transfers the language of the Trust Territory Code and somewhat dilutes the intention of the amendment. He said he would strongly urge that the Delegates keep in mind that the provision in the TT Code today is rather vague. He stated he could not see why, in providing a Micronesian Constitution, they could not provide protection of traditions. He stated he was not too happy with a mere transfer of TT Code language to the Micronesian Constitution and further said he felt they could draft a Constitution for Micronesia without resorting to language existing today in the Code. He concluded by saying that he strongly felt his amendment should be considered and favorably acted upon with regard to freedom of press and speech.

Delegate Salii stated they were here to make decisions, and the way to make decisions, in terms of the Convention rules, is to go through the committees and come up with the proper motions to place the decisions on the floor. He said he felt that more than enough time had been spent on this proposal, and that it should be voted on this morning. With regard to separating traditions from other freedoms, he thought the Committee on Civil Liberties had decided it in the best way to handle these two matters. Before that, he said, it had gone to the Special Conference Committee, and, therefore, he felt it was about time to find out whether or not the Convention follows the recommendation. He stated that the proposed Committee Proposal No. 3 is limited to the term "expression"; the amendment offered by Delegate Falcam includes specific forms of expression which, the Committee felt, were included in the term "expression" and, therefore, the proposal is limited to the term "expression" which is very inclusive. Delegate Salii said that he felt all the Delegates were aware that the traditions and customs of Micronesia should be protected, but they had created an issue of a nonissue by trying to put under one section the protection of custom and other traditional rights. He stated he felt the problem could be solved when they are separated and urged the Convention to at last take one positive action as far as the Committee Proposal was concerned.

Delegate Heinrich Iriarte stated that after listening to the discussion, he felt that if Delegate Falcam's amendment was not adopted, he felt sure that in the future they would get into problems, and he wished to state what the problems would be. One: photographs. Photographing is good when one takes pictures of scenery or things that are not bad. However, to take a photo of between a woman's legs is different. This is not according to his custom or religion, and it is bad. No. 2, Delegate Heinrich Iriarte went on, if somebody drew a picture of him pulling a drum behind him, that would cause his children and wife to fight the creator of that sketch because that is according to their custom, and it is not a good thing to do. Thirdly, if a man asked for a date with his eldest daughter or his wife, this would create World War II again. Therefore, Delegate Heinrich Iriarte stated he supports the amendment made by Delegate Falcam to put a limit and take into consideration the customary laws of each district. He stated he was elected by his constituents to protect the traditions, culture, dignity, and morality, and not to come to the Convention to ruin it.

Chairman Ngiraked suggested that before going further, they put the proposal in a proper perspective for the sake of expediency because it is the third time the Convention and the Committee of the Whole have taken this proposal up. He said on the one hand, people think that the freedom is important to guarantee to the citizens of Micronesia; on the other hand, there are people who desire to leave an area for the local legislatures to legislate on. By putting these together, are they achieving that goal?

Delegate Niniwes stated he felt the points were well taken, and he was very happy that they had freedom of expression right here.

Delegate Salii suggested the Delegates calm themselves and look at the amendment proposed by Delegate Falcam; they would see it specifically grants the freedom to photograph and illustrate, the very thing that Delegate Heinrich Iriarte was so concerned about. He said he felt they were all concerned about that kind of thing, but whether a person points a camera between the legs of a woman, or draws a picture of someone he doesn't like -- those things affect another freedom, the freedom of privacy. He stated that the problem was that those Delegates who would like to provide freedom of expression are not by the mere fact of providing it killing the customs and traditions of Micronesia. He said they would like to take care of them and provide as much protection as possible in the Constitution. Delegate Salii reminded the Delegates that the problem they are facing now is because they have created unnecessary fears by lumping these into one proposal.

Delegate John Heine asked for the previous question as he felt they were ready to vote.

Floor leader Tmetuchl stated that was out of order.

Delegate Toribiong stated he would like to make a point concerning the proposed amendment made by Delegate Falcam. He said it placed a limitation on the exercise of free speech, a limitation based on respect for standards of morality and the customs of the Micronesian people. He said he felt that proposal should be considered along with Committee Proposal No. 4, and that the Convention could proceed and take action on Proposal No. 1 and consider the proposed limit later. Furthermore, he went on, freedom of expression is a very essential right of a citizen, but it does not mean that it is a license to offend the sense of moral decency of any community. The protection of morality is a proper subject for legislation, and the standards of morality in any given community should prevail as to what can be allowed in terms of publication, illustration, or any form of communications in a community. Delegate Toribiong said he saw no problem pertaining to the limitation of the freedom of expression, but he thought they should address themselves first to the interests of the people of Micronesia. He feels freedom of speech is essential; it shall enhance the development of ideas, dissemination of information for the benefit of the people of Micronesia. He stated he shared the sentiments of the Delegate from Ponape concerning standards of decency, but felt the concern goes beyond the limitations of the freedom of expression. There are implied or inherent powers of the State which may be properly termed "the police powers," and they are to protect the safety and morality of a given community and that principle of inherent power necessarily implies that any given community has the right, if not the duty, to protect the sense of moral decency of the people of any given community. In conclusion, Delegate Toribiong said that he felt that limitation on the exercise of these freedoms should be considered separately and Committee Proposal No. 4 is the most appropriate subject for these concerns to be expressed when that time comes.

Delegate Nanwarki Max Iriarte said he felt this was a very sensitive issue before the Committee and considering the weight it would have on the particular areas, and considering the fact that the membership of the Special Conference Committee had just been amended to provide for traditional leaders as members of that committee, he felt it would be proper to return this particular issue to the Special Conference Committee for reconstruction.

Delegate Isaac Lanwi stated they were out of order and asked if that was bad or if it was against any law. He said his explanation was that one could express good expression which would be acceptable to anybody, even the President of the United States or the Magistrate of the USSR. He felt they would not get insulted if he said they were out of order, but if he called the Chairman some kind of name, then he is out of order. He said he wanted freedom of drink, whisky; he wanted the Chairman to drink and get drunk. He was free to do that, but if he wanted to tell Delegate Lanwi something bad, Mr. Lanwi would punch him, because he would not be in order. He stated he agreed with Delegate Salii that there had been enough discussion, and if it continues, the Chairman is out of order.

The Chair asked what motions were on the floor, and the Floor Leader replied that the first motion was to adopt Committee Proposal No. 1 and there was a subsidiary motion to amend the main motion by adopting Amendment No. 1 to Committee Proposal No. 1, and stated that was the immediate motion on the floor.

Delegate Falcam said he thought it should be well understood that the Committee was talking about something all of them wanted protected. He felt this was no problem as far as protection of these fundamental individual rights is concerned, but he foresaw a problem in not recognizing the way of life and the traditions that exist in each individual district. He said if they separated the provision for recognizing traditional rights from the fundamental rights they are speaking of, he thinks it would be fair for the Delegates to see that recognition prior to voting on the fundamental rights. He stated it is very difficult for him to vote on the freedom of press and expression without knowing what the provisions to recognize the traditions of Micronesia and the districts are. He said if the two are separated, he can foresee that they would lose their identity as time goes on. He reminded the Committee of the Whole that they should examine the proposal for the protection of Micronesian customs and said that unless they examined that proposal in

relation to all the fundamental freedoms, some of them would miss the boat and that, he felt, would be a regrettable mistake for which they will be sorry.

Chairman Ngiraked asked if the provisions for freedom of expression were put in the Constitution, would that leave room for each district to legislate?

Delegate Salii said the proposal before the Committee was the freedom of expression, and if they anticipated what would be provided subsequently, everyone would be confused. He suggested the Committee take these things one by one and asked that a vote be taken to see what happened.

Delegate Weital said he had listened to the discussion on freedom of expression and still thought the two could not be separated. He said it was difficult to see how he could express himself and not consider the customs of Ponape. He said anything he would express in Ponape must be in relation to his customs. He said if he could be assured that in taking favorable action they would make it consistent with traditional custom, that would be one thing, but he did not agree. He stated he had been thinking of this matter for several days but was still not convinced he knew how to handle this -- freedom of expression, but not to consider how he can express that expression in Ponape.

Floor Leader Phan stated the question raised by the Chairman had been answered by Delegate Toribiong.

Delegate Toribiong stated that he felt it pertained to the chronology of consideration of freedom of expression and the limitation thereof. He said he felt if they were to vote yes or no on any one, it would not affect their judgment on any other, and, therefore, he felt they could proceed to consider each item, one by one. He felt that voting yes on Proposal No. 1 would in no way influence their decisions concerning limitations, and there should be no fear that to let one go would make it irretrievably lost and no other limitations could be placed thereon subsequently.

Delegate Chief Bossy asked if the Committee adopted the amendment, and the district legislature has said there will be no drawing of bad pictures of anyone, then is that permissible within the amendment?

Delegate Lanwi asked what amendment was referred to, the amendment to the amendment? He stated he could then respond to it.

The Chairman stated it was Amendment No. 1 to Committee Proposal No. 1.

Delegate Lanwi said he, himself, agreed with the amendment.

The Chairman asked if anyone wished to respond to the question.

Delegate Mwoky stated he had something to say which his interpreter would say for him.

Interpreter: "Mr. Chairman, I have some comments which may or may not be relevant to the question, but let's not kid ourselves. The Special Conference Committee was instructed by the Committee of the Whole to come up with a procedural method to take care of traditions, customs, and cultures. In turn, the Special Conference Committee instructed the Civil Liberties Committee to come up with such procedure. The Special Conference Committee did not instruct the Civil Liberties Committee to go ahead with any amendment to any basic freedom before coming up with such procedural method of taking care of customs, cultures, and traditions. Committee Proposal No. 4 is such a procedural method. If we go ahead now and act on Committee Proposal No. 1, let me remind this Committee of the Whole that we still have no procedural method to take care of customs, cultures, and traditions. Thank you, Mr. Chairman."

Delegate Chief Bossy requested an answer to his question from the members of the Committee on Civil Liberties. He stated that Delegate Lanwi's answer was unsatisfactory.

Delegate Carl Heine asked that the question be repeated.

Delegate Chief Bossy said that the question was, if we adopt this Proposal No. 1, if a district legislature enacted a law saying no one shall draw an ugly picture of any citizen of that district, is that permissible? Does this Proposal No. 1 permit that type of law?

Delegate Carl Heine said he felt that would be in violation of these particular rights.

Delegate Bony said he felt the answer should be given by Micronesia's future judges.

Delegate Sawaichi stated he felt most of the people speaking in the Committee of the Whole were concerned about the protection of customs and traditions, and he wondered if it would help if Proposal No. 4 were taken up first.

Delegate Namwarki Max Iriarte said he felt the order of passing proposals needed to be reversed. Since the Delegates were, or were not, concerned about the protection of customs, it seemed appropriate that Proposal No. 4 be settled, so as to leave no doubt later as to whether the customs would be taken into consideration or not.

Floor Leader Tman requested a short recess. Chairman Ngiraked declared the Committee of the Whole in recess, subject to the call of the Chair, at 12:15 p.m.

The Committee of the Whole was called to order at 12:30 p.m.

Chairman Ngiraked stated that Committee Proposal No. 1 was on the floor for discussion.

Delegate Tun said he wished to exercise his freedom of speech as it already existed in the Bill of Rights in the Trust Territory Code. He stated that the citizens of Micronesia already have in the Bill of Rights of the TT Code such freedoms as freedom of speech and other freedoms and have had them for as far back as the early 1950's. He further stated that the Bill of Rights also gives recognition to Micronesian customary and traditional laws, and thus far, as far as he knew, there has been no conflict between traditions and customs, as protected by the Bill of Rights, and the other freedoms stated in the Bill of Rights. Therefore, he suggested that the subject of customs and traditions be taken up when the Committee of the Whole comes to the proposal dealing with that particular subject.

Delegate Eperiam stated he would also like to exercise his freedom of expression. He said he did not believe in freedom of speech and freedom of press, but he did believe in freedom of expression. He felt that these freedoms are adopted freedoms, and that the problem was in trying to look at these freedoms as fundamental and inherent in Micronesian cultures and traditions. He stated he did not agree with the whole proposal from the word "No" to the word "expression." He said he did not agree because every individual already had these rights, whether or not he liked it, and all these together are freedom of expression. Secondly, Delegate Eperiam went on, his other problem had to do with the word "responsible" which he looked at as being fake, and he felt that a person already had these rights and could exercise them as long as he did not violate the rights of other individuals or the community, and other beings — animals, fish, or whatever is needed for the general welfare. He concluded by saying that for these reasons, he did not believe in Proposal No. 1.

Delegate Cabrera stated he felt everyone would agree that there had been intensive and exhaustive discussion on Proposal No. 1 and the amendment that had been introduced. He said he felt there should be a section in the Constitution giving a Micronesian the right to express himself, the right to speak against. He felt the right, however, should not extend to infringing upon the rights of others. Delegate Cabrera stated that he wanted to see such a proposal adopted, but felt, from the discussion in the Committee of

the Whole, and the sentiments that had surfaced, that a vote would defeat the measure, and, therefore, he moved to defer the amendment until after the recess.

Delegate Weilal seconded.

The Chair asked for specific timing in the motion, and Delegate Cabrera said immediately after the recess, not later than the first work after reconvening.

The Chair asked the Floor Leader if "first work" was proper according to the Rules, and the Floor Leader replied that it was.

Floor Leader Tmau noted that if the motion to defer the proposed amendment passed, the main motion would be adoption of Committee Proposal No. 1, and the Chair asked if that was the intent of the maker of the motion.

Delegate Cabrera replied that his main concern was that he felt taking a vote immediately would result in the defeat of both the amendment and the proposal, and because he wanted to see a provision in the Constitution on this subject, he would like to see action deferred until after the recess.

Delegate Isaac Inamine said he wanted to be clear on which one the Delegates would be taking home during the recess, the proposal or the amendment introduced by Delegate Faleoma or the amendment proposed by the Committee. He stated he was going to vote for freedom of expression and yet the Committee was talking about freedom of speech and press and the right to draw pictures.

Delegate Faleoma requested clarification on the designation of the amendments. He said his amendment was designated No. 1, and the Committee amendment was also designated No. 1, the same number. He asked how these things were arrived at.

The Chair stated that if action is taken on Committee Proposal No. 1, and that motion was defeated, then a motion for Delegate Faleoma's amendment would be in order.

Floor Leader Tmau said that to further confuse the Convention, he would state some procedural facts: "Proposed amendment offered by Delegate Faleoma to Proposal No. 1 was referred to the Special Conference Committee, and the Special Conference Committee recommended that it be referred to the Committee on Civil Liberties, and, in response to that amendment, the Civil Liberties Committee came up with Proposal No. 4. In fact, there is now no amendment proposed by Delegate Faleoma on the floor."

Delegate Sawaichi moved that the Committee of the Whole recess and reconvene at two o'clock in the afternoon.

Floor Leader Tmau seconded. The motion was defeated.

Delegate Isaac Inamine requested that the rule prohibiting a motion for the previous question be suspended.

Chairman Ngiraked said there is no rule for closing debate in the Committee of the Whole.

Floor Leader Tmau said the immediate motion on the floor was the motion to defer action.

A vote was taken and the motion was defeated.

Delegate Nakamura said he felt there was a little confusion as to the freedom or the rights of people or persons to express and the limitations on speech. His delegation has been quite concerned about it, he said. However, as reported by the Chairman of the Committee on Civil Liberties, the limitations

would be dealt with later on. The limitations could be contained in the Constitution or by statutes of Micronesia or would be dealt with in customary laws, and so he urged all the Delegates to think about the freedom, the rights and forget about the limitations implied in the section and deal with it later on.

Delegate Salii said the motion on the floor was to adopt the amendment to Delegate Proposal No. 1.

The Chair said the vote would be by show of hands. Delegate Bony requested the vote be by secret ballot. Delegate Cobrera asked if a secret ballot vote was proper in the Committee of the Whole, and Floor Leader Tmetuchl replied he could see no provision in the rules prohibiting it.

Delegate John Heine moved for a show of hands. Delegate Bony said he felt it essential that the vote be by secret ballot.

Delegate Salii said that since there were only two suggestions by the Delegates, the Chair should make a ruling.

Chairman Ngiraked ruled that the vote would be by secret ballot.

The Convention Secretary announced the result of the vote. There were 29 Ayes and 15 Nays and 2 void ballots. The amendment was adopted.

The Chair asked that the proposal, as amended by the Committee of the Whole, be read by the Secretary, and the Secretary read the following:

> "Freedom of expression. No law shall deprive any person or abridge his right to enjoy the freedom of expression."

The Chair stated that there was a motion on the floor to adopt the proposal in the Committee of the Whole.

A voice vote was taken, and the motion carried. Committee Proposal No. 1 was accepted by the Committee of the Whole.

The Convention Secretary noted that Committee Proposal No. 4, "A Proposal providing for the preservation of local customs" was also on the floor for discussion and action.

Delegate Carl Heine requested that action on Committee Proposal No. 4 be deferred so that the staff could do further work on it, and so moved. Delegate Kendall seconded, and the motion carried.

Action on Committee Proposal No. 4 was deferred until Tuesday, August 19, 1975.

The Chair declared the Committee of the Whole adjourned at 1:04 p.m.

Re: Committee Proposal No. 4, "A Proposal providing for the preservation of local customs."

Chairman: Vice President Peters Pun

Chairman Pun called the Committee of the Whole to order at 11:11 a.m.

Delegate Carl Heine stated that before he moves to adopt Committee Proposal No. 4 on Second Reading, he wished to have the Delegates read the explanation sheet, as that time being distributed, which explained Amendment No. 1 to Committee Proposal No. 4. He therefore moved for a short recess.

There were several seconds to the motion. The Committee of the Whole recessed, subject to the call of the Chair, at 11:12 a.m.

The Committee of the Whole reconvened at 11:30 a.m.

Delegate Carl Heine moved for the adoption of Committee Proposal No. 4 on Second Reading. Floor Leader Pun seconded the motion.

The Chairman requested the Convention Secretary to read Committee Proposal No. 4, as follows:

"A Proposal providing for the preservation of local customs.

"RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

"Local Customs -- Customary law. The customs of the inhabitants of Micronesia not in conflict with this Constitution or the statutory laws of Micronesia shall be preserved. The recognized customary law of the various parts of Micronesia shall have the full force and effect of law so far as such customary law is not in conflict with the Constitution or the statutory law of Micronesia."

Delegate Carl Heine moved for the adoption of Amendment No. 1 to Committee Proposal No. 4. Floor Leader Pun seconded the motion.

The Chairman requested the Convention Secretary to read Amendment No. 1 to Committee Proposal No. 4, as follows:

Proposed Amendment No. 1. Delete the entire Proposal No. 4 and insert the following:

"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."

Delegate Weilat: I appreciate the work of the Committee on Civil Liberties, and I would like to commend them on the hard work they have done during the past days, but as to the amendment here I have some questions. I am only sorry that English is not my language, and perhaps my understanding of the words used in this amendment will not convince me at this time for the following reasons. My first question concerns line 2 in the proposed amendment -- the words "may be protected by legislation." The second question concerns the last three lines, beginning with "...the essentiality of the Micronesian tradition protected may be considered as a..." My last

question is in the explanation sheet on the second page. I am sorry that I just got this explanation a few minutes ago. Usually when I read an article or something for the first time, it is not clear in my mind; perhaps these are the reasons why these questions came to my mind. On page two of this explanation report, the last sentence of the first paragraph on page two says: "Not just any custom, tradition or standard of morality..." Why do we have to use that example? I would like to request the Chairman of the Civil Liberties Committee to explain these to me, the questions I have on the proposed amendment and the reason why the Committee chose to use the example on the second page of the explanation sheet of the proposed amendment.

The Chairman of the Civil Liberties Committee yielded the floor to any member of the Committee to respond to the questions.

Delegate Bony asked that the question be repeated because of its length. The Chairman requested Delegate Weital to repeat the question and make it as clear as possible.

Delegate Weital stated that his first question concerns the words "may be" as used in the proposed amendment, that they could be construed to mean "may be" or "may not be," that "it leaves the possibility in the minds of the people who will interpret these lines." "It can be obeyed, or it cannot be obeyed." He wanted to know if that was the intention of those words.

Delegate Bony stated that the Delegate who raised the question answered his own question. He stated further that the words "may be" are clear. It is up to the district legislature. If they wish to legislate they may, or they may not.

Delegate Weital asked what the last line meant with regard to "...the essentiality of the Micronesian tradition..." in the proposed amendment.

Delegate Bony stated that the phrase means that the judge will weigh the customs and the rights, and that he will rule in favor of the one that is heavier.

President Nakayama asked what meaning was assigned to the words "...compelling social purpose," that if the meaning was explained perhaps the question could be answered.

Delegate Carl Heine: Micronesian custom is an undefined matter. It is different in every district and in different social circles throughout Micronesia. We have to be very specific when we go to court to explain what we have in mind, what is being requested of the court to give its opinion on. In other words, before any of the basic fundamental rights are curtailed, the government or whoever is challenging must prove to the court that such and such a communal value has enough of a compelling social reason, that is, not just any custom. You must prove to the court that the social reasons you are bringing before the court are so important that the basic fundamental rights can be curtailed.

Delegate Chief Bossy stated that before he cast his vote he would like to ask a question along the same line but take it one point further. He stated that they have already passed freedom of expression, but assuming they also pass this amendment, assuming that legislation is made to make it a misdemeanor if a person maliciously draws an ugly picture of a chief, and assuming the court decides that there is a compelling social purpose not to draw ugly pictures of chiefs in that district, will the decision stand?

Delegate Carl Heine stated that, as far as he was concerned, the decision of the court would stand.

Delegate Toribiong: I am not a member (of the Committee on Civil Liberties) but I wish to respond to the question. It would seem to me that it is very hard at this time to predict what the court is going to say on any given hypothetical case. The case must be specific before a court can render a

decision. It must first have a descriptive analysis of a sketch, the intent -- whether there was malice accompanying the publication of that sketch, and whether there was any social purpose served by a given sketch. It is very difficult to respond to that question which is phrased in very general terms, but if there is a compelling reason at the time to protect the integrity and dignity of the chiefs, I think that would be sufficient at that time to compel the court to uphold that statute.

Delegate Cruz stated that in his district where they have two ethnic groups, the Carolinian community and the so-called Chamorro community, they have two traditional customs. He feels that the amendment to Committee Proposal No. 4 is a very fine piece of work, he commended the Committee and said that he was in support of the amendment.

Delegate Sperium stated that before he could make a decision on the amendment, he would like to be enlightened as to what the Convention defines the fundamental rights of the Micronesian people to be in reference to the last paragraph of the explanation sheet.

Delegate Nakamura stated that for the benefit of some people and himself, he would like the Committee Chairman or any of the members of the Committee to make a comparative analysis of the amendment and the proposal. Secondly, if the intent of the amendment was to delete customs and traditions, he wanted to know the reason behind it. Third, he wanted to know if traditional customary laws would only be protected by legislation in administrative actions -- if it meant that customary laws will lose the full force and effect if they are not legislated.

Delegate Sony stated that he had made an analysis of the two documents -- Committee Proposal No. 4 and Amendment No. 1. He stated that he feels that from a legal standpoint both of the documents are essentially the same; however, Amendment No. 1 opens the door to letting politics in. He stated that the protection of custom will be there provided the citizens recognize them, that that is the protection of customs and traditions. He stated: "No matter how much you legislate on traditions and customs, if your children don't recognize them, they will become a joke."

Delegate Toribiong: The proposal stated that customs shall have the full force and effect of law unless the legislature enacts statutes to invalidate them. The proposed amendment seems to state that the legislature may protect the traditions of the Micronesian people. In other words, on the basis of the proposed amendment, if there is no action on the part of the lawmaking body, then the traditions are not protected. They will be left to the mercy of the legislature. Furthermore, in the last sentence of the proposed amendment, it talks about governmental action if challenged and not the custom. Therefore, the traditions under the proposed amendment would be protected only indirectly as a result of legislation. In the absence of any legislation, it is not protected, I presume. That's my reading of the proposed amendment.

Delegate Faleam: I haven't heard any explanation of the point made by President Nakayama about 'compelling social purpose.' I think this is very important before an intelligent vote is cast. The other observation I would like to make is that I think Delegate Nakamura of Palau points his finger right at the crux of the problem. Only customs legislated will be affected in our society or customs that are traditionally accepted will also be affected. Where are we standing as far as these two things are concerned? I think an explanation of this is essential.

Delegate Ngirmeked stated that there has been a question before the Convention as to resolving the issue and how the district legislatures will legislate in the area of freedom of expression in protecting and upholding local traditions. He stated that the proposed amendment provides the basis upon which the legislature or the local government may go against the Constitution or qualify the provision of the Constitution. This, he feels, is very essential

and supports the amendment. He also urged the Convention to vote in favor of the amendment.

Delegate Osborn stated that the proposed amendment conforms with the expressions that have surfaced during the past two weeks when the Convention undertook to consider the adoption of the Freedom of Speech. He said that the amendment provides the mechanics wherein local customs and traditions will be protected, and that they could not do much more than this. He stated further that with all due respect to the differences in customs and cultures in each respective district it would not be wise for any traditional leader to abuse whatever inherent power he may have to suppress the people under him. He said that there ought to be a limitation and that the decision as to whether or not one exceeds that limitation should be left up to the court. He feels that they need to include something like this in the Constitution.

There being no further discussion, the motion carried to adopt Amendment No. 1 to Committee Proposal No. 1.

The motion carried to adopt Committee Proposal No. 1, as amended by the Committee of the Whole.

The Chairman declared that the Committee of the Whole would resolve and report back to the Plenary Session.

The Committee of the Whole rose at 12:00 noon.

Re: Committee Proposal No. 5, "A Proposal relating to the Preamble to the Constitution of Micronesia."

Chairman: Vice President Chutomu Nimwes

The Chair called the Committee of the Whole to order at 11:30 a.m.

Delegate Tun moved for adoption of Committee Proposal No. 5 by the Committee of the Whole. Delegate Perbiong seconded. The Chairman asked the Convention Secretary to read the proposal, and the Secretary read the following:

"Committee Proposal No. 5

"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 divide us. Our islands sustain us, our island nation enlarges us and makes us stronger.

"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.

"Micronesian life 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 the recognition of 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."

Delegate Sony stated that before he cast his vote on the Committee Proposal, he wanted to raise a point of inquiry. He said he felt the preamble was beautiful; however, he wanted to know whether it had legal force. He noted that the preamble does not say why a formal union should be established or for what purpose. His question, therefore, was whether the preamble had legal force.

Delegate Weital agreed that it was beautiful and poetic, but stated it was silent on the point as to whether it is legal or not legal.

Delegate Tun thought the question had been answered adequately; however, he wanted to add that some preambles have legal effect and some do not. He said the Committee on General Provisions decided that this should be left to the assembly drafting the Constitution, and it would be up to them if they wanted it to have legal effect. If so, they would make it so, and

then it would be the decision of the courts in the future. He concluded that the preamble dwells on a number of things including sovereignty and unity, and these subjects would be covered adequately in other provisions of the Constitution.

The motion to adopt carried, and Committee Proposal No. 5 was adopted by the Committee of the Whole, as recommended by Committee Report No. 6 of the General Provisions Committee.

The Chairman declared the Committee of the Whole adjourned at 11:40 a.m.

Re: Committee Proposal No. 6, "A Proposal providing For a Three-branch Central Government."

Chairman: Vice President Lorenzo M. Cabecan

The Chair called the Committee of the Whole to order at 11:31 a.m.

Delegate Heinrich Iriarte moved for adoption of Committee Proposal No. 6 by the Committee of the Whole. Delegate Ngiraked seconded.

The Chairman requested the Convention Secretary to read the proposal, as follows:

"Committee Proposal No. 6

"A Proposal providing for a three-branch Central Government.

"RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

"Composition of Central Government. There shall be a Central Government of Micronesia consisting of an executive, a legislature, and a judiciary."

Delegate Ngiraked stated that some concern had been expressed about the proposal before the Committee and that there was some question as to whether or not it was preempting some area that needed to be reserved for full consideration by the Convention. In response to that, he said that the proposal merely designates the three areas of functions, although it does not go as far as providing the functions, and that the proposal is necessary because it follows the express, general consensus of the Convention that there should be three major areas of functions -- three branches of government. He concluded by saying that in order to expedite the matter, the proposal should be adopted.

There being no further discussion, the motion carried to adopt Committee Proposal No. 6.

The Chairman declared that the Committee of the Whole would resolve and report back to the Plenary Session.

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

Re: Committee Proposal No. 3, "A Proposal relating to the power of eminent domain."

Chairman: Floor Leader Luke M. Tuan

Chairman Tuan called the Committee of the Whole to order at 11:21 a.m. and advised the Delegates that the Committee had before it Committee Proposal No. 3 as reported out by the Committee on Governmental Functions. He offered to the Committee the past history of this Committee Proposal, together with that of the minority committee proposal offered by Delegate Apis. Such history was that on August 15, 1975 the Convention accepted both Committee Report No. 4 and Minority Report No. 4(A), determining that the minority proposal attached to Minority Report No. 4(A) would be treated as a proposed amendment to Committee Proposal No. 3, which was the majority proposal attached to Committee Report No. 4. If the Committee of the Whole wished to resume action from where action was deferred on August 16, the main motion before them would be on the adoption of the minority proposal as an amendment to Committee Proposal No. 3. There was a motion by Delegate Sony and second by Delegate Nimwon to defer action on this Committee Proposal until September 16. On September 16 the chairman of the Committee on Governmental Functions requested that action be deferred until September 19. He stated that, if there was no objection from the floor, he would recommend that the Committee of the Whole consider the minority proposal as an amendment to Committee Proposal No. 3.

Delegate Sony stated he wished to offer an amendment to the proposed amendment to Committee Proposal No. 3, if such offering was in order.

Chairman Tuan stated that Delegate Sony was in order with his offering, but the Committee should first decide if there was a motion before the floor, or if they should make a new motion.

Delegate Ngirsuked moved that the Committee of the Whole adopt Committee Proposal No. 3. Delegate Taribiong seconded.

Chairman Tuan stated that the main motion on the floor was that the Committee of the Whole adopt Committee Proposal No. 3 on eminent domain. He said it was, thus, the consensus of the Committee of the Whole that they start anew and not as of where action was deferred.

Delegate Apis moved that the Committee adopt the amendments to Committee Proposal No. 3. Delegate Sony seconded.

Delegate Sony offered an amendment to the minority proposal, which was being treated as an amendment to Committee Proposal No. 3. The text of such amendment is as follows:

On page 1, add the following sentence at the end of the Section:

"No property which is the sole land of an owner may be taken without substitute land being offered by the government."

Delegate Sony moved for the adoption of such amendment. Delegate Fritz seconded.

Delegate Nimwon questioned who would determine whether the land in question was the sole land of the owner.

Delegate Sony said he was fully aware of that problem, but it would be an administrative problem. He stated that he felt that if the Convention wished the power of eminent domain to be ratified in the Constitution by the people, that amendment should be made a part thereof.

Delegate Isaac Lanwi asked what the settlement would be if the government was exercising the power of eminent domain on his sole piece of land and he was not satisfied with the property they wished to substitute.

Delegate Toribiong stated that it appeared to him that the amendment did not say that the owner had to accept the land offered in substitute; only that the government had to offer substitute land. The government could still proceed as long as they had made the offer at some time prior to the execution of the authority.

Delegate Sony said he felt that this amendment would be a restraining force on the government.

Delegate Isaac Lanwi said he did not agree with giving the government the power of eminent domain; that his people had traditional ways of providing land for the government and the power of eminent domain would not be accepted by his people.

Delegate Robert asked where the government would obtain the land to be used as the substitute land.

Delegate Sony stated that the future government of Micronesia might have some public land and, if not, the government would have to exert all efforts to find a piece of land that would be an equivalent to the land taken from the owner.

Delegate Nimwes stated that with the present talk of returning public lands to the people, or whoever, he could see no reason why this amendment was even proposed.

Delegate Ngiraked said that if the main concern of the mover of the proposed amendment was to provide restraint on the government in exercise of the power of eminent domain, he felt there were enough restraints placed on the government according to the proposal before the Committee. The government would be required to pay a fair price; they had to acquire the consent of the district government; the district government would provide the procedure for providing that consent; and it would be thereby determined whether the taking of land would be compensated for by money or through the exchange of land. He said the question was whether or not the Convention wished the central government to be equipped with the power of eminent domain and whether or not they wished the district government to have approval power of such action.

Delegate Mwoky moved for a recess, subject to the call of the Chair. Delegate Nimwes seconded. The Chair declared a short recess, subject to the call of the Chair, at 11:47 a.m.

Chairman Tmetuchl called the Committee of the Whole to order at 12:02 p.m. and stated that the subject before the Committee was the adoption of the proposed amendment to the minority proposal as an amendment to the majority proposal.

Delegate Ismael stated that the majority proposal reflected intense study and deliberation by the Committee on Governmental Functions. He said that such committee would be offering an amendment to their own proposal which would, in effect, incorporate the thought of the amendment to the amendment. He said that the Committee felt that after thirty years in which the government had exercised the power of eminent domain only five times, affecting only about 21 Micronesians, it was an inherent power of the government and should be exerci by the new government of Micronesia. He stated that the majority of the members of the Committee on Governmental Functions felt the power should lie in the districts and not be shared by the national government, however, the national government could exercise the power of eminent domain only upon the approval of the district.

Chairman Tmetuchl called for a voice vote on the adoption of the proposed amendment to the minority report's proposal as an amendment to the majority proposal, Committee Proposal No. 3. Motion was defeated.

Chairman Tmetuchl stated that the motion now on the floor was the minority proposal.

Delegate Anis asked leave of the Committee to make a few remarks in support of his minority report's proposal. The text of such remarks was as follows:

"Mr. Chairman, Fellow Delegates:

The rules of this Convention wisely provide that, when there is disagreement in a Convention committee, dissenting members may present a minority report expressing their views.

This morning you are receiving such a report and I ask you to give it your special attention. The issues involved in this report go right to the heart of our Constitution. If we fail to make the correct decision here, our future government may be in mortal danger.

Mr. Chairman, I refer to the crucial issue of eminent domain: the power of the government to acquire land for public purposes.

Your Committee on Governmental Functions, upon which it is my pleasure to serve, has reached a majority decision on eminent domain. The majority of the Committee recommend that the future central government shall not acquire land without the approval of the appropriate district government. In effect, this gives district governments a veto-power over the central government.

Mr. Chairman, I think I understand why the majority of the Committee took this position. They have some very basic doubts, and fears, about the power of eminent domain -- its endless potential to cause suffering and injustice when it is abused.

Unfortunately, their fears are supported by some of our experiences under the Trusteeship system. There have been abuses during the last thirty years. Land has been taken by the central government, in the wrong way, for the wrong reasons. People have suffered and they continue to suffer because of this.

I sympathize with the position of the majority on my committee. I understand it. But I do not agree, and I do not think this Convention should agree.

Should a child suffer for the sins of the father -- or stepfather? Should our future Micronesian government starve because the previous American administration cheated? Should our future leaders be distrusted because our past administrators sometimes violated their trust?

No, Mr. Chairman, we are not talking about granting eminent domain to a government which is ruled from Washington. We are talking about giving eminent domain to a Micronesian central government. The signers of the minority report believe the future national government must have this power, along with the district governments.

Any central government -- no matter how limited -- will have important jobs to do. Sometimes, to do its job, it may need land. If it does not have the power to acquire land, it will not be able to do its job. It may be difficult -- or impossible -- to build a road, a hospital, or a school. Every project may get tied up in delay, red-tape, and at worst -- political maneuvering and financial blackmail.

Many have talked about limiting the central government. Fine! But no one has talked of eliminating it completely. If you deny the central government this basic power, you might as well eliminate it.

Gentlemen, we are here to plan for the future, to provide for future needs, and to do so wisely. If we want to be ruled by the sad experience of the past, past suspicion and abuse of power, adopt the majority position. Deny the central government the power of eminent domain. But if we want to plan for the future, for a Micronesian government that will work, give this government the power it needs.

Thank you, Mr. Chairman."

Chairman Tuan pointed out that adoption of the minority proposal would automatically substitute it for the majority proposal. Voice vote was taken and the motion was defeated.

Chairman Tuan stated that the motion then before the Committee was adoption of the majority proposal, Committee Proposal No. 3.

Delegate Ismael, as Chairman of the Committee on Governmental Functions, requested that the Committee of the Whole defer action on Committee Proposal No. 3 for one day in order to allow the Delegates to study and review the amendment that was being submitted by his committee. He moved that the Committee of the Whole defer action on Committee Proposal No. 3 until Saturday, September 20. Delegate Tarihiong seconded.

Motion carried that the Committee of the Whole request the Plenary Session to defer consideration of Committee Proposal No. 3 until Saturday, September 20, in order for the Delegates to have ample time to review the proposed amendment being offered by the Committee on Governmental Functions.

The Chair declared the Committee of the Whole adjourned at 12:18 p.m.

Re: Committee Proposal No. 5, "A Proposal relating to the power of eminent domain."

Chairman: Vice President Lorenzo M. Cabrera

The Chairman called the Committee of the Whole to order at 2:10 p.m. and advised the Delegates that the Committee had before it Committee Proposal No. 5.

Delegate Weilad inquired as to whether Resolution No. 25, which was introduced in the Plenary Session by Delegate Isaac Ianwi, was to be considered along with Committee Proposal No. 5. Floor Leader Tmetuchl advised that while the Resolution had been introduced in the Plenary Session prior to resolving into the Committee of the Whole, the intent of the Resolution was to allow all the Delegates to know the sentiments of the Marshallis District. Delegate Weilad requested that the Delegate from the Marshalls explain the intent of the Resolution prior to taking action on Committee Proposal No. 5.

Floor Leader Tmetuchl advised that Delegate Weilad's point was well taken but that without a motion to consider Committee Proposal No. 5, Resolution No. 25 could not be discussed as supporting material. He therefore moved that Committee Proposal No. 5 be adopted by the Committee of the Whole. The motion was seconded by Delegate Tan.

Upon request by Delegate Weilad, Delegate Isaac Ianwi advised that he did not wish to elaborate on the introduction of the Resolution in that the Resolution itself expresses the sentiments of most of the people in the Marshall Islands, along with remarks made by the Chairman of the Committee on Governmental Function. Delegate Weilad stated that he was not satisfied with the answer, and Delegate Isaac Ianwi stated that he wished to express the feelings of the Marshallese people and to please read the Resolution very carefully.

Delegate Mucky stated that he had a prepared statement to submit along with accompanying remarks, as follows:

> "Permit me to remind this historic Micronesian Constitutional Convention of its gigantic responsibility to the people who have chosen us to present their views in this hallowed hall of this Convention. I believe we all know that in creating a creature to govern the Micronesian public, we must have the consent of the governed.
>
> The people of Ponape, whom I represent in this Convention, have given me their order over the issue of eminent domain. They do not want it, and they do not want any level of government in Micronesia to have the power of eminent domain. My people, however, realize that at times the new government of Micronesia will find the utmost necessity to use private lands for providing the emergency needs of some fellow Micronesians.
>
> Nevertheless, in order to prevent Micronesian governmental administrators from exercising the power of eminent domain as a matter of convenience as they have been doing in the past, it is my opinion that we must not grant the power of eminent domain to any level of government, while at the same time leave room for the government to obtain private lands for public purposes through gentlemen's agreements."

Delegate Mwety moved that Committee Proposal No. 3 be amended as follows:

> Strike out the entire Committee Proposal and insert, in lieu thereof, the following:
>
> > "Section _____. Eminent Domain. All levels of Government in Micronesia shall have no power of eminent domain.
> >
> > National Crises. In times of tidal wave, typhoon, or war, the National Government may station soldiers and provide victims with a place to stay on any private land, with just compensation, provided that the lands used for such purposes remain the legal property of the owners thereof."

Delegate Weital stated that in view of the large number of proposals and amendments, he was trying to find a way to help make the discussion of eminent domain easier and posed the question as to whether they should vote on having eminent domain or not before discussing proposals and amendments concerning the issue.

Floor Leader Tman stated that the motion to amend Committee Proposal No. 3 was in order and he therefore moved that the proposed amendment offered by Delegate Mwety be adopted. The motion was seconded by Delegate Tun.

Delegate Falcam stated that before voting on the proposed amendment, he wished to state his views regarding the subject of eminent domain, as follows:

> "Mr. Chairman, when we came to Saipan we knew that our job was to write a Constitution for Micronesia. In his opening-day address, President Nakayama wisely advised us to go about our job in a 'Micronesian way.' He asked us to remember that 'what we do here, we do as Micronesians, for Micronesia.'
>
> I think we should remember this advice when we make a decision about eminent domain powers in Micronesia. If we were to copy constitutions from elsewhere in the world, we might provide for eminent domain power in the central government, the district governments and municipal governments. All three levels of government might be given the power to acquire land for public purposes.
>
> But, we are not here to copy other constitutions. We are writing a Constitution for Micronesia. We should keep Micronesian conditions in mind, and perhaps the one Micronesian condition we should most keep in mind is the condition of our land. I think we should remember how scarce it is; how our land tenure systems vary from district to district; how the availability of land for public use also varies from district to district. Most of all, we should remember that land, more than money, more than material possessions, is the basis of life in Micronesia.
>
> Mr. Chairman, I think there is no escape from the fact that a government must have some control over land. To do its job, a government must have the power of eminent domain. The question facing us is what level of government should have this power and how should it be exercised? These are the major questions. How do we answer them? By studying the U.S. Constitution? No. By checking legal precedents from Texas or Michigan? No. We find the answers by looking at conditions in the districts of Micronesia. If we do so, the answer becomes clear.
>
> Mr. Chairman, I suggest that the power of eminent domain be vested in the districts of Micronesia. I realize that some Delegates, deeply concerned about protection of land, have said that control of land should be left to the individual landowners and municipal governments. I also realize that some other Delegates, deeply concerned about the vitality of the new Micronesian government, have said that the central government ought to be given eminent domain powers. I respect the concerns of both groups, but I ask them to consider this—any eminent domain power which requires consent of individual

landowners and municipal governments is neither eminent nor powerful. On the other hand, any eminent domain power which is given a central government becomes a threat to the integrity, the customs, and the peculiarities of individual districts.

Therefore, I believe that eminent domain power should be left to the districts--and that each district should be free to decide if and when this power should be used. District laws, enacted by district legislatures, will regulate and control the use of eminent domain powers.

Mr. Chairman, let me make my position clear. I think that district governments should have eminent domain powers because they are best suited to make judgments about land. They know the customs; they know the owners; they know what past history has been; and they know that whatever the future holds they will have to live with it.

It is not a question of not trusting the central government. It is not a question of brushing aside landowners or municipalities. It is a matter of assigning the power of eminent domain to the most appropriate group. In so doing, we emphasize that such power is to be used only when absolutely essential as a last resort.

Mr. Chairman, I think we are all nervous about eminent domain--and rightly so. That makes it more important for us to make the correct decision now. I think that placing this important and controversial power in the hands of the districts is the wisest and also the most Micronesian way.

Thank you, Mr. Chairman."

Floor Leader Tmau stated that while nature denied him the eloquence of some of the Delegates, he wished to address himself to the immediate question before the Committee of the Whole, which was the proposed amendment to Committee Proposal No. 3. He stated that the first sentence in the proposed amendment, "All levels of Government in Micronesia shall have no power of eminent domain", was exactly contrary to tradition and customs. While he could not speak for the other districts of Micronesia, and with leave of his chiefs and his delegation, he could speak for Yap District in which even a single village has an inherent power of eminent domain. He stated that if the proposed amendment were adopted, it would deny the district government and even the communities or villages their traditional inherent power of eminent domain. He further stated that "National Government" in the next clause of the proposed amendment was not in an appropriate section in being part of the eminent domain issue and that it could be in either the Bill of Rights or somewhere else in the Constitutional provision.

There being no further discussion, by voice vote the motion was defeated to adopt the proposed amendment to Committee Proposal No. 3 as offered by Delegate Mwety.

Delegate Chief Bossy stated that he had a proposed amendment and moved that it be discussed. Floor Leader Tmau seconded the motion. The Chair requested the Convention Secretary to read the proposed amendment, as follows:

> Strike out all of the section, and in lieu thereof insert the following:
>
> "Section _____. Eminent Domain. The national government of Micronesia shall have no power of eminent domain. Upon the payment of just compensation, the district governments may exercise the power of eminent domain, including the taking of private property for a national purpose. Exercise of the power of eminent domain shall only confer the right to use land for the public purpose for which it was taken, and once such use has fully terminated, the title shall revert to the private owners from whom the land was taken, or their heirs."

Floor Leader Tmau moved that the Committee of the Whole recess for ten minutes in order for each Delegation to consult amongst themselves regarding the proposed amendment. Delegate Olikong seconded, and the motion carried.

The Committee of the Whole recessed, subject to the call of the Chair, at 3:05 p.m.

The Committee of the Whole reconvened at 3:15 p.m.

Delegate Gouy stated that he could see no difference between the proposed amendment and Committee Proposal No. 3 except in the last sentence, but that it was becoming very obvious that the Delegates are very suspicious of the national government, not the district governments. He questioned why they were drafting a constitution for a government that they distrust. He stated that they were neglecting the other side of eminent domain power for without this power there was a danger---that there were authorities or entities existing throughout Micronesia which have been or will be exercising the power of eminent domain with just compensation or not. Further, if the power of eminent domain rests with the government, the landowners will be protected from having their lands taken away according to law.

Delegate Robert stated that up until yesterday morning he always harbored the idea of supporting the side not to have the government possess the power of eminent domain, and that he had observed a very prevalent attitude in the Convention---namely, the personal selfishness and distrust of the government. While there is distrust of the national government, to look at it from a different angle, he stated that they do not want to give up what is theirs for the use or benefit of their neighbors. Because of this attitude, he felt that the government should, for the interest of everybody, possess certain degrees of authority to take private property for the welfare of the general public. For this reason, he wished to commend the Committee on Governmental Functions for their good work regarding Committee Proposal No. 3 but he felt that there was still a defect in the proposal in that it only solves the problem of individual selfishness but not the problem of ethnocentricity---a problem which prevails in the Convention. He stated further that each district, under this proposal, would still be able to exercise its right and that the central government could not do anything. Therefore, he stated that in order for the central government to help promote the interest and welfare of Micronesia as a whole, it must possess the power of eminent domain.

Delegate Isaac Lanwi stated that he would like to offer an amendment to the amendment---in the third line after the word "governments" to include "west of the Marshalls Republic".

Floor Leader Tmau stated that he wished to express the difficulties he sees with the proposed amendment. First, that the phrase on line 4, "including the taking of private property for a national purpose" is redundant if the eminent domain phrase is used, that to pay "just compensation" when the government condemns land and the land returns to the original owner or heirs is not fair because you would actually make a double compensation---if that was the intention of the introducer of the proposed amendment, he felt that he could have accomplished the same purpose by leasing the land which, upon termination of the lease, land would automatically return to the original owners or heirs. His major concern, however, with regard to the proposed amendment was that it totally and absolutely denied the national government of having any leeway to exercise the power with or without the consent of the districts.

Delegate Isaac Lanwi stated that eminent domain has no meaning in his language and that it should be stated as land taken *away* from landowners without full consent.

Floor Leader Tmau stated that even according to Title 10 of the Trust Territory Code, which deals with eminent domain, and although it leaves much to be desired, one of the important meanings in the exercise of eminent domain is public use. If an individual person disagrees with the condemnation proceedings because he doesn't want his land to be taken away, the public interest is at stake---that the people should agree to consent so that the government can exercise the power of eminent domain for public purposes with just compensation.

Delegate Isaac Ismai stated that while they have a new airport and new port in the Marshalls, they did not have to take the land away from anybody for they filled the ocean. He posed the question as to why bother taking the land away from private owners when the government has the capability of landfill.

There being no further discussion, by voice vote the motion was defeated to accept the proposed amendment offered by Delegate Chief Bossy.

Delegate Petewon asked for clarification of the sentence starting on line 4 through line 5 from the Chairman of the Committee on Governmental Functions who submitted Committee Proposal No. 5.

Delegate Ismael stated that this was merely a procedural power that the national government will have in order to put up a public project, but that it rests entirely upon district approval.

Delegate Apis stated his concern that the power may be abused with regard to the phrase "express approval" on line four.

Delegate Ismael stated that a public purpose, as defined in Title 10 of the Trust Territory Code, is for the benefit of the people as determined by the High Commissioner from time to time, but that the Committee's definition of public purpose is any public project instigated for the benefit of the majority of any given society within Micronesia from time to time as enacted by law, and that any public project requiring the use of eminent domain must originate from the district, that it is not for the benefit of any other area but that district alone, so it would have to be cleared by the legislative and executive branches of the government in that particular district which expresses consent to the national government that such a public project was required.

Floor Leader Tmetuchl expressed his concern over the wording in Committee Proposal No. 5 with regard to the phrase "The national government of Micronesia shall...", in that the national government would be granted an absolute power to exercise the power of eminent domain, and with regard to the words "express approval", which is merely a proformas procedure, and that the wording should be "The national government of Micronesia may..." He further stated that while this proposal purports to give the district governments the power to approve, it also grants to the national legislature the power to prescribe the procedure through which eminent domain proceedings may be exercised, and in the final analysis the national government still has greater power of eminent domain. Therefore, he offered a proposed amendment and moved for its adoption. Delegate Isaac Ismai seconded the motion.

Floor Leader Tmetuchl moved that the Committee recess in order for the Delegates to review the proposed amendment. Delegate Koribiong seconded, and the motion carried.

The Committee of the Whole recessed, subject to the call of the Chair, at 3:35 p.m.

The Committee of the Whole reconvened at 4:40 p.m., at which time the Floor Leader requested the Convention Secretary to read the proposed amendment, as follows:

> Delete the full Section and replace it by the following:
>
> "Section _____. Eminent Domain. The exercise of the power of eminent domain is hereby reserved to each of the districts governments. Upon request by the national government, a district legislature may grant to the national government by legislative enactment the right to exercise the power of eminent domain within its district."

Floor Leader Tmetuchl moved that the proposed amendment and Committee Proposal No. 5 be referred to the Special Conference Committee for further study. Delegate Petewon seconded the motion.

Voice vote resulted in a division of the house and upon a show of hands, the motion to defer action on the proposed amendment was defeated.

Delegate Williander stated that with regard to Committee Proposal No. 3, the power of eminent domain is like a lock in a key to a door. The lock is in the hands of the central government while the key to that door is in the hands of the district government. Without approval of the district government to open the lock to the door, the door cannot be opened. He, therefore, spoke in favor and support of Committee Proposal No. 3.

Delegate Apis stated that he would rather support the amendment than Committee Proposal No. 3.

Delegate Tony stated that the proposed amendment would put the government in a very awkward position. He asked what would happen if there was an emergency which would require the taking of private land, whether the national government would wait until the district legislature ask to give the national government the right to exercise the power of eminent domain. This question was raised in view of the wide geographic location of legislatures and the necessity of traveling by field trip ships.

Delegate Tarkong stated that in case of emergencies, the district government will not just sit back on the national government, and that there will be an emergency provision in the Constitution to handle such problems.

Delegate Chief Bossy reminded the Delegates that the draft Constitution would have to be ratified by the people, and that the people of one district might disapprove the draft Constitution because the Delegates failed to heed their views by including a contrary provision.

Floor Leader Tmetuchl stated that normally the power to resolve an emergency case is reserved to the executive branch of the government--whether national or district--to be ratified later on by the legislative branch. With regard to the proposed amendment, he said that the power of eminent domain is reserved to each district government. By construction, the district legislature through legislative enactment will lay down the rules and procedures as to how to acquire land. In response to Delegate Chief Bossy's concern, he further stated that each respective district legislature will be in a much better position to accommodate the interest and concern of their respective constituents.

Delegate Ismael stated that Committee Proposal No. 3 was the best compromise they could come up with, taking into consideration the views of the Delegates representing all six districts, and he urged that the Delegates consider this in view of the proposed amendment which would preempt the national government from having the power of eminent domain.

Delegate Salii stated that the proposed amendment was a good compromise and urged the Delegates to adopt it.

Delegate Tony stated that he not only wanted his observation in the record but also on the air throughout Micronesia, that by reserving the power of eminent domain to the district governments it would be one step further toward the disunity of Micronesia.

Voice vote resulted in a division of the house and upon a show of hands, the proposed amendment offered by Delegate Luke Tmetuchl was adopted.

Floor Leader Tmetuchl stated that the motion now on the floor was the adoption of Committee Proposal No. 3, as amended.

By voice vote, the motion carried to adopt Committee Proposal No. 3, as amended.

There being no further business before the Committee of the Whole, Floor Leader Tmetuchl moved that the Committee rise and report to the Plenary Session. Delegate Tmetuchl seconded, and the motion carried.

The Committee of the Whole rose at 4:10 p.m.

Re: 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."

Chairman: Floor Leader Luke M. Tmau

The Chairman called the Committee of the Whole to order at 11:15 a.m. and advised the Delegates that the Committee had before it Committee Proposal No. 7 and Committee Proposal No. 8.

Delegate Tun moved for the adoption of Committee Proposal No. 7. The motion was seconded by Delegate Wainit.

Delegate Harmo offered an amendment to Committee Proposal No. 7, as follows:

No. 1: On page 2, line 8, insert the letter "s" following the word "legislature".

No. 2: On page 2, lines 15 and 16, delete the following: "and an affirmative vote of a majority of those voting on that question in the state,".

Delegate Harmo moved for the adoption of the amendment. Delegate Fritz seconded, and the motion carried to adopt the amendment offered by Delegate Harmo.

Delegate Wainit offered an amendment to Committee Proposal No. 7, as follows:

No. 1: On page 2, line 16, add the following sentence:

"If after 1980, a state is to be formed from the area of another state, or formed by the junction of two or more states, or parts of states, the approval of the state legislature or legislatures concerned shall be required, as well as the approval of the national legislature."

Delegate Wainit moved for the adoption of the amendment. Delegate Ismael seconded the motion.

Delegate Tun requested that Delegate Wainit withdraw his motion until the Committee on Governmental Functions could discuss and submit a proposal within the week, in view of the fact that the Committee felt that the subject of withdrawal, secession and admission should be treated as a separate Committee Proposal.

Delegate Wainit withdrew his motion to adopt the amendment and Delegate Tmetmel, who seconded the motion, raised no objection. The amendment offered by Delegate Wainit was withdrawn.

Delegate Falcam moved that action on Committee Proposal No. 7 be deferred until Friday, September 26, in order for the Delegates to have an opportunity to study the subject matter materials which were submitted with Committee Proposal No. 7.

Delegate Ngiraked seconded, and the motion carried to defer action on Committee Proposal No. 7 until Friday, September 26, 1975.

Delegate Tan moved for the adoption of Committee Proposal No. 8. The motion was seconded by Delegate Nakamura.

Delegate Cabrera moved for the suspension of Rule 62a in order to offer a verbal amendment to Committee Proposal No. 8. Delegate Ninwes seconded and the motion carried to suspend Rule 62a of the Rules of Procedure.

Delegate Cabrera offered the following verbal amendment:

> On line 6, insert "three-fourths" between "a" and "majority" and place a period after the word "question".
>
> On line 7, delete the words "in three-fourths of the states of Micronesia."

Delegate Limes seconded the motion.

Delegate Ngiraked moved that action on Committee Proposal No. 8 be deferred until Thursday, September 25, to allow the Delegates further time to study the proposal and to consult with legal counsel.

Delegate Ninwes seconded, and the motion carried to defer action on Committee Proposal No. 8 until Thursday, September 25, 1975.

There being no further business before the Committee of the Whole, the Chair entertained a motion that the Committee rise and report back to the Plenary Session.

Delegate Sawaichi so moved, Delegate Toribiong seconded, and the motion carried.

The Committee of the Whole rose at 12:40 p.m.

re: Committee Proposal No. 9, "A Proposal providing for freedom of religion."

Chairman: Vice President Leo A. Falcam

The Chairman called the meeting to order at 11:30 a.m. and advised the Committee that they had before them for consideration Committee Proposal No. 9, relating to freedom of religion.

Delegate Carl Heine moved for the adoption of Committee Proposal No. 9 on Second Reading. The motion was seconded by Floor Leader Tmetuchl.

Delegate Mwoty moved that action on Committee Proposal No. 9 be deferred until Wednesday, September 24, in order for the wording of the Proposal to be improved so that it would be acceptable to the Delegation. Delegate Moffat seconded the motion.

A voice vote was taken on the motion to defer action. The Chair declared a division of the house and called for a vote to be taken by a show of hands. After such vote Chairman Falcam announced the motion defeated by a vote of twelve "ayes" and twenty-seven "nays" by the Committee.

Chairman Falcam having announced that the motion before the Committee of the Whole was adoption of Committee Proposal No. 9, a voice vote was taken. The motion carried and Committee Proposal No. 9, "A Proposal providing for freedom of religion.", was adopted by the Committee of the Whole.

The Chair declared that the Committee of the Whole would rise and report back to the Plenary Session.

The Committee of the Whole rose at 12:40 p.m.

Re: Committee Proposal No. 8, "A Proposal relating to amending the Constitution."

Committee Proposal No. 10, "A Proposal relating to Citizenship, Naturalization and Emigration."

Chairman: Floor Leader Luke Tmar

The Chairman called the Committee of the Whole to order at 11:31 a.m. and advised the Delegates that the Committee had before it Committee Proposal No. 8.

It was moved and seconded that Committee Proposal No. 8, as reported out by the Committee on General Provisions, be adopted. The following amendments were offered:

Amendment No. 1:

"On page 1, line 6, insert the word 'three-fourths' following the word 'by' and delete the words 'a majority'".

Amendment No. 2:

"On page 1, line 7, insert the words 'each of' between the words 'in' and 'three-fourths'".

The reason that the amendments were offered was to clarify the word "three-fourths" of the districts as well as three-fourths of the votes cast in one district instead of a simple majority. Thus, in order for an amendment to the Constitution to pass, not only does it require passage in three-fourths of the districts or states of Micronesia, but also passage by three-fourths of the votes cast in each of the districts.

It was moved and seconded to adopt Amendments No. 1 and No. 2, and the motion carried.

By voice vote, Committee Proposal No. 8, as amended, was adopted.

The Chairman advised that the Committee had before it Committee Proposal No. 10.

It was moved and seconded that Committee Proposal No. 10, as presented by the Committee on General Provisions, be adopted. The Chairman went over the proposal, point by point, as to the conditions under which a person is recognized as a Micronesian citizen and Micronesian national, as well as conditions for becoming eligible for naturalization as a Micronesian citizen. The Chairman called attention to Committee Report No. 14, which details the enumerated provisions in the proposal. Points were raised for and against the proposal, as follows:

1. In view of the fact that many nations of the world face the problem of overpopulation, the Constitution should be restrictive in admitting outsiders to be citizens of Micronesia.

2. The Constitution should restrict outsiders from using naturalization as a means of establishing businesses in Micronesia.

Questions were raised, particularly with regard to item four in the proposal relating to unknown parentage. It was explained that this section would merely give protection to Micronesian children who may be left in one district or another by parents of another district. With regard to the section on naturalization, questions were raised as to how the "magic number" of "eight" was selected as the maximum age upon which a child can be adopted by a Micronesian citizen and be eligible for naturalization as a Micronesian citizen. Reasons for this were as follows:

1. Through the natural process of growing up in Micronesia from the age of eight, the child would assimilate Micronesian customs and traditions.

2. The question of adoption involves emotion and love. A child of this age or younger would be acquired most probably on the basis of affection and love rather than for pecuniary or other reasons.

Because of the various questions that were raised concerning Committee Proposal No. 10, it was moved and seconded that the proposal be recommitted to the Committee on General Provisions, and the motion carried.

The Chair declared that the Committee of the Whole would rise and report back to the Plenary Session.

The Committee of the Whole rose at 12:40 p.m.

Re: Committee Proposal No. 7 (CWD1), "A Proposal relating to the territory of the state of Micronesia."

Chairman: Floor Leader Luke Tman

The Chairman called the Committee of the Whole to order at 10:15 a.m. and advised the Delegation that the Committee had before it Committee Proposal No. 7 (CWD1). Action on the proposal was deferred on Tuesday, September 23, 1975.

It was moved and seconded that Committee Proposal No. 7 (CWD1) be adopted. The following amendments were offered:

Amendment No. 1:

On page 1, line 5, insert the words "of Districts which ratify this Constitution," between the words "islands" and "which".

Amendment No. 2:

On page 1, line 7, insert the word "the" between the words "and" and "airspace". Following the word "airspace" insert the words "above both land and water".

Amendment No. 3:

On page 1, line 8, insert between the words "right" and "or" the word ",custom,".

Amendment No. 4:

On page 2, line 5, correct the spelling of the word "Constitution".

Amendment No. 5:

On page 2, lines 5 and 6, delete the sentence which reads "Marine boundaries between states shall be computed on the basis of mean distances between the outermost islands of the states." and insert in lieu thereof the following sentence: "Marine boundaries between adjacent states shall be determined by law, applying the principle of computing mean distances between the outermost islands of adjacent states."

Amendment No. 6:

On page 2, lines 8 and 9, delete the words "and with the consent of the inhabitants of the affected areas".

It was moved and seconded that all the amendments (No. 1, No. 2 and No. 3) pertaining to the section on National Territory be adopted.

The Chairman of the Committee on General Provisions explained the purpose for each of the amendments, and the motion carried to adopt Amendments No. 1, No. 2 and No. 3.

Amendment No. 4 was treated as a technical correction.

It was moved and seconded that Amendments No. 5 and No. 6 pertaining to the section on State Boundaries be adopted.

The Chairman of the Committee on General Provisions explained the purpose for each of the amendments and answered questions that were raised, particularly with regard to Amendment No. 5. By voice vote, the amendments were adopted.

There being no further discussion, Committee Proposal No. 7 (CWPM, CWDP) was adopted by the Committee of the Whole, as follows:

Committee Proposal No. 7 (CWPM, CWDP)

"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 national territory of the state 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 state of Micronesia by historic right, custom, or legal title. The national territory of the state 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 state 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 state of Micronesia.

SECTION _____. State Boundaries. Each state 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 states shall be determined by law, applying the principle of equating mean distances between the outermost islands of adjacent states. Boundaries of states may be changed by law with the consent of the state legislatures concerned.

SECTION _____. Addition of Territory. Territory may be obtained, annexed, acquired or otherwise added to the national territory or a state 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 state the approval of the legislature for that state shall be required."

It was moved and seconded that the Committee rise and report back to the Plenary Session.

The Committee of the Whole rose at 11:07 a.m.

Re: Committee Proposal No. 11, "A Proposal relating to supremacy of the Constitution and the sovereignty of the Micronesian people and State."

Chairman: Vice President Leo A. Falcam

The Chairman called the Committee of the Whole to order at 11:20 a.m. and advised the Delegates that the Committee had before it Committee Proposal No. 11.

It was moved and seconded that Committee Proposal No. 11, as reported out by the Committee on General Provisions, be adopted.

By voice vote, Committee Proposal No. 11 was adopted by the Committee of the Whole.

There being no further business, it was moved and seconded that the Committee of the Whole rise and report back to the Plenary Session.

The motion carried. The Committee of the Whole rose at 11:25 a.m.

SUMMARY MINUTES COMMITTEE OF THE WHOLE SEPTEMBER 30, 1975

Re: Committee Proposal No. 10, "A Proposal relating to Citizenship, Naturalization and Immigration."

Chairman: Floor Leader Luke Tman

The Chairman called the Committee of the Whole to order at 11:35 a.m., and advised the Delegates that the Committee had before it Committee Proposal No. 10, which proposal was recommitted to the Committee on General Provisions in the Plenary Session of September 25, 1975.

It was moved and seconded that Committee Proposal No. 10 be adopted, as follows:

Committee Proposal No. 10

"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 this Constitution becomes 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, 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 minor of unknown parentage found in Micronesia shall be a Micronesian national.

5. 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.

6. Upon ratification of this Constitution, this article shall be construed to apply both retroactively and prospectively.

SECTION ____. Naturalization. Only Micronesian nationals, persons adopted when under the age of eight years by a Micronesian citizen, and spouses of Micronesian citizens are eligible for naturalization as Micronesian citizens, subject to 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."

The Chairman of the Committee on General Provisions advised that he had the following amendments to offer to accommodate the objections and reservations previously expressed by the Delegates during their first deliberation on the proposal.

Amendment No. 1: Amend page 1, line 4, insert the words "prior to" between the words "day" and "this" and delete the word "becomes", inserting in lieu thereof the word "becoming".

Amendment No. 2: On page 1, line 10, insert the words "whichever is later," following the word "Constitution,".

Amendment No. 3: On page 1, line 14, insert the words "Subject to requirements and procedures which shall be established by law," following the number "4." and change the letter "A" in the word "Any" to lower case.

Amendment No. 4: On page 2, line 10, delete the word "Only". On page 2, line 11, delete the word "and". On page 2, line 12, insert the words ", and other classes of persons as may be determined by law".

Amendment No. 5: On page 2, line 13, insert the word "additional" between the words "to" and "requirements".

It was moved and seconded that all amendments (No. 1, No. 2 and No. 3) pertaining to the section on Citizenship and Nationality be adopted. The motion carried.

It was moved and seconded that all amendments (No. 4 and No. 5) pertaining to the section on Naturalization be adopted. The motion carried.

The immediate motion before the Committee of the Whole was the adoption of Committee Proposal No. 10 (CWD1). The Chairman requested the Convention Secretary to read Committee Proposal No. 10, as amended.

Committee Proposal No. 10 (CWD1)

"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. Subject to requirements and procedures which shall be established by law, any minor of unknown parentage found in Micronesia shall be a Micronesian national.

"5. 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.

6. 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."

A question was raised with regard to the necessity of having Subsection 4 in the Constitution, that it is an unusual provision and that, in its absence, it would be automatically taken care of by law. The Chairman stated that a child of unknown parentage would not automatically become a Micronesian national unless and until he or she meets the requirements and procedures established by law.

With regard to the section on Naturalization, concern was again expressed with regard to the age limit of eight, and it was suggested that this be determined by law. The Chairman replied that if a child is adopted by a Micronesian citizen prior to the age of eight, that child will attend schools in Micronesia and grow up to be a Micronesian culturally.

There were several questions raised with regard to the meaning and/or interpretation of the following:

1. Subsection 2--"Any person born of parents..." does this refer to children of parents who are married or biological parents (i.e., can illegitimate children of Micronesians be Micronesian citizens). The Chairman replied that the term "parents" refers to biological parents.

2. Subsection 4--"Subject to requirements...by law" Does "law" refer to district or national law? The Floor Leader replied that this refers to national law.

3. Subsection 5--When applying to become a citizen of Micronesia, would a person of the Northern Marianas have to renounce his nationality of the Marianas, or could he retain both citizenship and nationality? The Chairman stated that in accordance with the terms of the Covenant, citizens of the Northern Marianas have six months after the effective date of the document to apply for U.S. citizenship. If they do not intend to become U.S. citizens, they remain nationals of the Northern Marianas only. Subsection 5 gives the citizens of the Northern Mariana another six months, or a total of one year, to apply for Micronesian citizenship and they have to renounce their U.S. citizenship if they wish to become Micronesian citizens.

4. Subsection 5--"Micronesian court". Does that refer to a judge where justice is administered, or does it refer to an administrative body? The Chairman advised that the word "court" refers to a Micronesian court, as presently established, not a newly created court.

There being no further discussion, the motion carried to adopt Committee Proposal No. 10 (CWDL).

It was moved and seconded that the Committee rise and report back to the Plenary Session. The Committee of the Whole rose at 12:10 p.m.

Re: Committee Proposal No. 12, "A Proposal providing for a Public Auditor."

Chairman: Floor Leader Lake Tmetuchl

The Chairman called the Committee of the Whole to order at 11:16 a.m., and advised the Delegates that the Committee had before it Committee Proposal No. 12.

It was moved and seconded that Committee Proposal No. 12 be adopted, as follows:

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."

The motion carried and Committee Proposal No. 12 was adopted by the Committee of the Whole.

It was moved and seconded that the Committee of the Whole rise and report back to the Plenary Session. The Committee of the Whole rose at 11:20 a.m.

Re: Committee Proposal No. 13, "A Proposal relating to the budget process."

Chairman: Floor Leader Luke Tman

The Chairman called the Committee of the Whole to order at 1:20 p.m., and advised the Delegates that the Committee had before it Committee Proposal No. 13.

It was moved and seconded that Committee Proposal No. 13 be adopted, as follows:

Committee Proposal No. 13

"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 or omit any item in 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."

Prior to offering an amendment to Committee Proposal No. 13 on behalf of the Committee on Public Finance and Taxation, the Vice Chairman of the Committee explained the reason for the amendment. It was agreed by the Committee that the Executive should prepare and submit an annual budget to the National Legislature and that the Legislature should have the power to change that proposed annual budget as it deems fit. Such changes would include voting, substituting, adjusting, reducing, increasing or deleting items which may or may not already appear in the Executive's proposed budget. However, the language used in Committee Proposal No. 13 unintentionally omits reference to the power to add new items to the budget, thus the following amendment was offered:

Amendment No. 1: Amend the last sentence of the first section on page 1 (lines 8, 9 and 10) to read:

"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."

The following questions were raised with regard to the amendment:

1. Would the outcome be different if the amendment is adopted? The Vice Chairman stated that without the amendment, the power to "add" is precluded, whereas by including the words "alter in any respect", additions could be made to the budget.

2. Does that include the power to "omit"? The Vice Chairman answered in the affirmative.

3. Does the legal interpretation of the word "alter" also include additions? The Floor Leader advised that the word "alter" is a very broad term and could be construed to mean "additions".

There being no further discussion on the amendment, the motion carried to adopt Amendment No. 1 to Committee Proposal No. 13.

The immediate motion before the Committee of the Whole was the adoption of Committee Proposal No. 13 (CWD1). The Chairman requested the Convention Secretary to read Committee Proposal No. 13, as amended.

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 matters 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."

The following questions were raised with regard to Committee Proposal No. 13, as amended:

1. With regard to the word "bill" as used in line 18, page 1, is that in reference to the national budget bill or in reference to a bill to finance the preparation of the budget? The Vice Chairman advised that the word "bill" is an appropriation bill authorizing expenditures of the annual budget.

2. Why is it necessary to include this proposal in the Constitution-- why couldn't it be done by law by the national legislature? The Vice Chairman stated that the Committee felt that a matter as important as this should not be left to the discretion of one branch of government, thus avoiding prejudice and/or political influences.

3. What is the Committee's recommendation with regard to the budget at the district level? The Vice Chairman stated that this was a district problem, and that the Delegates were here to draft a national constitution.

4. Concern was expressed over the section entitled "Priority Status of Budget," and it was asked if it could be deleted? Delegate Poribious stated that if this provision was eliminated from the Constitution, then the legislature will not be under any obligation to consider any budget proposals--everything would be at the mercy of the legislature. With the provision, the legislature has to consider the annual budget first before anything else.

There being no further discussion, the motion carried to adopt Committee Proposal No. 13 (CWD1).

It was moved and seconded that the Committee rise and report back to the Plenary Session. The motion carried, and the Committee of the Whole rose at 11:45 a.m.

SUMMARY MINUTES COMMITTEE OF THE WHOLE OCTOBER 7, 1975

Re: Committee Proposal No. 14, "A Proposal relating to the Bill of Rights."

Chairman: Vice Leader Luke M. Tam

The Chairman called the Committee of the Whole to order at 11:15 a.m., and advised the Delegates that the Committee had before it Committee Proposal No. 14.

It was moved and seconded that Committee Proposal No. 14 be adopted.

In the ensuing discussion, a number of Delegates expressed their concern that more time would be needed to study Committee Proposal No. 14 in view of the importance and complexity of the Bill of Rights.

Therefore, it was moved and seconded that action on Committee Proposal No. 14 be deferred until Friday, October 10, 1975.

The Chairman of the Committee on Civil Liberties stated that while he had no objections to the deferment, he advised the Delegates that the Chairman, the Vice Chairman and the Committee counsel would be available two hours a day through Thursday to clarify any point in the Proposal to the Delegates.

There being no further discussion, the motion carried to defer action on Committee Proposal No. 14 until Friday, October 10, 1975.

It was moved and seconded that the Committee rise and report back to the Plenary Session. The motion carried, and the Committee of the Whole rose at 11:30 a.m.

Re: Committee Proposal No. 15, "A Proposal relating to the 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.

Chairman: Floor Leader Ike Tman.

The Chairman called the Committee of the Whole to order at 11:19 a.m., and advised the Delegates that the Committee had before it Committee Proposals Nos. 15 through 20, and would first take up Committee Proposal No. 15 relating to the disposition of public monies.

It was moved and seconded that Committee Proposal No. 15 be adopted, as follows:

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."

The following questions were raised with respect to Committee Proposal No. 15:

1. Is it proposed to set up a "Special Foreign Aid Fund" within the new government? The answer was yes.

2. Is the word "equitably" in Section 3, which was described as an ambiguity, proper, and would it not cause problems to those people responsible for interpretation and application of this provision of the Constitution?

The Vice Chairman of the Committee on Public Finance and Taxation replied that the Committee in its deliberations defined "equitably" as just and fair. A suggestion was made that the word "equitably" be deleted, and the words "as provided by law" be substituted. A member of the Committee stated that, in his opinion, the word should remain in the provision, and he felt that the Committee had deliberated at length on this and other proposals and that the Committee was very much concerned that monies received by the National Government should be distributed as equitably as possible and that the National Government should be responsible for making distribution of monies on priorities as expressed by district needs.

It was suggested that the use of the word "equitably" be considered by the Committee on Style and Arrangement.

The question was asked whether the word meant that, for example, Kusaie would share equally with Truk -- $1 million for Kusaie, $1 million for Truk. The Chairman replied that it would be up to the National Legislature to determine the requirements of the particular districts. He stated further that deletion of the word would not essentially change the Proposal since it states "as provided by law" and he did not feel the National Legislature would pass a law that was not equitable, and the Style and Arrangement Committee could make the decision to change or delete the word without changing the intent.

3. What kind of foreign financial assistance is of a special nature? The Chairman responded that most foreign assistance funds are allocated for certain programs, or have strings attached. They are to be expended for certain projects or programs and in those cases, Micronesia has no say in how to use those funds. However, should funds come without strings attached, the National Legislature could determine how to use those funds. Asked if there were foreign assistance funds of a special nature at the present time, the Chairman replied that U.S. grant funds are assigned to the Trust Territory for either operations or CIP projects.

4. In drafting this Proposal, was the corresponding provision relating to distribution of funds in Delegate Proposal No. 100 taken into consideration? The reply from the Committee was affirmative.

5. Will the Special Foreign Aid Fund be used only within Micronesia or will it be used outside Micronesia? The Vice Chairman of the Committee replied that the intent was for this fund to be used solely for the benefit and welfare of the people of Micronesia.

6. Is it necessary to keep the foreign financial assistance funds separate from the General Fund? Is this discriminatory?

The Chairman declared the Committee of the Whole in recess, subject to the call of the Chair, at 11:45 a.m.

The Committee of the Whole reconvened at 11:53 a.m.

The Chair explained that separating the funds was merely for accounting purposes so that foreign assistance funds would be separated from those locally generated.

7. Is the word "equitably" used to refer to the districts or any recipients which may be non-districts? The Committee replied that the intent was to distribute the funds equitably between the six states and the National Government. It was suggested that the word "districts" be inserted so that districts would be given equitable if not equal treatment.

8. A request was made to defer action until the Committee could come out with a comparative analysis of the proposal versus Delegate Proposal No. 100. The Chair reminded the Delegates that there would be two more chances to discuss the proposal, when it returns from the Committee on Style and Arrangement and on final consideration of the whole package.

A request was made for a vote by show of hands. The motion to adopt carried.

It was moved and seconded that Committee Proposal No. 16 be adopted, as follows:

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, judgments, 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."

There was no discussion and the motion to adopt carried.

It was moved and seconded that Committee Proposal No. 17 be adopted, 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:

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."

There was no discussion and the motion to adopt carried.

It was moved and seconded that Committee Proposal No. 18 be adopted, as follows:

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."

There was no discussion and the motion to adopt carried.

It was moved and seconded that Committee Proposal No. 19 be adopted, as follows:

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."

The following questions were raised in connection with Committee Proposal No. 19:

1. Is the legislature limited in its legislation to the four items listed? The response was in the affirmative.

2. Does the wording in item 3, ". . . a crime for which a person has been convicted by any court in Micronesia, . . ." mean that a person convicted of a crime elsewhere would still be eligible to vote? The Chairman replied in the affirmative and further noted that once a person has served his sentence and is not on parole or probation, his civil rights would be restored.

3. Is the national legislature authorized to provide additional restrictions? The Chairman replied that the national legislature would be permitted within the limits set up in the proposal to establish restrictions and the basis for disqualifying a person from voting.

4. If a person is in jail in Honolulu for a crime committed there, would he be able to vote by absentee ballot? The Chairman replied this would be up to the national legislature to establish procedures for that kind of situation.

The motion to adopt carried with one dissenting vote.

It was moved and seconded that Committee Proposal No. 20 be adopted, as follows:

Committee Proposal No. 20

"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. The national government of the Federated States of Micronesia, within a period of 7 years after the effective date of this Constitution, shall be required to renegotiate, in good faith, all land lease agreements of an indefinite term entered into between any person and the Government of the Trust Territory of the Pacific Islands."

The following questions were raised with respect to Committee Proposal No. 20:

1. In light of Proposal No. 18, which provides that the national government assumes all rights and obligations of the previous government, does Proposal No. 20 indicate an exception with respect to land leases? The Chairman replied that the leases in No. 18 would remain in effect, but land leased for an indefinite period of time would have to be re-negotiated within a period of two years.

2. If the national government and the lessors fail to reach agreement, is the previous one still in force or would that be nullified? The Chairman stated the case would have to be taken up in court and the court would rule on it.

There was considerable discussion which resulted in agreement that the language of the proposal should be revised and strengthened.

It was moved and seconded that the Committee of the Whole recommend to the Plenary Session that Committee Proposal No. 20 be re-referred to the Committee on General Provisions with instructions to revise the Proposal along the lines suggested, and that it be placed on the Calendar for Second Reading on October 17, 1975.

The motion was amended to place Committee Proposal No. 20 on the Second Reading Calendar on October 17, 1975. The motion carried.

It was moved and seconded that the Committee of the Whole rise and report to the Plenary Session.

Floor leader Tman stated that President Ngiratkel was not feeling well and had requested Delegate Nimwes to preside in the Plenary Session.

The motion to adjourn carried and the Committee of the Whole rose at 12:55 p.m.

SUMMARY MINUTES COMMITTEE OF THE WHOLE OCTOBER 15, 1975

Re: 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."

Chairman: Floor Leader Luke Tman

The Chairman called the Committee of the Whole to order at 11:40 a.m., and advised the Delegates that the Committee had before it three Committee Proposals to be considered. He stated that they would begin with Committee Proposal No. 21.

It was moved and seconded that Committee Proposal No. 21 be adopted.

Delegate Max Triarte moved that Committee Proposal No. 21 be considered section by section. Delegate Tun seconded, and the motion carried.

Delegate Techelial moved that Section No. 1 of Committee Proposal No. 21 be adopted. Delegate Toribiong seconded, and the motion carried.

Delegate Tmetuchl moved that Section No. 2 of Committee Proposal No. 21 be adopted. Delegate Tun seconded, and the motion carried.

Delegate Tmetuchl moved that Section No. 3 of Committee Proposal No. 21 be adopted. Delegate Toribiong seconded.

After considerable discussion by the Committee, Delegate Falcam moved that action be delayed on Committee Proposal No. 21 until October 21, 1975 so that it would be presented at the same time as Committee Proposal No. 24, submitted by the Committee on Governmental Structure. Delegate Ngiraked seconded the motion.

A division of the house was called after voice vote on the motion. Vote was taken by show of hands and the motion was defeated.

After further discussion and a recess, Delegate Sony moved that action on Committee Proposal No. 21 be deferred until Monday, October 20, 1975. Delegate Ngiraked seconded, and the motion carried.

The Committee of the Whole had adopted Sections 1 and 2 of Committee Proposal No. 21, but action was deferred on the balance of the Proposal in order for the two Committees responsible, the Committee on Governmental Structure and the Committee on Governmental Functions, to reconcile their differences of opinion.

Delegate Tun moved for the adoption of Committee Proposal No. 22. Delegate Techelial seconded. Motion carried, with the understanding that the Committee on Style & Arrangement would pay special attention to the wording of the Proposal. Committee Proposal No. 22, as adopted, is 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 Tan moved for the adoption of Committee Proposal No. 93. Delegate Ngiraked seconded.

Delegate Ngiraked moved that the phrase "to the states" be deleted from line 7 of the Proposal. Delegate Kawaichi seconded, and the motion carried.

Delegate Tmetuchl moved that the entire exception clause, beginning on line 8 of the Proposal, be deleted. Delegate Ngiraked seconded, and the motion carried.

Motion to adopt Committee Proposal No. 93, as amended, carried. The Proposal, as adopted, is as follows:

Committee Proposal No. 93, CWD 1, 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 Ngiraked moved that the Committee of the Whole rise and report back to the Plenary Session. Delegate Kawaichi seconded, and the motion carried.

The Committee of the Whole rose at 1:30 p.m.

Re: Committee Proposal No. 25, "A Proposal relating to the capital of Micronesia and jurisdiction and control over property of the national government."

Chairman: Delegate Dave Wellat

The Chairman called the Committee of the Whole to order at 10:41 a.m., and advised the Delegates that the Committee had before it Committee Proposal No. 25.

It was moved and seconded that Committee Proposal No. 25 be adopted.

After a lengthy discussion, mainly as to the site of the future capital of the Federated States of Micronesia, it was moved and seconded that the Minority Proposal attached to Minority Report No. 37-A be adopted as an amendment to Committee Proposal No. 25.

A question was raised with regard to the last sentence in the Minority Proposal--"The seat of the national government shall be under the exclusive control of said government."--as to which government was being referred to. The answer was the national government.

Concern was also expressed with regard to a site being selected in a particular district prior to ratification of the Constitution with that particular district either not ratifying the Constitution or seceding from the Federated States.

It was moved and seconded that action be deferred until Friday, October 24, 1975, on both proposals--Committee Proposal No. 25 (Majority Proposal) and the Minority Proposal attached to Minority Report No. 37-A. The motion carried.

There being no further business before the Committee of the Whole, it was moved and seconded that the Committee rise and report back to the Plenary Session. The motion carried, and the Committee of the Whole rose at 11:35 a.m.

Re: Committee Proposal No. 14, "A Proposal relating to the Bill of Rights."

Committee Proposal No. 20, "A Proposal relating to renegotiation of certain land leases."

Committee Proposal No. 26, "A Proposal relating to Taxation."

Chairman: Floor Leader Lake Tuan.

The Chairman called the Committee of the Whole to order at 10:28 a.m., and advised the Delegates that the Committee had before it Committee Proposals Nos. 14, 20 and 26. The Chairman suggested that Committee Proposal No. 14 be dealt with section by section.

It was moved and seconded that Section No. 1, Searches, Seizures, Privacy and Interception of Communications, be adopted by the Committee of the Whole.

A question was raised as to whether this protection extends to passengers transiting and to tourists, and whether a warrant would be needed to inspect the belongings of such people. The answer was that, as it relates to customs inspections, no warrants would be needed to go through luggage of tourists, and that people might be searched and items seized if there were reasonable grounds for such search and seizure.

The motion to adopt carried, and Section 1 of Committee Proposal No. 14 was adopted by the Committee of the Whole.

It was moved and seconded that Section No. 2, The Right to own Private Property, be adopted by the Committee of the Whole.

It was moved and seconded that Amendment No. 3 to Committee Proposal No. 14 be adopted by the Committee. After much discussion, the motion was defeated by a secret ballot vote of 18 yes votes, 28 no votes, 1 abstention and 5 invalid votes.

The motion to adopt Section 2 carried. Section 2 of Committee Proposal No. 14 was adopted by the Committee of the Whole.

It was moved and seconded that Section No. 3, Due Process and Equal Protection, be adopted by the Committee.

The motion carried, and Section 3 of Committee Proposal No. 14 was adopted by the Committee of the Whole.

It was moved and seconded that Section 4, Prohibition on Discrimination, be adopted by the Committee of the Whole.

It was moved and seconded that Amendment No. 2 to Committee Proposal No. 14 be adopted.

A question was raised as to the level of government in which the chiefs would serve and it was noted that no specific level was referred to.

It was noted that there was also an Amendment No. 1 to Committee Proposal No. 14.

It was moved and seconded that action on Committee Proposal No. 14 and the amendments thereto be deferred until the calendar of the following day, October 18. The motion carried. It was requested that the Committees on Civil Liberties, Governmental Structure and Government Functions meet with the traditional chiefs at 3:00 p.m. to further review Committee Proposal No. 14, section 4 together with proposed amendments No. 1 and No. 2.

It was moved and seconded that Section No. 5, Self-Incrimination and Double Jeopardy, be adopted by the Committee of the Whole. The motion carried, and Section No. 5 was adopted.

It was moved and seconded that Section No. 6, Excessive Bail, Excessive Fines, Cruel and Unusual Punishment and Habeas Corpus, be adopted by the Committee.

A question was raised about the meaning of "excessive" and "cruel and unusual punishment." Members of the legal fraternity explained that three factors are considered in determining bail: the seriousness of the crime, the necessity to insure that the accused will appear in court on the time scheduled and the ability of the person to pay the fine. With regard to cruel and unusual punishment and whether or not capital punishment is included in this, it was pointed out that capital punishment was contained in a separate section of the Committee Proposal and it could therefore be assumed that capital punishment was not included in cruel and unusual punishment.

The motion carried. Section 6 of Committee Proposal No. 14 was adopted by the Committee of the Whole.

It was moved and seconded that Section No. 7, Freedom of Migration and Movement, be adopted by the Committee of the Whole. The motion carried, and Section 7 was adopted.

It was moved and seconded that Section No. 8, Ex Post Facto Laws and Bills of Attainder, be adopted by the Committee of the Whole. The motion carried, and Section 8 was adopted.

It was moved and seconded that Section 9, Rights of Defendants in Criminal Proceedings, be adopted by the Committee of the Whole. The motion carried, and Section 9 was adopted.

There was a lengthy discussion covering the morality of taking human life, rehabilitation versus capital punishment, the cost of administering a program of rehabilitation, the difficulties of administering capital punishment, the nature of crimes warranting capital punishment, the success of capital punishment as a crime deterrent, considerable quoting of the Bible, both Old and New Testaments, and the possible domino effect killing might have on family and friends of the slain man, after which the vote was taken.

The motion carried, and Section 10 was adopted by the Committee of the Whole.

It was moved and seconded that Section 11, Prohibition of Slavery and Involuntary Servitude, be adopted by the Committee of the Whole.

A question was raised as to whether there was such a thing as "involuntary slavery" and the reply was that prisoners are placed in involuntary slavery by virtue of being forced to work while incarcerated.

The motion carried, and Section 11 of Committee Proposal No. 14 was adopted by the Committee of the Whole.

It was moved and seconded that Committee Proposal No. 20 be adopted by the Committee of the Whole.

It was moved and seconded that Amendment No. 1 to Committee Proposal No. 20 be adopted by the Committee of the Whole. The motion carried.

The motion to adopt Committee Proposal No. 20, CWD 1, carried.

Committee Proposal No. 20, CWD1

"A Proposal relating to renegotiation of certain land leases.

"RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE____ .

October 17, 1975

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 re-negotiations for any land leased to the Government of the United States of America."

It was moved and seconded that action on Committee Proposal No. 96 be deferred until October 21, 1975. The motion carried. Action on Committee Proposal No. 96 was deferred.

There being no further business, it was moved and seconded that the Committee of the Whole rise and report back to the Plenary Session. The motion carried. The Committee of the Whole rose at 12:40 p.m.

SUMMARY MINUTES COMMITTEE OF THE WHOLE OCTOBER 18, 1975

Re: Committee Proposal No. 14, "A Proposal relating to the Bill of Rights."

Chairman: Floor Leader Luke Tmau

The Chairman called the meeting to order at 10:31 a.m., advising the Delegation that the Committee had before it for consideration Section 4 of Committee Proposal No. 14. He reminded the Committee that action on Section 4 had been deferred October 17, at which time each other section of such Proposal had been adopted.

Deliberation on Section 4, Committee Proposal No. 14, was resumed at the point of deferral from the day before. The motion on the floor was the adoption of Amendment No. 2 to Committee Proposal No. 14. Motion carried and Amendment No. 2 to Committee Proposal No. 14 was adopted.

Motion to adopt Committee Proposal No. 14, as amended, carried.

Motion to adopt Committee Proposal No. 14, CWD 1, carried. Such Proposal is 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 persons 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 Proceedings. 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."

Motion was made and seconded for the Committee of the Whole to rise and report back to the Plenary Session. Motion carried and the Committee of the Whole rose at 11:09 a.m.

Re: Committee Proposal No. 21, "A Proposal relating to the functions of government."

Chairman: Floor Leader Jake Pasa

Chairman Pasa called the Committee of the Whole to order at 10:30 a.m. He informed the Committee that they had before them for consideration Committee Proposal No. 21, of which all sections except Section 1 and Section 2 had been deferred on October 15. On October 15 Section 1 and Section 2 had been adopted. He suggested that the Committee deliberate on the Proposal section by section, beginning with Section 3.

Motion was made and seconded to adopt Section 3 of Committee Proposal No. 21. After lengthy discussion was had, subsection by subsection, motion to adopt Section 3 of Committee Proposal No. 21 passed.

Motion was made and seconded to adopt Section 4 of Committee Proposal No. 21.

Motion was made and defeated to defer action on Section 4 of Committee Proposal No. 21 until October 21, 1975.

Motion was made and defeated to suspend Rule 62(a) of the Rules of Procedure, in order to offer an oral amendment.

Motion to adopt Section 4, Committee Proposal No. 21, carried.

Motion to adopt Section 5, Committee Proposal No. 21, was made and seconded. Motion carried and Committee Proposal No. 21, Section 5, was adopted by the Committee of the Whole.

Motion was made and seconded to adopt Section 6 of Committee Proposal No. 21.

Rule 62(a) was suspended and motion made from the floor to delete the entire sentence beginning on line 7, page 6, stating "No emergency decree or proclamation shall be valid which impairs the power of the national judiciary or its ability to function." Motion was seconded, but withdrawn by the maker in order to make a new motion.

Motion was made to defer action on Section 6, Committee Proposal No. 21, until Wednesday, October 22. After seconding, motion carried. Action on Section 6, Committee Proposal No. 21, was deferred until Wednesday, October 22, 1975.

Motion was made and seconded to suspend Rule 62(a). Motion carried.

Oral amendment was offered to Section 4 as per lengthy discussion had by delegates. Such amendment was a new subsection to be inserted between lines 12 and 13 to state "To faithfully execute and implement the provisions of this Constitution and administer all national laws and programs;". Motion was made and seconded to adopt such oral amendment. Motion carried and the oral amendment was adopted.

Motion was made to adopt Section 7 of Committee Proposal No. 21. After seconding, motion carried.

Motion was made to rise and report back to the Plenary Session. Seconded, the motion carried and the Committee of the Whole rose at 1:13 p.m.

Re: Committee Proposal No. 24, "A Proposal relating to a Structure for the government of the Federated States of Micronesia."

Committee Proposal No. 26, "A Proposal relating to Taxation."

Chairman: Floor Leader Luke Tman

The Chairman called the Committee of the Whole to order at 10:30 a.m. and advised the Delegates that the Committee had before it Committee Proposals No. 24 and No. 26.

It was moved and seconded that Committee Proposal No. 24 be adopted.

In offering extensive amendments to Committee Proposal No. 24, Delegate Wainit stated that the basic difference was a systematical one--a single executive, as per the amendments, versus plural executives, as per Committee Proposal No. 24. Reasons for the amendments were enumerated by the Delegate.

It was moved and seconded that the amendments to Committee Proposal No. 24 be adopted by the Committee of the Whole.

In view of the fact that the amendments offered were structural and extensive in nature and required careful study, it was moved and seconded that action on Committee Proposal No. 24 and the proposed amendments be deferred until Thursday, October 23, 1975. The motion carried.

It was moved and seconded that Committee Proposal No. 26 be adopted. There being no discussion, Committee Proposal No. 26 was adopted by the Committee of the Whole, 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 90% 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."

There being no further business before the Committee of the Whole, it was moved and seconded that the Committee rise and report back to the Plenary Session. The motion carried, and the Committee of the Whole rose at 10:55 a.m.

Re : Committee Proposal No. 24, entitled "A Proposal relating to a structure for the government of the Federated States of Micronesia."

Chairman: Luke Tman, Floor Leader

Chairman Tman called the Committee of the Whole to order at 11:05 a.m. He informed the Committee that they had before them for consideration Committee Proposal No. 24, on which action had been deferred from October 21, 1975. He suggested that if there was no objection from the floor, the Committee resume action where it had been deferred on October 21. If resumed at that point, the motion on the floor would be adoption of a proposed amendment offered by Delegate Wainit.

Delegate Salii: Mr. Chairman, before we resume discussion on that motion, I wonder if it would be in order to move, and perhaps I should put it in the form of a request, to have the proceedings of this Committee of the Whole recorded in verbatim. I think this particular proposal is very important and I think some of us would like to have the chance to refer to the proceedings without having to resort to the tapes.

Delegate Ngiraked: I so move.

Delegate Falcam seconded the motion.

Chairman Tman: It has been suggested that proceedings of this Committee of the Whole in deliberation on Committee Proposal No. 24, be recorded verbatim. If there is no objection, it will be so done.

Delegate Wainit: Thank you, Mr. Chairman. In order to accommodate an amendment to my amendment to Committee Proposal No. 24, I hereby move to suspend Rule No. 62(a).

Delegate Toribiong seconded the motion.

Motion carried to suspend Rule 62(a), relating to written amendment.

Delegate Wainit: My amendment to my amendment to Committee Proposal No. 24 is as follows: Amendment No. 3 should be deleted in its entirety. The essense of that amendment will, in a way, leave (instead of taking out) the article on the role of traditional leaders. Leave it in.

Chairman Tman: Did you make a motion?

Delegate Wainit: Yes, I did.

Delegate Falanruw seconded the motion.

Chairman Tman: There is a motion to amend the proposed amendment by deleting, on page 3, under Amendment 3, subsection (b); to delete it in its entirety.

Motion carried.

Delegate Ngiraked: I think before we proceed on this amendment we should put our consideration in proper prospective. Mr. Chairman, in considering the concerns expressed this morning in the Plenary Session, I wish to make the statement regarding Special Committee Report No. 7 which appears on our calendar this morning on item eight. Mr. Chairman, the Proposal No. 100, otherwise known as Palauan Position, I think takes the mid-course between the two conflicting Proposals regarding the question of whether or not we should have a one-person Executive or plural Executive. If you look at Proposal No. 100, the pertinent provision is found in the structure proposed for our

future legislative branch of government. It does accommodate for the role of traditional leaders, along with our elected representatives. It takes in consideration the factor of cost and it accommodates the wishes of the people who want to see the Executive functions of our government exercised by plural body. It is my regret this morning that when we take up this matter, a very important step, that Proposal No. 100 is still missing from the scene and I will say again that I think the way we operate,No. 100 will miss the boat. Proposal No. 100 is still missing and I had hoped that by the time we take up Committee Proposal No. 24 that Proposal No. 100 will be considered along. Thank you.

Chairman Tmun: Let me say that Delegate Proposal No. 100 is still pending in the Subcommittee on Administration. This Committee of the Whole cannot withdraw it from that Committee. It has to be the Plenary to bring it out.

Delegate Ngiraked: What would happen if we vote to adopt Committee Proposal No. 24? Where would that place Proposal No. 100?

Chairman Tmun: I don't know at this point what will happen to Delegate Proposal No. 100.

Delegate Cabrera: Mr. Chairman, I just would like to point out to the Convention that during the Plenary Session we accepted a report from the Subcommittee on Administration and attached to the report is the treatment of sections of Proposals 29, 100 and 120. If the Delegates will consult that particular sheet in the back which treated sections and what have you in the proposals, they will find out that extensive consideration was given the appropriate sections in all those three proposals.

Delegate Agis: I do wish to share some comments on the amendment. I do respect the concern of your Committee on Governmental Structure and their reasons for proposing a council of ministers, however, I wish to state my reservations in this matter. I share the view that we are creating too extensive a government. The trouble with our government and what we are trying to set up is that there is too much government. I also share the belief that by establishing a council of ministers we are creating an additional House or Senate with equal representation. Each of these ministers, since he will be elected from each district, will only fight for the interests of his district so that he will be reelected for the next term, to the contrary of the belief of the other Delegates that they will promote unity. Thirdly, Mr. Chairman, what is wrong with single Executive, which is cheaper and we have been used to it since the beginning of this administration? Mr. Chairman, we had adopted Proposal No. 21 of the Governmental Functions which gives the chief executive the power to appoint principal officers of each executive department. I am sure that a good and wise executive who wants to retain his post as president will have to appoint, at least, each officer from each of the districts as cabinet members in order to maintain a good balanced administration. For the unity, I believe that the chief executive can utilize his good office through his duly represented cabinet. There is always check and balance for such a system on the president. I still share, with other Delegates, the belief that there is nothing wrong with having a single executive versus the council of ministers. Thank you, Mr. Chairman.

Delegate Falcam: Thank you, Mr. Chairman. I was wondering whether the oral amendment could be read again so that we will...before we vote. Thank you.

Chairman Tmun: The oral amendment which was proposed by Delegate Wainit is deletion of subsection (b), page 3, under Amendment No. 3.

Delegate Heinrich Iriarte: Thank you very much, Mr. Chairman. At the beginning of this Convention we spoke about unity. Do we find unity in only one person? I believe unity can be found in six or seven people collectively making decisions over an executive office. Mr. Chairman, if we are to consider single executive we have to realize the impact of that with regard to populated districts and unpopulated districts. If we are to consider, again, the population, the less-populated districts will never have a chance to have a president of Micronesia. And, if we are to talk about the expenses of the plural executive we have to keep in mind that the single executive--who is going to pay for his campaign and all this? Will the government pay for all his campaign in all the districts? And if we are to think more about the single executive, only the big-shots--those who have plenty of money--will become the president of Micronesia. Thank you very much, Mr. Chairman.

Delegate Olikong: Mr. Chairman, I would like to say something about proposed Amendment No. 1, but I would not like my remarks construed by this Convention as having reflection on my support or non-support of the rest of the Proposal. In addition to what the Chairman of the Committee said, the concern raised by the author of the proposed amendment, I think, has no base. Because, what the Committee proposed in the plural executive branch of government--what we will have is the same as what we will have if we were to elect the president. What we will have is only a single executive who will be called Prime Minister and who will be elected by the six representatives of the six districts when they organize. What the Committee is proposing is exactly what the supporters of proposed Amendment No. 1 are looking for, but by a different method of doing it. In having a prime minister, what will be the result to the people of Micronesia is that they won't exactly be voting for the prime minister, but they vote for the six representatives who will, in turn, select the prime minister. So you cannot say the prime minister was elected only by the six people because they were elected by the people of Micronesia. It is better and more economical to do it that way than having a candidate going around to all the districts campaigning for the seat of the president. Like the Chairman said, nobody in Micronesia has enough money to go from place to place campaigning for the presidency. Also, having to elect a president in accordance with the desire under proposed Amendment No. 1.....what you will have is six candidates. Most likely, they will be one candidate from Truk, one candidate from Palau, and one from each of the six districts. We will have the vote, but the result of the vote (I can foresee) will be as follows: Palauans vote for the Palau candidate, Trukese vote for the Truk candidate, Ponapeans vote for the Ponape candidate. So when the result of the vote is known what you will have will be that the vote for the candidate is only the vote you get from your own district. And it is the district with the most population that has the most votes and it is the candidate from that district who has the most votes and becomes president. When he gets the seat of the president, the rest of the districts are not happy because they did not vote for this president. Only one district is happy, and you have a problem right there. What the Committee is proposing in the plural executive is that you vote for the six ministers; they get together and elect the prime minister. A prime minister may be from Truk; he may be from Ponape; he may be from Yap. But the voters in Palau, in the Marshalls, are happy because they voted for that prime minister through their representative. With this, Mr. Chairman, I don't think it is necessary to adopt Amendment No. 1 as proposed.

Delegate Ngiraked: The Palau Delegation, and I am sure a lot of Delegates here in the Convention, have no objection to the idea of a shared exercise of powers in the executive branch of our government and the principle proposed by the Committee. The major consideration now is one of post-facto. And this is the reason why Proposal No. 100 tried to observe the problem within the structure of the legislature. And if you look at the Proposal No. 100 as it pertains to this question and problem, it narrows the scope of the machinery of selecting the president or prime minister within the structure of six people. So, I think that is the most workable system--taking the two opposing Proposals into consideration. Also, Mr. Chairman, I'd like to pose a question. Is the favorable adoption of this Proposal to be construed as rejection of the pertinent sections of Proposal No. 100?

Chairman Tmetuchl: I'm afraid I cannot respond to your question,however, as pointed out earlier by Delegate Cabrera, Special Committee Report No. 7 did make reference to some of the provisions in Delegate Proposal No. 100.

Delegate Mwoty: Mr. Chairman, I have raised my hand four times and you have failed to recognize me. But this time I raised my hand and you looked at me out of the corner of your eyes. Mr. Chairman, I have two prepared statements and I would like to make the first one now. The first prepared statement is an observation to proposed Amendment No. 1 to Committee Proposal No. 24. First of all, let me begin by saying that there are many good arguments both for and against both a plural executive and a single executive. The arguments advanced on behalf of this amendment were indeed very analytical. In fact, I agree wholeheartedly that every important venture customarily has a bumpy and difficult beginning. Our new government, be it a single or plural executive, will expectedly venture on its maiden voyage through rough waters.

In support of the Committee Report and Committee Proposal No. 24, I can only try to figure out the future by looking to the past. I do believe that Micronesia will eventually find a leader behind whom the entire population may unite. Experience, however, has shown us that in ten years of existence of Congress of Micronesia, and in nine years after the first Micronesian was appointed Distad, Micronesia has yet to find a leader behind whom all can unite. Does this mean that we do not presently have a Micronesian who is experienced enough and knowledgeable enough to effectively lead all the different cultural groups in Micronesia? No,not necessarily. It simply means that cultural differences among different groups of Micronesians are so real that we must try at any cost which we can bear to bring together these differences to a point where we can begin to analyze, propose solutions, compromise, apple-polish, or what have you, in order to even begin nationalizing. Necessarily, the major cultural groups must be represented with equal voice and equal status.

Truly, a plural executive runs the risk of advancing individual district interests, aspirations and goals. The same is true in our own Congress of Micronesia; the same is true in this Convention; and the same is even painfully realized in some District Delegations to this Convention between the brilliant but relatively inexperienced young Delegates and the conservative and experienced traditional leaders. Let us not forget, however, that in a democratic setup, the majority rules such as we propose in this Constitution.

I believe there is more risk in a single executive who may choose to advance not only the interests of those who elected him to office; not only the interests of his own State; but he may also choose to advance his own self-interests. Impeachment, which is a cumbersome and time-consuming process, is the only means of correcting such problems. In a plural executive impeachment is also a corrective measure in addition to the daily ever watchful eyes of co-equals whose majority wishes prevail.

I agree that it is ideal for all cross-sections in Micronesia to be unified behind the same interests, same aspirations and the same goals. At this point and time in the history of our nation, only a plural executive can begin to work toward this idealistic goal.

By quickly going through the arguments in support of proposed Amendment No. 1, I might just point out that general supervision by one minister over one or more departments is distinctly and meaningfully different from direct supervision of each department by its own head who has the expertise.

Also with respect to an individual's fundamental right to vote for his chief executive, I might just add that the great nation of the United States of America, from which we have adopted most of our own basic freedoms for inclusion in our Constitution, does not have its presidential elections decided by popular vote. Rather, it is the electoral college that decides the final outcome of a presential election.

It is my sincere belief that a presidential system will further fragmentize Micronesia. The most populous districts can so deliberately alternate the offices of the presidency and vice-presidency among themselves that the smaller districts will have no chance whatsoever to win those two most important and prestigious positions in our new government. As a matter of fact, Micronesia has yet to see the election of a Speaker and a Vice-Speaker from one of the smaller districts in the House of Representatives of the Congress of Micronesia. In its ten years of existence, even the Senate of the Congress of Micronesia has had only one president and two vice-presidents from the smaller districts. The bigger districts as matter of historical fact have so dominated our own Congress.

Last but not least, Micronesia does appear to become smaller by the fact that a candidate for public office can travel from the Marshalls to Palau within one or two days. However, Truk has a population of about 33,000. Not even 1,000 Trukese have the money to travel from Truk to Saipan in order to observe the Congress or this historical Constitutional Convention. Necessarily, future candidates for the office of the presidency will only be from among one

group of rich Micronesians within each district. In Truk less than 300 people can afford to run for the office of the presidency. Perhaps, a person from a clan of 3 to 4 thousand adult members may be able to contribute money to have one from among themselves seek the highest office. However, I doubt very much that enough money can possibly be collected to fund a poor person's campaign. One person may be the best candidate for the presidency. Unless he is rich, he might as well forget it. Hence, necessarily Micronesia will be run by only a handful of rich Micronesians who may not even have the necessary qualifications to paddle a canoe. (Applause)

Chairman Tmau: I am sorry that Delegate Mwoty had to raise his hand many times. I am not apologizing; I recognize speakers according to when they raise their hands. Any further discussion on the proposed Amendment No. 1?

Delegate Wainit: Thank you, Mr. Chairman. I am not going to argue the good points and remarks made by our good fellow Delegate, however, Mr. Chairman, again I want to reiterate my previous statement in which I said that a popularly elected president will not automatically come from the most populated districts. Why would the people of Truk go out of their way to win the presidency when we know the position is not tied to its particular individual district's interest, but rather to the national interests. We often speak of the Micronesian way. If I am correct, the Micronesian way is for the top person, or whoever is in charge, not to push his own interests over those interests of others, but let the interests of others come first and his interests second. As a matter of fact, we the people in Truk will really be in favor of someone from the other small districts because we know that our interests, perhaps, will receive some attention,rather than having our own president from Truk. Because this is the Micronesian way. As to the point raised about only big-shots being able to hold the presidency, what is wrong with that? Almost all the big-shots I have come in contact with through Micronesians were very nice and kind people. Thank you. (Laughter & Applause)

Delegate Apis: Mr. Chairman, I wish to address myself to the question on the fear of the result of the election if it is a single executive. I believe that even if it is by six ministers, there is no guarantee that it will come from the small districts. I still maintain that single executive is unity and in council of ministers, I don't believe there is unity.

Delegate Cabrera: Mr. Chairman, after listening to the arguments made on both extremes,and in the interest of promoting the success of this Convention, I think it is very obvious that some compromise be presented to the Committee of the Whole so that it may deliberate on it and adopt it. At this point,Mr. Chairman, I wish to venture a motion to waive Rule 62(a) so that I may make an amendment to the main motion on the floor.

Chairman Tmau: May we specifically know which motion you wish to amend? The motion to adopt Committee Proposal No. 24 or the motion to adopt the proposed amendment, as amended?

Delegate Cabrera: Mr. Chairman, if necessary, maybe all motions that are before the Committee of the Whole.

Chairman Tmau: Discussion should be confined now to the proposed amendment as amended. If you wish to amend that amendment, you are in order.

Delegate Cabrera: I wish to do that, Mr. Chairman, and I hereby move to amend that motion. But I would first move to have Rule 62(a) suspended.

Delegate Falanruw seconded the motion. Motion to suspend Rule 62(a) was defeated.

Delegate Williander: Mr. Chairman, it is now 12:05. In front of me there are three proposed amendments to Committee Proposal No. 24, and Committee Proposal No. 24 is the thickest Proposal so far. We will not be able to reconcile the amendments to the Proposal in the Committee of the Whole. We have a mechanism, Mr. Chairman, that we have set up to handle differences and we have a special committee which is called the Special Conference Committee. I am merely suggesting, Mr. Chairman, to the Delegates of their

considering referring the Proposal and all proposed amendments to that Committee so that they can work out a favorable compromise. Thank you, Mr. Chairman.

Delegate Robert: Thank you, Mr. Chairman. Before the Convention decides the fate of this Proposal and the proposed amendments, I would like to add my observations regarding the same. I think the plural executive, in all essence, is undesirable in that it perpetuates the feeling of factionalism rather than generating a sense of nationalism and patriotism, which is essential to a healthy national strength and vital to the national existence. Secondly, under the plural executive the prime minister is supposedly elected by the council of ministers and, therefore, the prime minister is accountable to that appointing authority. When the interests of the council of ministers comes into clash with the interests of the Micronesian people as a whole, it follows to reason that the prime minister will take sides with that council of ministers. By giving the five individuals, the five members of the council of ministers, the power to lead their own nation and the power to steer Micronesia, we are creating an irony by creating a government for the people of Micronesia--yet acceding to the wishes of the few who manipulate this prime minister's thinking by controlling whatever policy decision he makes. And, thirdly, I would like to address myself to the charge that the more populated districts will always come out as victor in the election. I think, and I know, this case may be true,especially in the old-age group bracket. But I trust there is a trend toward a selection of public officials based on acceptable principles rather than kinship ties or district interests, which are often the characteristics of the oldtimers. I have found this trend but being among young Micronesians--by being among young Micronesians for many years I have found this trend exists in the young Micronesian. With respect to the expense for campaigning for public office of the presidency, I think this is something that we don't have to address ourselves to at this point. Let time and let the genius of tomorrow devise the way to win the election. In closing, I would like to reiterate the fact that the plural executive is very expensive and it would lead Micronesia to become an international beggar, thereby subjecting Micronesian States to a state of puppetry of the super-power nation.

Delegate Carl Heine: I am not going to express my feelings one way or another with respect to executive, plural or singular. I merely want to make a little observation here that there is a direct relationship between Committee Proposal No. 24, Delegate Proposal No. 100, Delegate Proposal No. 29, Delegate Proposal No. 120, and the amendment. I wonder, Mr. Chairman, if it would not be a wise move to defer action only on this particular section and have these groups get together sometime and iron out their differences and come out with a report. I so move for deferral on this particular section.

Chairman Tmau: Would you please restate the date or time of deferral?

Delegate Carl Heine: I would like to defer action on this particular section only until when we continue with the rest of Proposal No. 24, but I hope that the groups could get together this afternoon, or maybe tomorrow, and make a report on a possible compromise for Monday's action.

Chairman Tmau: The motion is to defer action until Monday on the section on Executive, along with the proposed amendments relating thereto. Discussion?

Delegate Falcam: Mr. Chairman, I should like to indicate here that Monday is too far away. We have no time to wait until Monday. What is wrong with getting to it this afternoon?

Delegate Wilfunder: Mr. Chairman, if I am in order, I move for a recess until two o'clock today.

Delegate Toribiong seconded the motion.

Motion to recess until 2:00 p.m. carried. The Committee of the Whole recessed at 12:10 p.m.

RECESS

The Committee of the Whole was called to order at 2:30 p.m.

Chairman Tmau: To refresh our memory, the immediate question on the floor is the motion to defer the article relating to the Executive Branch, along with all amendments relating to that article, until Monday. Is there any discussion on the time of deferral?

Delegate Cabrera: You indicated all amendments. I just wish to get a clarification from you as to whether that also includes the proposed amendment which I suppose is distributed by now.

Chairman Tmau: I think your amendment is being run at this point. If it relates to the article on the Executive Branch, and if there is no objection from the floor, it can be considered along with the other amendments that relate to the article on the Executive Branch. Are you satisfied, Delegate Cabrera?

Delegate Cabrera: I just wish to answer the question you raised with respect to whether it does relate to that section of Committee Proposal No. 24 entitled "Executive". It does relate to that, Mr. Chairman, and I beg the indulgence of the Chair and the Convention to also include my amendment as one of the amendments being deferred.

Delegate Fulgar: I probably will be ruled out of order. I was wondering, in view of the amount of work we have and the time that we have left, whether the mover of the motion to defer could somehow reconsider his motion so that we can either put the amendment to a vote now, or change the time to tomorrow? I was wondering whether he is willing to reconsider his amendment?

Delegate Carl Heine: Thank you, Mr. Chairman. In that case, I will withdraw my motion to defer.

Chairman Tmau: The motion to defer the article on the Executive Branch has been formally withdrawn by the mover. Therefore, the question now before this Committee is the adoption of the proposed amendment, as amended, offered by Delegate Wainit.

Delegate Ngiraked: What about the amendment, as mentioned by Delegate Cabrera?

Chairman Tmau: It is being distributed now. The amendment is being offered for consideration later on. The immediate motion on the floor is the adoption of the amendment proposed by Delegate Wainit. That amendment, of course, has been amended already.

Delegate Ngiraked: In order for Mr. Cabrera to do something about his amendment before we adjourn so that it becomes a proper subject...

Chairman Tmau: I do not get your point, Mr. Ngiraked.

Delegate Ngiraked: Has this been deferred with the motion?

Chairman Tmau: The motion to defer has been withdrawn. Therefore, the immediate motion on the floor is to adopt the amendment proposed by Delegate Wainit--a single executive. As I have indicated, we will treat the proposed amendment offered by Delegate Cabrera as having been offered in the Committee of the Whole. Are you ready for the question to adopt Amendment No. 1, as amended, offered by Delegate Wainit?

Voice vote was taken which resulted in a division of the house. By a show of hands, there were 12 affirmative votes and 19 negative votes.

Chairman Tmau: The motion to amend did not carry. Now, the motion on the floor is the adoption of Committee Proposal No. 24.

Delegate Eperiam: As is known to this Convention, yesterday I distributed an amendment to Committee Proposal No. 24, labeled "Amendment No. 2." I regret to say now that I withdraw that amendment.

Chairman Tmun: The author of proposed Amendment No. 2, which was distributed yesterday, has formally withdrawn his amendment. The motion now is the adoption of Committee Proposal No. 24.

Delegate Ngiraked: There seems to be a substantial difference that needs some careful consideration before we take final action on the measure. In consideration of that fact and in consideration of Amendment No. 5, which has been just distributed, and the need for the dissenting groups to get together and come out with some compromise, I move that we defer action on Committee Proposal No. 24 until tomorrow.

Chairman Tmun: It has been moved and seconded that action on Committee Proposal No. 24, in view of other amendments and in view of disagreement, be deferred until tomorrow. Is there any discussion on the date of deferment?

Delegate Fulcam: I have no objection for the deferral motion. I merely should like to indicate here that this is to defer in order to give the Delegates some time to look up the newly offered amendment and study it together with the proposal, or is there any other reason behind it? I have no objection to the deferral except that I want to make sure that there is a good reason because of the time that we have on our hands.

Delegate Ismael: Just a point of information, Mr. Chairman. I see proposed Amendment No. 4--is this dealing with the Executive or not?

Chairman Tmun: Yes, it deals with the Executive.

Delegate Ismael: In that case, if the Proposal and Amendment No. 5 is to be dealt with tomorrow, I would also like to say that proposed amendment number 4 should also be included in the amendments to be considered.

Chairman Tmun: The motion is merely to defer action on Committee Proposal No. 24 until tomorrow. There are several amendments floating in the Committee of the Whole but no formal motion has been made to adopt any one of them.

Delegate Cabrera: The Committee of the Whole is charged with the responsibility, or the business before the Committee of the Whole is to consider Committee Proposal No. 24. We have just begun to act on a section by section basis. Is that right?

Chairman Tmun: Yes, that is correct. I think we did agree the other day that we would consider it section by section; however, the proposed amendment offered by Delegate Wainit dealt with the entire Executive article.

Delegate Cabrera: Then it is correct to say that the action to defer until tomorrow incorporates the amendment that was just passed out in the Committee of the Whole.

Chairman Tmun: That was the intent of the motion as was explained by Delegate Ngiraked. In order to allow some time for the Delegates who have sponsored various amendments to get together to see if they can agree on certain points, but the motion now is to defer action on Committee Proposal No. 24, along with all the amendments which have been offered on the floor, until tomorrow.

By voice vote, the motion carried to defer action on Committee Proposal No. 24, along with all proposed amendments until Friday, October 24, 1975.

Delegate Toribiong: I move that the Committee of the Whole rise and report back to the Plenary Session.

Delegate Tachelial seconded, and the motion carried. The Committee of the Whole rose at 2:45 p.m.

Re: 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 the effective date of the Constitution."

Chairman: Floor leader Lake Tmun

Chairman Tmun called the Committee of the Whole to order at 3:00 p.m.

Chairman Tmun: We have before us a number of Proposals. Yesterday we deferred consideration of Committee Proposal No. 24, along with various amendments offered, until today. If there is no objection from the floor, we will pick up where we left off yesterday and, therefore, the main motion on the floor is the adoption of Section 1 of Committee Proposal No. 24. We also agreed that we consider the Proposal section by section. We defeated an amendment yesterday--the amendment offered by Delegate Wainit which, in effect, dealt with the entire Executive article. That amendment was not adopted yesterday so the Chair will now recognize Delegate Tachelial, in the absence of the Chairman of the Committee on Governmental Structure, for a motion to adopt Section 1 of Committee Proposal No. 24.

Delegate Tachelial: I move for the adoption of Section 1 of Committee Proposal No. 24.

Delegate Toribiong seconded the motion.

Chairman Tmun: There was another amendment offered on the floor which was labeled Amendment No. 2 offered by Delegate Eperiam which was formally withdrawn yesterday.

Delegate Wiliander: I move to amend Section 1 of Committee Proposal No. 24 by Amendment No. 5 which was introduced yesterday by Delegate Cabrera.

Delegate Toribiong seconded the motion.

The Chair requested the Convention Secretary to read the proposed amendment to Section 1. The Convention Secretary complied with the request.

Delegate Falcam: May we hear some amplification or reasoning behind the proposed amendment, please? As you note, the Committee Report indicated several pertinent reasons for proposing a plural executive. I suppose there are reasons for proposing a single executive as proposed by Amendment No. 5, and I would like to hear these reasons if the proponent of the amendment would be so pleased to do so.

Delegate Wiliander: I will not speak on behalf of the introducer of the amendment; however, I will speak why I made the motion. I think this is a viable and workable proposal--I am referring to the amendment. The national legislature will by vote, by election, choose their president. In a way, to me, the process will be less expensive than having an election for a

president. Second, it would create cohesiveness and cooperation between the legislature and the executive. I, for one, would like to support this amendment. There may be other Delegates who may wish to explain more on the amendment.

Delegate Ismael: This proposed Amendment No. 5 is copied word for word from (Delegate) Proposal No. 100. With the indulgence of the delegation from Palau, I would like some explanation as to what is incorporated here that is better than the one we are considering.

Delegate Ngiraked: The logic and reasoning in line with this proposal are the same as those advanced in the proposed amendment offered by Delegate Wainit. It takes into consideration the cost factor. An executive chief is chosen within the framework of the legislature. As Delegate Williander has stated, it is conducive to a cohesive legislative body and cooperation between the two branches of government involved in the process. It takes care of the concern of the people who thought that for one person to try to unite Micronesia in an election would not only be an expensive job but would also be an impossible, insurmountable job. It also takes care of the worries of the smaller districts that in a national election they might not have a chance, in that this proposal provides a system where the position of the head of our state will be rotated amongst each district. I think this is the most desirable compromise between the two conflicting proposals which have been offered to this Convention, and I urge all the Delegates to vote for it.

Delegate Ismael: I cannot get it square in my mind--if my congressman comes to Headquarters, wherever that capital may be, and the fellow congressmen nominate and vote him in as vice president, what happened to my congressman from Kusaie? Secondly, if the national legislature voted this guy in, immediately the check and balance system between the legislative and executive breaks down because the control is now in the hands of the legislature. I would like to see some degree of check and balance between the executive and the legislative. For this reason, I would think that there be a compromise of this proposal, in that at least I know that the minister of the council voted from one particular district is going to be in the executive and not elected by the national legislature.

Delegate Falcam: It is quite obvious that the proposed Amendment No. 5 is contrary to the basic principle behind Proposal No. 24---the basic principle being that, in the opinion of the Committee on Structure, our government in Micronesia today will have to be a government workable to the Micronesian situation. It will have to be a government functionable to our diverse issues, cultures and conditions that we have in Micronesia. The idea that Delegate Ismael brought up is a very essential one--that when the electorate exercise their right to vote for a legislator, not knowing that their legislator may fortunately become the President of Micronesia, immediately creating a vacancy for which another election should be held. We are talking about expenses--I cannot see this approach. The separation of power--checks and balances--is defeated immediately. The president, chosen by the national legislature, becomes a puppet of the national legislature, necessarily so. He, in turn, chooses a vice president from among the elected legislators. Again, you have two persons implementing laws enacted by the branch from which they came. I fail to see a clear check and balance, a clear separation of powers. The arguments brought out yesterday regarding the single executive still hold for Amendment No. 5. Are we going to sacrifice what is fair and workable in Micronesia for what is seemingly efficient and seemingly effective under one man? I suggest that this Convention think very carefully--consider very seriously--having a president who is appointed by a few politicians in a national legislature and also desiring to have an executive branch independent of that legislature. I reserve other comments to a later time.

Delegate Yoma: This is a point of information that I would like to address to the proponent of this proposed amendment. It says here that the president shall be elected by a majority vote of the national legislature. Am I correct in assuming that representation in the national legislature will be based on population or is it going to be based on districts' equal representation?

Delegate Wiliander: To answer the question from my good colleague, Delegate Yoma, the Convention has not decided on the membership of the national legislature so it will be up to the Convention to decide that when we arrive at that. Secondly, I wish to point out that in the system proposed by Amendment No. 5, if it is adopted, Micronesia will not be the first country to adopt it. It has been practiced in places like Australia, England and other South Pacific countries and from literature read and from people who have visited those areas, I am convinced that it can work for us in Micronesia. So, I don't think it will be impossible for us to adopt this kind. What is wrong when people choose the members of the legislature and then the legislature chooses the one to administer the laws? I do not see the difference.

Delegate Weital: While I like the idea of a President but not agree with it, I do not agree with the idea of having our national legislature select the President. The reasons have been brought up by my colleagues and I do not need to elaborate on or reiterate them again.

Delegate Ngiraked: I would like to remind my fellow Delegates here that sometimes in reaching a Constitution or a nationhood in Micronesia we choose not what is best but what is necessary. This takes into consideration the two major problems which have been brought before this Convention--the cost factor and the political hassle that would be created that might have an adverse effect on our unity and our cohesiveness as a nation if six districts were to fight over one president. When you consider it in light of whether or not this system is democratic, who can say that England is not a democratic nation, Japan is not a democratic nation, our neighbor Australia is not a democratic nation. They are not only democratic nations, they are successful and prosperous, strong and rich nations of the world. They have tested the system and I think our problem in Micronesia is to steer away from the cost that may be involved--the political upheaval that may result in electing one president. I think we have no choice but to choose a system as offered in Amendment No. 5.

Chairman Tmau: With the indulgence of the Delegates, I would like to declare a short recess. I am a bit confused. I need some consultation because I just noticed the proposed Amendment No. 5 really affects a lot of sections under the Executive article rather than only one particular section. If there are no objections, I declare a five-minute recess.

The Committee of the Whole recessed at 3:20 p.m.

RECESS

The Committee of the Whole was called to order at 3:45 p.m.

Chairman Tmau: The Chair notes that Delegate Eperiam just took his seat during the short recess. (Applause) I am very sorry but we will depart from our normal procedure in view of the fact that proposed Amendment No. 5 essentially deals with the entire Executive article. I have the consensus of the movers, Delegate Tacheliol and Delegate Wiliander, that they have agreed to withdraw their motions. Now the Chair will entertain a motion for the adoption of the entire article on the Executive Branch.

Delegate Tacheliol: I would like to move for the adoption of the entire article on Executive of Committee Proposal No. 24.

Delegate Falanruw seconded the motion.

Delegate Wiliander: I move to amend the whole section on the Executive portion of Committee Proposal No. 24 by Amendment No. 5.

Delegate John Heine seconded the motion.

Delegate Sawaichi: Before we proceed, I would like to express some concern that I have with respect to the participation of the traditional leaders on this very important measure.

Chairman Tmau: You are recognized on a point of privilege, Delegate Sawaichi.

Delegate Sawaichi: We are considering one of the most important proposals that has been brought before this Convention, but I don't see most of the traditional leaders around to participate with us. I am wondering if it is proper for us to amend this particular proposal in the absence of Delegate Heinrich Iriarte, who has spent so much time in the preparation of this draft, and also the other traditional leaders. Although I understand that there is a quorum and under our Rules of Procedure we can proceed, I don't think that it is proper to take any action on this important one without the participation of our traditional leaders. I would like to suggest that we should delay action on this proposal until such time that they are around to express themselves with respect to the amendment as well as the main proposal.

Delegate Weital: I was going to say the same thing. In addition to that, if we are to adopt Amendment No. 5, I see the need of more work because this amendment concerns the major content of Section 1 dealing with Executive. I do not see how we can adopt this and be satisfied with the content of the proposed amendment. For that reason, I am suggesting that we consider delaying action on this particular proposal.

Delegate Falcam: I have no objection to the concern raised by fellow Delegate Sawaichi from Palau and my friend from Ponape. I would like to indicate here that perhaps a delay of the entire proposal may be a little bit too much. I might add that the proposed amendment relates to the article on the structure of our new executive branch of our government. Perhaps it might be more in order to just delay the consideration of that part of this proposal and proceed with the legislative branch structure because I feel that Amendment No. 5 proposes that the legislative branch appoint or select the president of the government of Micronesia, while we have not established that legislative branch yet. It is like putting the cart before the horse. I will be more comfortable knowing the structure of the legislative branch of the government prior to considering Amendment No. 5 regarding the structure of our executive branch of our government. For that reason, Mr. Chairman, I move that we delay consideration of the executive structure and Amendment No. 5 and proceed on to the consideration of the legislative structure of our government.

Delegate John Heine seconded the motion.

Chairman Tmau: Is your motion to delay until some time today?

Delegate Falcam: Defer it until Monday.

Chairman Tmau: The motion is now to defer the entire article on the executive branch along with proposed Amendment No. 5 until Monday. The discussion can only center as to the date of deferment.

Delegate John Heine: I would like to amend the motion to include the entire proposal to be deferred until Monday.

Delegate Toribiong seconded the motion.

Chairman Tmau: The motion is to amend the motion to defer action on the entire Committee Proposal, No. 24, and the amendments, until Monday.

By voice vote, the motion carried to amend the motion to defer action on Committee Proposal No. 24 and the amendments until Monday, October 27, 1975.

By voice vote, the motion carried to defer action on Committee Proposal No. 24 and the proposed amendments to Monday, October 27, 1975.

Committee Proposal No. 25

It was moved and seconded that Committee Proposal No. 25 be adopted.

In accordance with Rule 42 of the Rules of Procedure, it was moved and seconded that Committee Proposal No. 25A be adopted as an amendment.

The following questions were asked:

1. Where in Palau would the capital be located? The answer was that not only was the land offered free to the national government, but also the national government would be given the freedom to select the location.

2. What will happen if they accept Palau's invitation and Palau decides on a different political status in the future? In response, it was stated that while that was a hypothetical question, the proposal itself contains the answer where it says: "The capital shall be under complete control and jurisdiction...", meaning that once it becomes the capital of Micronesia, regardless of what may happen to the future political status of the state of Palau, the national government may continue to have control over that property. The Chairman of the Palau Delegation reiterated that by inviting the national government to locate in Palau is in a way an assurance that Palau will not easily pull out of the unity of Micronesia.

It was moved and seconded that Committee Proposal No. 25 and Committee Proposal No. 25A be deferred until Friday, October 31.

It was moved and seconded that the motion be amended to defer action until November 11.

By voice vote the motion to amend the motion was defeated.

It was moved and seconded that the motion be amended to defer action until November 8. The motion carried.

By voice vote, the motion carried to defer action on Committee Proposal No. 25 and Committee Proposal No. 25A until November 8, 1975.

Committee Proposal No. 27

It was moved and seconded that Committee Proposal No. 27 be adopted.

It was moved and seconded that action on Committee Proposal No. 27 be deferred until Friday, October 31, and the motion carried.

Committee Proposal No. 28

It was moved and seconded that Committee Proposal No. 28 be adopted.

The following questions and/or concerns were expressed:

1. Will the provision in the proposal preempt former Micronesian citizens from retaining title to land acquired when they were Micronesian citizens? The Chairman of the Committee on General Provisions stated: "Those Micronesian people who own land in Micronesia before the effective date of the Constitution will continue to hold title to the land after the effective date of the Contitution. However, they cannot pass the title to any non-Micronesian. So, if their children are also non-Micronesian, their children cannot inherit the land and when these persons die the land will have to be given to a Micronesian citizen. They may dispose of the land any way they wish except that they cannot sell to a foreigner. They can sell only to Micronesian citizens.

"In other words, land will continue to be owned by those Micronesians who decide not to remain Micronesian citizens only within a lifetime, after which time all the land in Micronesia will be owned only by Micronesian citizens. They may re-lease to non-Micronesian citizens but as far as ownership is concerned, only Micronesians can own land."

2. Is it the intent of the Committee to limit the ownership of land to citizens only? It was answered that it was the intent of the Committee and the Proposal to limit land ownership only to Micronesian citizens. Micronesian nationals could very easily obtain Micronesian citizenship under the law which will be enacted by the national legislature.

3. If I become a U.S. citizen, will I lose my right to own lineage land? The answer was in the affirmative, as is the case under existing law. "In accordance with custom, some Micronesians who have become citizens of other countries own the land according to custom; however, legally they do not own land in Micronesia because that is prohibited by existing law. That is the case now and that will be the case if the proposal is adopted."

4. Is the proposal talking about acquisition of land or ownership of land? The proposal talks about ownership.

5. Concern was again expressed with regard to the third question and it was asked if the proposal could include language to the effect that former Micronesian citizens could retain ownership of their land.

6. Question was raised with regard to the use of the word "wholly" on line 4.

It was moved and seconded that Rule 62a be suspended in order to amend the proposal to strike out the word "wholly". By voice vote, there was a division of the house. Upon a show of hands, the motion was defeated to suspend Rule 62a.

7. What is the meaning of the word "appurtenances", as used on line 5? It was stated that it refers to buildings, piers, seawalls, etc. Another Delegate advanced that "appurtenances" is a legal term that opens the door to ambiguity, which he did not feel was the intent of the Committee, that the Proposal should be limited to ownership and title to land.

It was moved and seconded that the following be deleted from line 5 of Committee Proposal No. 28: ", their appurtenances,". (The motion carried to suspend Rule 62A in order to offer the oral amendment.)

8. In answer to the question as to whether the deletion of the word "appurtenances" would change the intent of the proposal, the Chairman of the Committee on General Provisions advised that the main issue was the question of land ownership and that the intent of the proposal will not be changed drastically.

The motion carried to amend Committee Proposal No. 28 by deleting ", their appurtenances,".

It was moved and seconded that the words "and nationals" be included after the word "citizens" on lines 3 and 4.

9. Concern was expressed that by including "and nationals" this would open the door to foreigners owning land in Micronesia.

After consultation during the recess, the motion was withdrawn to include "and nationals" after the word "citizens" in lines 3 and 4.

10. What protection will this proposal give to the people of the Marianas if and when the Marianas becomes a Commonwealth? In response, if the people in the Marianas ratify the Constitution the provision will apply; if they don't, it is not binding.

11. If a person of the Marianas District holds title to land in another district, will his interests go to his heirs upon his death? "If the Marianas does not ratify the Constitution, a person in the Marianas can keep title to his property located in another district which is a part of the Federated States of Micronesia only during his lifetime. His children, unless they are Micronesian citizens, cannot inherit title to the property."

12. Could the proposal include language that would protect the people of the Marianas who own land in the other districts, in light of the Marianas framing a Constitution, if and when it becomes a Commonwealth, which will protect land ownership in the Marianas by those people from the other districts?

In order that the Committee could consider the aforementioned questions, it was moved and seconded that Committee Proposal No. 28, CWD1, be re-committed to the Committee on General Provisions. The motion carried.

Committee Proposal No. 29

It was moved and seconded that Committee Proposal No. 29 be adopted.

1. Concern was expressed with regard to line 4: "...on a date to be specified by the Congress of Micronesia by Joint Resolution..." and "...which date shall not be later than one year after ratification." that it gives the Congress the option to decide the day on which the Constitution is to be ratified, at the same time the Convention is recommending that it be in one year, that the two sentences are contradictory. The Chairman of the Committee on General Provisions explained that the two are not in conflict, that the first part of the sentence states that the Congress will determine the effective date of the Constitution by adopting a resolution to that effect, and that the second part merely states a time limit.

2. Concern was expressed that the Constitution might go into effect prior to the termination of the Trusteeship Agreement, that there would be conflicts between the responsibilities of the U.S. and the Constitution with respect to the administration of Micronesia. After a lengthy discussion, the Chairman of the Committee on General Provisions made the following statement: "We have an administering authority. We have the United States Government taking care of us today with one goal in mind and that goal is self-determination for self-government or independence. Once we ratify the Constitution that is self-determination. The Secretarial Order has been amended many, many times in the past. It will have to be amended to comply with the supreme law of the land. If we wish, the Constitution can go into effect before the termination of the Trusteeship Agreement."

It was moved and seconded that Committee Proposal No. 29 be recommitted to the Committee on General Provisions. The motion was defeated.

The motion carried to adopt Committee Proposal No. 29, 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."

There being no further business before the Committee of the Whole, the Committee rose at 5:30 p.m. to report back to the Plenary Session.

Re : Committee Proposal No. 28, CWD 1, entitled "A Proposal relating to ownership of land by citizens of the Federated States of Micronesia."

Chairman: Floor Leader Luke Tmau

Chairman Tmau called the meeting to order at 1:10 p.m. He informed the Committee that they had before them for consideration Committee Proposal No. 28, Committee of the Whole Draft No. 1, which had been recommitted to the Committee on General Provisions on October 24 with instructions to review the concern expressed by the Marianas Delegation in the Committee of the Whole on October 24. He stated that the Committee on General Provisions was ready to give the report of their deliberations.

Motion was made and seconded to adopt Committee Proposal No. 28, CWD 1.

Delegate Tun, Chairman of the Committee on General Provisions, made a comprehensive report concerning the findings of the Committee, citing Section 805 of the Covenant for the Northern Mariana Islands. The findings were, basically, that the Covenant Agreement would restrict ownership of real property to persons of the Northern Mariana Islands.

Motion was made and seconded to accept the oral report of the Committee on General Provisions. Motion carried.

Motion was made and seconded to adopt Committee Proposal No. 28, CWD 1. Motion carried and the Proposal was adopted by the Committee.

Committee Proposal No. 28 (CWD 1)

"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."

Chairman Tmau declared that the Committee of the Whole would rise at 1:16 p.m.

progress toward a unified Micronesia. I ask all the friends of equality in Micronesia to vote in favor of Amendment No. 8, particularly the Yapese and the future State of Kusaie people.

Delegate Cabrera: Thank you, Mr. Chairman. First of all I should like to reflect on the argument advanced by Delegate Heinrich Iriarte. I think the argument is very well made and it is very well taken, and I would endorse it wholeheartedly if we will have a National Government that will be appropriating money at random. But I wish to note, Mr. Chairman, that we will have a National Legislature that will not be bogged down, or will not be troubled too much by the fact that it will attend to the needs of various municipalities, counties, what have you. We will have a National Legislature that will be limited in its role and functions. As Delegate Ngiraked pointed out, yesterday we considered a proposal that included the distribution of money. We will again consider a proposal today that will give the National Government the taxing power which is limited in many respects. I think the argument that Delegate Heinrich Iriarte made is very well taken and it appropriately belongs in the State Constitution. That's all for now, Mr. Chairman.

Chairman Tmetuchl: The Chair apologizes for coughing too much. Any more discussion? Delegate Falcam.

Delegate Falcam: Thank you very much, Mr. Chairman. I would like to ask a question of those people who are talking about equal representation and equality, whether in their view equality means 30,000 people being represented by three representatives, 7,000 people being represented by three representatives. I would like to know whether this is equality.

Delegate Saiki: Thank you, Mr. Chairman. Mr. Chairman, it is my contention that the concept of equality can vary depending on your basic premises. Let's look at the United Nations. Every member of the United Nations is an equal member, no matter how small or how big they are, and so it is that if your basic premise is you have to base your representation on the basis of individuals in the community, then the answer to that question would be no. But, if you look at it from our point of view, the equality of the districts, then the answer to that question would be yes. If you look at the history of Micronesia, these groups of islands we now call districts were equal insofar as they were not under any one form of government. The recent history where a totally foreign concept was enforced on us, to disregard the quality of the districts, is not a concept that is acceptable to many of us in certain respects. So, if you look at the point of view of districts, regardless of the number of people in each district, yes.

Delegate Nimwes: Thank you, Mr. Chairman. Mr. Chairman, I believe in equality and also in all fairness. I think if all the districts will be represented in the legislative body equally, perhaps it would be fair to have the votes cast by each representative based on population, and, Mr. Chairman, in regard to the United Nations, I wonder if all the nations in the UN have veto powers or only certain countries in the UN have such.

Delegate Nakamura: Thank you, Mr. President. I would like to beg the indulgence of this Convention and make a few remarks. At the outset, let me state that Proposal No. 8 emphasizes the political integrity of each State of Micronesia, as stated by Delegate Williander, and it will, to me, enable all the people of the State to elect their representatives not based only on the population or the people, where they come from, whether they come from Peleliu, Koror or Kyangel. Rather, they would be able to select the best people in the State to represent that State. Let's not forget that future Micronesia will not be dealing only with the distribution of money, but there are other matters that will affect each State. What I am trying to say here is that although some States may have small populations, they might be compensated by their natural resources and other matters. Let's not forget that our islands are scattered and each State will be a thousand miles away and what may affect one State may not affect another State, and for that reason I think each State should be represented equally in the future Congress of Micronesia.

Delegate Falcam: Thank you, Mr. Chairman. I would like the Convention to keep in mind that if we are going to have a democratic form of government, a

representative form of government in which the people rule, we must adopt a system where people are represented on the basis of fairness, on the basis of equity and not on the basis of equality. It is not fair for the less populated areas and it is not fair, even more so, for the areas that have more people. Their say in that government is not equal. I am not sure what we are trying to arrive at here. I am not sure what we are trying to create, whether we are creating a system where the people rule or a system where a few rule. This is very important and I urge everyone to consider it very carefully. The answer to my question by my friend from Palau, Delegate Salii, to me is not satisfactory. This is not the United Nations and in the United Nations no one is equal. While they are represented equality, we all know that only a few are equal, not all of them. Thank you.

Delegate Olikong: Mr. Chairman, we all realize that what is proposed in Amendment No. 8 to Committee Proposal No. 24 is not the most and the best way to solve this issue. However, what is proposed in the subject amendment is the best possible way for all the districts in Micronesia, large or small. Once the Congress of Micronesia is formed, all the representatives in the name of unity will cease to call themselves representatives of certain States they came from, but representatives of all the people of Micronesia. I think Amendment No. 8 will serve everybody from every State. Thank you.

Delegate Ismael: Thank you, Mr. Chairman. I rise on a point of privilege, because my remarks and observations here may clash with those observations offered by both members of the Delegation from Ponape, both Delegates Iriarte and Falcam. I fail to see the principle involved. On the one hand, we refuse to submit ourselves to the principle of the equality of the districts, as proposed in Committee Proposal No. 24, Amendment No. 8, and yet the same people from the same Committee propose a Council of Ministers with equal representation, one from each district. I wonder, for that matter, Mr. Chairman, I could not get it clear in my mind, in which direction do we want to go, partnership or population upon reapportionment, at the level of our National Government?

Delegate Ngiraked: Thank you, Mr. Chairman. Let us examine the meaning of equality. I think what we are dealing with here is a question of degree, how much equality you want to practice and exercise in coming up with a representative government, because if we are talking about the literal meaning of equality, then it will be required that Palau, which would have 14,000 people, would have to send 14,000 representatives to the National Government, so one man is equally represented. Let's study the meaning of this equality within the context of American democracy. Take a community like Palau with 14,000 people. Even if we come out with ten legislators to the National Government, it does not, in a sense, mean that all of our people are represented. Ten people do not represent 14,000 people on an equal basis. So, even if a larger district, like Truk, Marshalls, Ponape, send any number within reason, any number of legislators to the National Government, or Legislature, they cannot truly say, in the sense that they are talking about equality, the Trukese people and one individual are equally represented. It is a matter of degree and the efficiency of the government we are talking about here.

Chairman Tman: Let me say this, if I may. According to my list, I have Delegate Weital, Delegate Williander, Delegate Carl Heine and Delegate Falcam, and if there is no objection, right after Delegate Falcam, we will take a short recess. Delegate Weital.

Delegate Weital: Thank you, Mr. Chairman. I wish to point out here that when passing a proposal or a resolution, we vote first. If the majority agree with the proposal or the resolution, that proposal or that resolution is passed by a majority. In this democratic system of government, the people are ruled by the majority. Since the beginning of this era, under the American administration or, if I may say, the Administering Authority, I learned through this system that people should be or must be represented by people and, therefore, Mr. Chairman, I cannot see and I will not agree to support this amendment for this principle. Thank you very much.

Delegate Williander: Thank you very much, Mr. Chairman. As a Delegate from the largest district, I introduced this amendment as a gesture of sincerity to the smaller districts because I believe that the smaller districts and the bigger districts should be equal in the future political union, and I would not also subscribe to the idea that majority rules, because sometimes majority corrupts. Mr. Chairman, it has been a problem in Micronesia that big districts sometimes take advantage of small districts. I would not like to see that in the future political union of the Federated States of Micronesia. I would like to ask that people reconsider first for this reason I have stated. Thank you, Mr. Chairman.

Delegate Carl Heine: Thank you, Mr. Chairman. Mr. Chairman, I think we are beclouding the real issue by our referring to the word "equality". There is equality in both amendments. It depends on how you look at it. I think the real issue is representation, Mr. Chairman. I don't think the concept of representation is fully understood. Under the amendment offered by Delegate Williander the district will be represented, not the people. Under my amendment, the people will be equally represented and I think that is what we want here. We are not trying to create a social organization; we are trying to create a legislative body and, as far as I know, most legislative bodies in the world are filled in this fashion. They represent people; they do not represent geographical entities, and that is the basic difference between these two amendments -- one represents geography and one represents people. Thank you.

Chairman Tman: Before I recognize Delegate Falcam, I want to state that I have now Delegate Salii and Delegate Nimwes on my list, but I think our Journal Clerks need a little rest. Delegate Falcam.

Delegate Falcam: Thank you, Mr. Chairman, it is quite obvious that our concepts of equal representation differ. Some people believe very sincerely that equal representation is the same number of people regardless of population. Some people believe equal representation must be based on population, a number of people representing so many. Mr. Chairman, this philosophical basic difference cannot be resolved. I cannot agree that two people represent ten and two people represent four hundred. Consequently, Mr. Chairman, I think we should put this question to a vote so that we do not waste our time talking about concepts of equality or equal representation. Basically, philosophically we do not agree. Therefore, let's vote and find out what the majority of this Convention feels. We are still going by the majority of the population of this Convention. Thank you, Mr. Chairman.

Chairman Tman: Before we take a short recess, let me say that the Chair wishes to remind all Delegates that the question may be put to vote and decided by the majority. However, I think the reason for having a Committee of the Whole meeting is to reach a consensus because in the end if three-fourths of the Delegates do not agree, three-fourths of the people of Micronesia will not agree to the Constitution. We will take a short recess.

The Committee of the Whole recessed at 12:40 p.m.

RECESS

The Committee of the Whole was called to order at 12:50 p.m.

Chairman Tman: I think we have taken a long recess already. The Committee of the Whole will now come to order. The question before the floor is the adoption of the proposed Amendment No. 8. I have on my list, before we recessed, recognition of Delegates Salii, Chief Bossy, Nimwes, Ianwi and Cabrera. I will recognize Delegate Salii.

Delegate Salii: Thank you very much, Mr. Chairman. Mr. Chairman, I will speak for the last time today on this issue and I will try to be as brief as I can because I share some of the sentiments that we should make a decision one way or the other on this as soon as we can. Mr. Chairman, I realize that there may be a basic difference within this Convention on this question of representation and

equality and I will not belabor the point except to state that for those who emphasize the equality of the districts, the question of representation based on population emphasizes the difference between the districts. It will emphasize the largeness of the large districts, it will emphasize the smallness of the small districts. I think we should keep that in mind. Equal representation will erase this difference that exists between the districts. I am not that naive to entirely forego the concept of representation based on population. I think that is an ideal to try to achieve in the future, but speaking for myself and for Palau, now is not the time to institute representation based on population. The question that is really at stake now is whether we can make a Constitution that will not be the best under the most ideal circumstances but, given the fact that the districts are still very much a factor in Micronesia, given the fact that while many of us in this Convention, many of us in Micronesia, have tried to take a Micronesian approach rather than a Palauan or a Ponapean approach, and while that is still a goal to achieve as we work to build a nation, I think the question is whether we can bring if not the the six districts under one roof, at least the five that are still attempting to come together. So I would urge the other Delegates, and I respect their views, but I will beg them and urge them to keep in mind that perhaps this district orientation that is bothering many of us right now at this juncture in our history may not be a factor in the future, that we should keep in mind that this Constitution that we are putting together now will be subject to amendment to the changing conditions in the future. Mr. Chairman, let me take this opportunity to say that this delegation is very sincere in becoming a part of Micronesia and we are not arguing that our point of view on this issue of representation is necessarily the best. Our proposal is something that will make it possible, in our view, to join with the rest of us. Whether our views and our anxieties are illogical, we ask that you recognize them and please bear with us and try to make it possible for us to change in the future as we live under this Constitution. Thank you very much, Mr. Chairman.

Delegate Chief Bossy: Mr. Chairman and fellow Delegates, We all are here to represent our constituents. Yesterday, we passed provisions which basically are good for the smaller districts but not for the bigger districts, and with great faith we allowed that, so I think it is only fair and just that we request the smaller districts to do the same.

Delegate Lanwi: Thank you, Mr. Chairman. We are discussing the amendment to Committee Proposal No. 2h, whether to have one house or two houses in the national legislature. From 1959 to 196h we had one house, the National Council of Micronesia, and the leaders during those days and times and years requested the United States Department of the Interior to create the Congress of Micronesia which was to start late 196h but was not established until 1965. And it was agreed by the Secretary of the Interior that there must be two houses, a House of Assembly and a House of Representatives, but then the elected leaders in the First Congress changed the names to Senate and House of Representatives and it was not until 1969 when an Order said that it was up to the congressmen and senators to decide whether it was going to be unicameral or bicameral and it was unanimously voted to have two houses which was the appropriate form of legislature for Micronesia and up till now it has been two houses. I feel that this is something for the congressmen and senators to decide; it is up to them to decide whether it be unicameral or bicameral.

Mr. Chairman and fellow Delegates we were talking about equality. This proposal on the floor is now talking about equality and to me the word "equality" irritates my eardrums all the time because equality is really to me something like communism--everything for everybody, everything I have is going to be for the community--so, I do not believe in equality. I do not believe in socialism. I believe in liberty and freedom. Whatever I have is for myself, why share with others. What you have is yours, I won't want to bother you. So, Mr. Chairman, I think it is up to the national legislature or the Congress of Micronesia to decide whether it should have one house or two houses. Thank you very much, Mr. Chairman.

Delegate Cabrera: Thank you, Mr. Chairman. I just wish to point out that we do have a situation here where before we could even adopt a Constitution, we already have begun a process of tearing it down. I would like to call to the attention of the Delegates a phrase in the Preamble which reads, "our differences enrich us".

Certainly, what is taking place on this floor does not point to that direction. Rather, it separates us. Mr. Chairman, I do think that there is a basic thing at issue here, that is the identity of each district, and that is each district wanting an equal voice in the future national legislature. I think the present Congress of Micronesia, the democratic system that we have adopted as our own right now has been imposed upon us. We are from Micronesia. If you are a Palauan, you think like a Palauan, act like a Palauan, speak like a Palauan. If you are a Trukese, you do the same as a Trukese. I am a Saipanese, I do the same as a Chamorro. I think it is very obvious that no one district recognizing the diversity of our cultures, languages, wants to be dominated by another district. I think this is the issue, Mr. Chairman, and I submit that I will vote for a proposition that provides equal voice to everybody in the future government of Micronesia. Thank you, Mr. Chairman.

Chairman Tmau: There is one point that I wish to correct. The bicameral system of the Congress of Micronesia was not imposed on us. It was a decision of the Council of Micronesia in 1962-1963, and it was on that basis that the Secretary of the Interior issued an order creating a bicameral system of legislature. Delegate Robert.

Delegate Robert: Thank you, Mr. Chairman. I wish to share my views regarding this proposed amendment. I share with the other Delegates the premise that the Constitution we are making is for the governed, that is the people of Micronesia as a whole. I look at the district government as another vehicle necessary to serve the interests of the governed, that portion of the same people for whom this Constitution is being instituted. This is my bias, and I would like to share this with the Delegates. However, aside from this bias, I want to share also my prediction on the possible impact of this amendment to the districts. I am not sure about other districts, but in Truk I see a movement presently for a separation of some portions as a separate district like what is happening with Ponape and Kusaie. Perhaps, if we adopt this amendment, this movement could be accelerated or amplified so that the subsections in Truk like the Mortlocks and the Faichuk area could be pushing harder to become states so that they can enjoy the blessing of equality as proposed in this amendment, and I think if we keep allowing this further fragmentation of the existing states, it will be a burden to our future government. For this reason, I urge every Delegate that we defeat this amendment.

Delegate Olter: Thank you very much, Mr. Chairman. I have heard some very eloquent speeches. I would like to make a motion now, but before making that motion, I would like to suggest some amendments to Amendment No. 8 that "three" be stricken and "two" be placed in there by an appropriate committee. I would like to move, Mr. Chairman, that we defer action on Committee Proposal No. 24, and refer it to an appropriate committee for further amendment.

Chairman Tmau: Would the Delegate kindly specify which committee he wishes it to be referred as all committees are appropriate committees.

Delegate Olter: To a special committee, Mr. Chairman.

Chairman Tmau: Special Conference Committee?

Delegate Olter: Yes, sir, Chair.

Chairman Tmau: The motion is to refer or torecommit Committee Proposal No. 24 to a Special Conference Committee. Delegate Ngiraked.

Delegate Ngiraked: Mr. Chairman, thank you. I go along with the suggestion made by Delegate Olter but I would like the committee to be especially appointed by the Plenary Session of the Convention and I suggest, Mr. Chairman, that in reporting its decision, we make sure that the proper number of traditional leaders will be represented in that committee. I think this is a very vital issue. It has a great impact on the question whether or not we succeed in our job and I would like to amend the motion by moving that the Committee of the Whole recommends to the Plenary Session that a special committee be appointed for further deliberation on this issue.

Delegate Gawaichi: Second.

Chairman Tmun: It has been moved and seconded that the motion to recommit to the Special Conference Committee be amended to read that the Committee of the Whole recommends to the Plenary so that the Plenary will appoint a Special Conference Committee. Delegate Salii.

Delegate Salii: I am not objecting to the motion to create a special committee or to refer this to a special conference committee, but this may create further delays in considering this matter and I would suggest that perhaps since at least one Delegate, Delegate Olter, has a specific amendment in mind, I think the first thing would simply be to postpone working on this now to allow Delegates to propose amendments to this Article. I am not sure that the creation of a special committee, as it represents the Convention, or referral to a special conference committee, would really be any different from this Committee of the Whole as far as the sentiments are concerned.

Delegate Tmetuchl: Point of information. I understand the motion is to defer Committee Proposal No. 24. Does that mean it includes the Article on Executive?

Chairman Tmun: No. The main motion on the floor is the adoption of the Article on Legislative, and the main motion now is to amend the motion to recommit or refer to the Special Conference Committee and that motion has been amended so that the Plenary will appoint a special committee. It is dealing only with the Legislative Article. Delegate Toribiong.

Delegate Toribiong: Thank you, Mr. Chairman. I just wish to express my strong feeling against any deferment at this time. I think the Convention can sit down here and argue over these matters. It seems to me that the views expressed, arguments passed against this amendment would be advanced and expressed pertaining to the other amendments on this Article. However, if the intent of the motion is to delay action on the whole Article, it is less objectionable to me. However, I think we should go ahead and resolve our differences.

Delegate Ngiraked: Point of privilege.

Chairman Tmun: State your point of privilege.

Delegate Ngiraked: I withdraw my motion.

Delegate Nakamura: Thank you. I just want to give my observation on what has transpired in this Convention.

Chairman Tmun: Let us confine our discussion now on the motion to refer to the Special Conference Committee. The motion to amend has been withdrawn; therefore, the main motion now is the motion which was made by Delegate Olter to refer this Proposal, especially on the Legislative Article, to the Special Conference Committee.

Delegate Nakamura: I think I will come to that point, Mr. Chairman. Thank you. I think I will agree with Delegate Toribiong that we cannot accomplish anything by deferring this issue until tomorrow or the day after. I think it should be decided now or this afternoon and I would like to remind the other Delegates that they seem to be talking about structure and the many things that have been said does not reflect what we have adopted in the Functions Committee.

Delegate Mwety : Mr. Chairman, I do not believe it is necessary for us to delay action any more on this matter. I believe that delaying action simply means that we will go back and look for more arguments in advancing our own position. I, therefore, move, Mr. Chairman, if it is proper, that we vote on the main motion.

Delegate Salii: Point of privilege, Mr. Chairman.

Chairman Tmun: State your point of privilege.

Delegate Salii: Mr. Chairman, may I suggest that we recess and cool off a little bit and reconvene at two o'clock this afternoon to allow Delegate Olter and others to prepare possible amendments to offer. This is not a suggestion for delay. I am just as anxious as anyone to bring this to a vote but since people are willing

to offer amendments, I move that we recess the Committee of the Whole and reconvene this afternoon at two o'clock.

Delegate Olikong: Second.

Chairman Tman: It has been moved and seconded that the Committee of the Whole stands in recess until two o'clock this afternoon. Before I put that question to a vote, I would like to ascertain the wishes of the Delegates and I will now recognize Delegate Falcam.

Delegate Falcam: Mr. Chairman, it is now 1:15 p.m. by my watch. This will not allow us time to eat something and come back. I wonder if the mover could move the time to three o'clock.

Delegate Salii: I change the time to three o'clock.

Chairman Tman: All those in favor of the motion to recess the Committee of the Whole until three o'clock this afternoon, please say "aye". (Ayes in the majority.)

The Committee of the Whole recessed at 1:17 p.m.

RECESS

The Committee of the Whole was called to order at 3:30 p.m.

Chairman Tman: The Chair need not apologize for the delay; I regret it, however. The immediate question now before this Committee is the motion that was made by Delegate Olter to refer Amendment No. 8 on the article on the Legislative Branch to the Special Conference Committee. The motion made by Delegate Ngiraked to amend that so that the Plenary will appoint a special committee was voted on before our recess. Any discussion as to whether it would go to the Special Conference Committee or to any other committee?

Delegate Nimwes: Mr. Chairman, wasn't the amendment proposed by Delegate Ngiraked withdrawn?

Chairman Tman: It has been withdrawn. The immediate motion is to refer the article on the Legislative Branch and the proposed Amendment No. 8, which was under discussion, to the Special Conference Committee.

Delegate John Heine: Mr. Chairman, I would like to raise a point of privilege to make short remarks before we decide to defer it or not to defer it. Thank you.

Chairman Tman: If you will please hold on to your remarks, there has been a suggestion advanced by a number of Delegates that perhaps we ought to rise and go into the Plenary Session so we can dispose of a number of proposals under the Final Action calendar, and we may return to the Committee of the Whole later or whenever the Delegates decide. I venture the suggestion so that the Delegates can decide whether we should go to the Plenary and dispose of the matters which are up for Final Action.

Delegate Apis: I so move.

Delegate Fatanruw seconded.

Delegate Ismael: Point of information, Mr. Chairman. Did we say when the Special Conference Committee should report back to this Convention on the Executive?

Chairman Tman: That question has not been disposed of, but the motion to rise and report back to the Plenary takes precedence; therefore, I put that question before you.

The motion carried.

Chairman Tman: Before I declare that the Committee of the Whole is adjourned, I wish to make a point here that when the Committee of the Whole reconvenes, either today or tomorrow, we will start where we left off in this Committee.

The Committee of the Whole rose at 3:33 p.m.

Re: 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.

Chairman: Floor Leader Luke Tman

The Committee of the Whole was called to order at 4:22 p.m.

Chairman Tman: We have before us for consideration the articles on Executive and Legislative of Committee Proposal No. 24. We decided yesterday that we would defer action on the Executive article until we have disposed of the legislative article. I also indicated yesterday when we adjourned the Committee of the Whole that we would resume our deliberations where we left off. If there is no objection from the floor, then the immediate motion now on the floor is to refer the article on legislative of Committee Proposal No. 24, along with Amendment No. 8, to the Special Conference Committee. Is there any discussion or any question? Is everybody clear as to where we are now?

Delegate Fuleam: Thank you, Mr. Chairman. No, we are not very clear as to how we are going to proceed to consider these two articles.

Chairman Tman: Just before we adjourned the Committee of the Whole, there was a motion made by Delegate Otter that the article on the Legislative Branch and the proposed Amendment No. 8 be referred to the Special Conference Committee. Following that, Delegate Ngiraked made a motion to amend so that the Plenary would appoint a special committee. He withdrew that motion, however, so the immediate motion is to refer the article on the Legislative Branch with proposed Amendment No. 8, along with other amendments, to the Special Conference Committee. Is there any discussion as to whether it should be referred to the Special Conference Committee or any other committee?

Delegate Otter: Mr. Chairman, since there are other amendments related to the same provision in the Proposal, I, therefore, would like to withdraw my motion.

Chairman Tman: Thank you for the formal withdrawal of your motion to refer. Now the immediate motion before us is the adoption of Amendment No. 8. Is there any further discussion?

Delegate Heinrich Iriarte: Thank you very much, Mr. Chairman. Your Committee on Governmental Structure spent a lot of time in careful consideration of the article on Legislative. We have had discussions on the idea of equal representation and also representation based on population. Mr. Chairman, your Committee on Governmental Structure, while considering the article on legislative, strongly recommends that we adopt the bicameral system because of the diversity of our islands, our cultures, our languages and other factors. If we will recall, or by experience, in our present Congress of Micronesia we have two houses. In that congress, one house considers a resolution and refers it to the other house for another consideration. In the other house we find amendments to the resolution which has already been considered by the first house that considered the first resolution. In there we find checks and balances. I would like to stress that two heads working together are better than one head. Thank you very much, Mr. Chairman.

Delegate Ngiraked: As it is rather late in the afternoon and I think we are closer to reaching a resolution on the Executive structure of our government, I think we can do more if we deliberate on that one and leave the Legislative Branch to a later time. I am recommending that we take up the Executive Branch of our government.

Chairman Tmetuchl: We have already agreed on a motion to dispose of the legislative section before we take up the Executive section. Delegate Joseph?

Delegate Joseph: Thank you, Mr. Chairman. Point of privilege.

Chairman Tmetuchl: Please proceed.

Delegate Joseph: Mr. Chairman, once before I asked to speak on Committee Proposal No. 94. This time it is on a different aspect--the legislature. As a traditional leader, untrained in modern government, I hope it will not be considered presumptuous of me to do so. Once again, I speak only as appropriate to the role of a traditional leader in Truk.

A number of differing views have been expressed at this Convention. Some refer to representation of States, others to representation of people. Some Delegates speak sincerely about the need for each State to have equal representation in a small, single house legislature to protect themselves. Others also speak for a unicameral legislature, but to save money, and not necessarily because of equal representation of States.

Mr. Chairman, it is good that we have these different views expressed. As the Preamble of our Constitution says: "Our differences enrich us." Let us be sure that we build a government that always permits us to express our differences. As one of the great men in the world once said: "It were not best that we should all think alike. It is differences of opinions that makes horses race." It is only by doing so that we can reach agreement. And it is our difference from other peoples in the world that allows us to work out that agreement, for we can do it by consensus in the Micronesian way.

It seems to me, Mr. Chairman, that in working out the consensus we should start with our own experience. For a single district, we know that a unicameral legislature has worked. For all of Micronesia, we know that the bicameral Congress of Micronesia has worked. The experience of the Congress of Micronesia teaches us that this is an effective way to have representation of the various districts and also to accommodate the fact that there are small and large districts.

Next, allow me to express some of my own values. I prefer balanced views--the working out of compromises. I favor government that has checks and balances, so that balanced views have to be worked out--so that even my own district, with its large population, must accommodate its position to that of the other smaller districts for the best interests of all.

To my point of view, a unicameral legislature will be inappropriate for our national government. It does not have the safeguards that assure the working out of agreement between the large and small States, giving due consideration to all matters.

In passing, Mr. Chairman, may I also point out that with a legislature in which one house has equal representation from all of the States, there will be no need for a plural executive in the national government. The position of each State can be expressed at the national level through the Upper House.

Once before I stated that the role of a traditional chief in Truk is to help bring consensus. This is entirely apart from how that consensus may favor or be to the disadvantage of the traditional leader. I am speaking now in favor of a bicameral legislature, although one house is sure to be to the disadvantage of Truk's predominant size. I believe this is the best way to bring consensus among the Delegates from all of the districts.

I am one who believes in the unity of Micronesia. If we are to bring our districts into a united Micronesia, first, we will have to iron out our differences and try to cooperate and come up with an acceptable compromise, for without cooperation and love for one another, unity in Micronesia will be meaningless. My hope for Micronesian unity is not diminishing, regardless of our differences in our points of view, for I know that all of us here seek unity. Thank you. (Applause)

Delegate Toribiong: I would just like to express some of the reasons why I support the proposed Amendment No. 8. I know most of these arguments were advanced on the floor yesterday, but I wish to reiterate them to refresh the minds of all the Delegates as to the practical and economic reasons why we should build our government that would be inexpensive and responsive to our needs. First of all, the unicameral legislature, as proposed in Amendment No. 8, is predicated upon the proposition that all districts are equal, that representatives shall serve in the national legislature representing not the provincial interest of each electoral precincts or regions but the national interest or the collective interest of all the states of Micronesia. They shall be dealing basically in the international relations area and in the area of commerce and political affairs affecting two or more districts of Micronesia. Mr. Chairman, the fact that the states shall be equal in the national legislature does not mean that the interest of minority groups will be neglected. I believe that a smaller body consisting of people who are elected not by small provincial areas would be more responsive to the needs of the nation as a whole and collective problems affecting all of Micronesia. I believe if you create a carbon copy of the Congress of Micronesia in our future government it shall be a body where politicians shall be maneuvering other politicians for the sake of their local or regional interest. I think this Convention should recognize the distinct cultural, traditional and political character and identity of each state. Furthermore, a bicameral legislature shall function in the final analysis as a unicameral legislature with equal representation because all bills will have to pass through the Senate. So what we are doing with a bicameral legislature will be to duplicate efforts by creating one house that represents people and one that represents states. Finally, Mr. Chairman, I would like to say that Micronesia is a poor country, and we should be concerned and sensitive to the expenses of running our future government. I believe we cannot afford to have a very large government because if we do that then most of the taxpayers' money will be spent to pay for their travel expenses and for other operational expenses and that very little will be used to improve and to solve the problems of Micronesia. Finally, I would like to say that this position is widely supported by the people of Palau. They think that Micronesia should come together on the basis of equal partnership. Thank you.

Delegate Weital: Thank you, Mr. Chairman. Micronesia has experienced unicameral and bicameral. Some time ago Micronesia had a Council of Micronesia. During or through the experience of the Council of Micronesia, that same group recommended that we have a Congress of Micronesia which has, at the present time, a bicameral system. I do not hear complaints about the system or the bicameral system, and for that matter, Mr. Chairman, I wish to indicate here that Amendment No. 8 should not be considered--should not be taken up--and I want to indicate here, Mr. Chairman, that I support the statement made by Chief Kintoky Joseph of Truk. Thank you.

Delegate Nakamura: Thank you, Mr. Chairman. I think and I believe that when we discuss the issue of our future structure of our government we will have to correspond with the functions that we had already discussed. I would like to refer to Committee Report No. 33, page two, paragraph one. It says: "Your Committee believes that while a homogenous people living in a geographically compact area can perhaps have their aspirations best served by an all powerful national government, nations such as Micronesia which lack the bond of common cultural origin and which lack the advantage of compact geography must permit local autonomy in order to have efficient government and to avoid the destructive consequences, real or imagined, of domination by one group over another. Your Committee therefore proposes the establishment of a union of autonomous states with state rule constitutionally guaranteed, in which the collective government of all the states is responsible for external affairs and for the solution of national problems, and the individual state governments are responsible for all other affairs of government." Yesterday in a lengthy discussion we talked about the meaning of equality and equity. However, since we passed Proposal No. 21 the other week, I request that this Convention try to correspond whatever structure of government that we want to put into our Constitution so that we might have an integrated Constitution. Thank you.

Delegate Isaac Ilanwi: Mr. Chairman, I am thinking of fairness and also about equal protection. It is all right if one district wants one type of legislature--two houses or one house, three representatives or six. I do not care. I do care about my people. I am here to see what you are drafting for the entirety of Micronesia, and, to me, you don't care much about the Marshalls District or the State of the Marshalls. I have been told that we are not here to make a Constitution for the Marshall Islands but for Micronesia, but what is Micronesia? Now, we just passed 50-50 sharing. What happened? Why did you pass that? The Marshallese people have been asking for this for four or five years and you were laughing at them. It was a joke among all our leaders. Now we come up with this proposal for three representatives. I assure you that if this Convention passes this then the Marshalls District will be out. This is not equal protection. Only three men will represent three districts in the Marshalls, but we have four. Recently the Congress of Micronesia created five districts which are still not accepted by the Marshallese Iroij and people. Now today we are going to pass this three representatives which means that one of the four districts in the Marshalls will not be represented. It's all right for the smaller districts to have one or two representatives, but what about my district? I want this Convention to take this into consideration that if we pass this the Marshall Islands will not ratify this Constitution. Thank you very much.

Delegate Mweby: I would like to make some observations. Mr. Chairman, it is my sincere belief that the meat of what this Convention has accomplished or already adopted so far, starting with the autonomy of each state in a federal system plus equal distribution of foreign aid and equal contribution to the national treasury, are all in favor of smaller districts. To me the bigger districts have done all that could be done by making these big sacrifices in a true conciliatory spirit of equal partnership. In return, therefore, it is only fair that smaller districts grant some concessions to the bigger districts. To me, the only two remaining areas for compromise are in the Executive and Legislative structures of government. Undoubtedly, a single executive and a bicameral legislature should make the bigger districts happy.

To me, amendments to Committee Proposal No. 24, No. 8 and No. 11, which I understand will be introduced later, are extremes which can only be compromised through the present setup of our own Congress of Micronesia. Committee Proposal No. 24 takes care of individual district interests as well as the principle of equal representation.

Mr. Chairman, the principle of equal representation has been used mainly in two perspectives in this Convention which leaves some of us confused. We should not confuse the importance of districts per se with the importance of each individual citizen as the basis for all our deliberations here. After all, districts are important only insofar as they sustain people. To illustrate this point, let me give a hypothetical example. If this Convention were to make Oroluk a separate district, I am sure none of us here will even bother with the issue as such a place is uninhabited. However, if we continue to stress district representation, we might as well take three rocks from Oroluk and place them in our national legislature to represent such a district.

All in all, Mr. Chairman, Committee Proposal No. 24 is already a middle road between Amendment No. 8 and Amendment No. 11. I urge all to defeat these amendments and adopt Committee Proposal No. 24. Thank you, Mr. Chairman.

Delegate Ngiraked: Mr. Chairman, let us examine what we are doing here. Our present effort to achieve unity is inspired by the desire of our people to find recognition in the international community of the world--to undertake a role that will contribute positively to the well-being of all mankind. That is our international commitment.

At home in Micronesia the task begins by calling together and putting into play the political elements or units in existence that we know best, that can best unify all Micronesians and put it to work on this task. Ideally they are our districts and, hence, the states. Internally this does not necessarily mean a social or political reform. The lifestyle and the well-being of the inhabitants, so long as they are satisfactorily safeguarded within the present local political and social setup, need not be disturbed, altered

or affected as a consequence of achieving the goal of our national identity. Rather, we must establish the districts, or the states, as the pillars of a foundation upon which to build our national government. Mr. Chairman, to bring together and unite the districts is enough to achieve the goal. These pillars of unity, which are the states, must stand on the sound and solid ground of equality for that is the only way we can build a nation that is truly Micronesian. Thank you very much.

Delegate Apis: Thank you, Mr. Chairman. I just wish to share some comments on this. We have been talking about this for many days. It seems to me that Amendment No. 8 stems from the mistrust that we have in this Convention of each other and the principle of equality and what have you. I am compelled to believe that whether you have unicameral or bicameral, it seems that it will be best if it is based on population. I still believe that either one--I don't care whether it is unicameral or bicameral--should be based on the population. If it is true that Amendment No. 8 is based on the mistrust that we have among ourselves, I don't think that is the belief of our constituents. Therefore, I don't support Amendment No. 8. Thank you very much.

Delegate Willander: Contrary to the belief of my good friend and Delegate, Kikuo Apis, Amendment No. 8 does not and has not come out because of mistrust in people. Amendment No. 8, Mr. Chairman, tried to sow a belief that the district or the state should be equal in the political union. Mr. Chairman, there are two basic differences in Amendment No. 8 to Committee Proposal No. 24. That is, it advocates a unicameral with equal representation on a district-by-district basis. I agree that we have to resolve these soon. I would venture into asking the Convention to decide first whether we should have a bicameral or unicameral legislature and then go into the representation. If we can resolve these two big differences, the other sections of Amendment No. 8 are just the same as Committee Proposal No. 24. Thank you, Mr. Chairman.

Delegate Isaac Lanwi: I was going to repeat the same thing I said before. Now I am confused at what my friend Delegate Willander has said that we are going to deal with only the idea of two houses or one house. I don't care how many houses we have. My people do not care how many houses we have but we do care about fair representation for the people over there. For those districts who really need this, I urge the Convention to pass it but that means that the Marshallese are out. I tell you that we just voted for the 50 percent revenue sharing and if the Marshall Islands is going to be out of this unity, then we will get our 100 percent. If that's the way you want it, to let us out of this unity, then my people will be more than glad if you pass this one so they will have reason to get out and get their 100 percent revenue sharing.

Delegate Toribiong: Let me speak for the last time on this subject by first directing our attention to the geography of Micronesia. I think we came to this Convention from our respective districts and islands, so there comes to mind the first question that should put things in perspective. That's a basic political question and it is, why do we need to have a national government? Mr. Chairman, I submit that government is not something that we create for itself. It is something that we create to resolve problems that exist among ourselves. So, first of all, no man needs another man except when they are forced to come together because of their common problems. Mr. Chairman, let me speak from the point of view of the district where I am from. We contend that Micronesia should create a national government that is based upon mutual interests--a government that would be responsive to the problems which we have in common--a government that shall promote and enhance our collective interests between the districts of Micronesia. It is for the reason that Micronesia needs to be recognized internationally that we need to have a national government. There are interests and benefits which each district cannot realize if it were to stand all by itself but which can be realized if we join our hands together and build a nation. So, first of all, we need one another because of the international, political reality of the world. Secondly, there are problems which exist because of our geography. We are not one geographical unit. We are consisting of many islands scattered over the wide Pacific. There are problems in the areas of interstate trade and commerce, communication, transportation, and problems which cannot be best resolved unless we cooperate. I cannot conceive of an inexpensive, efficient government to solve these problems if that government is not first structured

on the basis of mutual interests, mutual needs and some of these problems which touch upon one or two states of Micronesia and which have a bearing internationally. It is for these reasons, Mr. Chairman, that I very strongly support a smaller central government consisting of representatives from each state who are chosen by the people of those states on an equal basis because we are not going to have a national government that is going to resolve problems that are confined to the geographical limits of each state--that is going to build roads between two or more states--a lot of things which are considered to be governmental functions. It is going to deal basically with problems that are interstate or international in nature. After it can resolve those problems, then we can then proceed to assist state governments in resolving their own domestic problems. This is, Mr. Chairman, my very honest view on this subject.

Delegate Cabrera: I submit that the arguments on both sides as presented by proponents and opponents have been made very well, but the substance of the matter has not changed. If we defer action on the proposal for another day we will have heard the same arguments made, maybe changed in style. Therefore, Mr. Chairman, I move for the previous question.

Delegate Tmetuchl seconded the motion.

Chairman Tmem: Before I put that question to a vote, I wish to recognize somebody who is on my list, Delegate Yoma.

Delegate Yoma: My question pertains to the Constitution after it is adopted. If this Convention adopts a constitution that disregards population and provides for equal representation of states in the national legislature, is it not possible for a citizen or any citizen from any of the larger districts to go to the court and ask for a court order, ordering the government not to take steps to implement this Constitution, arguing that the implementation of the Constitution will deny them the right of one man-one vote--due process of law--equal protection of the law--what have you? That's just a question. Thank you, Mr. Chairman.

Delegate Agirukel: Mr. Chairman, this is a serious matter, and before we cast our vote I wish to speak once more and for the last time. We are teaching our high school students in Micronesia that the unity of the six districts in Micronesia must be advocated and predicated on our similarities and not our differences. I came to this Convention with that in mind--that if unity is to be achieved, it is going to be one that is predicated on our similarities. Our national legislature is going to be the showcase of our unity. How can that legislature, which is going to be the guardian of our unity, be structured based on our differences rather than our similarities? It is inconsistent with the concept of unity that we have followed so long in Micronesia. A legislature that is based on our differences and so decidedly structured on our differences cannot be trusted with our unity or the preservation of our unity. Thank you, Mr. Chairman.

Chairman Tmem: I will recognize Delegate Maketo Robert; however, the Chair feels that we have practically exhausted all angles and all arguments.

Delegate Robert: I just want to share my view that it is very sad and regrettable that it is not the districts that will vote or ratify this Constitution, but the people in the districts themselves will do the ratification. I only regret that--I cannot say for a certainty, but I can say with a degree of certainty--the adoption of Amendment No. 8, if the Trukese are in their right minds, would be grounds for rejection of the Constitution. I hate to see my constituents not enjoy the blessings of the Constitution just because of a misjudgement of the Convention. Thank you.

Delegate John Heine: I believe that the unity of Micronesia depends largely on the strong foundation on which it is built, and that foundation is the six districts that are now gathered here in order to draft this very important document for our future. Mr. Chairman, the political composition of my district compels me to make this following personal observation. I have nothing against unicameral or bicameral, but the only uncomfortable feeling

I have with Amendment No. 8 to Committee Proposal No. 24 is based on the fact that Sections No. 2 and No. 3 would be very much unacceptable to our people in the Marshalls. Having listened to all these arguments for and against Amendment No. 8, it is my own personal feeling that we are confused in our deliberations because of the concept of equality. The majority of the proponents of Amendment No. 8 fails to consider the fact that within each proposed state there is also a diversity of feeling, philosophy and political inclination which must also be taken into full and just consideration. To elect three congressmen at large from each state would give the Marshall Islands an irreparable injustice that might lead our people not to ratify this Constitution. For instance, the Marshall Islands are divided into two parts with distinctive customs, traditions and cultural differences--the Ratak Chain and Ralik Chain. They differ as well in their political inclinations, and that also must be taken into consideration. A further complication is the fact that the two chains of islands in the Marshalls are further subdivided into two parts which would definitely require, at the least, four representatives from the state of Marshalls to the national government. Mr. Chairman, what I am asking this Convention to consider very seriously are the problems that are real within each of our districts. I have no problem in the unity of Micronesia. We can talk about it here, but what about the unity within each state that might lead to the collapse of the union of Micronesia in the future? Therefore, Mr. Chairman, I would urge that this Convention not pass Amendment No. 8 to Committee Proposal No. 24 unless something is done to Sections No. 2 and No. 3. Thank you.

Delegate Ngiraked: Point of information.

Chairman Tmau: If there is no objection, the Journal Clerks are tired. They need to have a ten-minutes recess.

The Chairman declared the Committee of the Whole in recess at 5:10 p.m.

RECESS

The Committee of the Whole was called to order at 6:05 p.m.

Chairman Tmau: It seems that every time we approach making an important decision dusk creeps upon us. Is there any further discussion on proposed Amendment No. 8?

Delegate Wiliander: This is my last comment on Amendment No. 8. With due respect to my traditional chiefs and with the indulgence of the Delegates from Truk, I would like to state that this concept of equal representation is neither a foreign nor a new concept to the Trukese people. In our communities and villages we have clans or extended families. We have big clans and small clans. When a chief of a village calls a meeting of the clans, each clan, small or big, sends one representative. I do not think that the Trukese people will be troubled if this concept should be adopted by this Convention. Thank you very much, Mr. Chairman.

Delegate Olter: Mr. Chairman, I observe in the Convention here that we are becoming very irritable and tired, and we have exhausted most of the pros and cons as to the proposal under discussion. Therefore, I move that discussion on the proposal and all amendments relative to the Legislative Branch of the national government be deferred until Monday of next week.

Delegate Toribiong seconded, and the motion carried to defer action on the Legislative Branch of Committee Proposal No. 24 and all amendments relating thereto, until Monday, November 3, 1975.

Chairman Tmau: Now we have the article on the Executive Branch. Our earlier decision was that we would dispose of the article on the Legislative Branch before considering the article on the Executive Branch. I will subject it to the Delegates' as to whether by deferring to Monday the article on the Legislative Branch is in itself a disposal of it. Do we wish to take up the article on the Executive Branch now or do you wish to delay it until a later date?

Delegate Ngiraked: I move that we consider Committee Proposal No. 24, as it relates to the structure of our Executive Branch, tomorrow.

Delegate Tmetuchl seconded, and the motion carried to consider the article on the Executive Branch of Committee Proposal No. 24 on Friday, October 31, 1979.

Chairman Tmang: There is no further business before this Committee.

Delegate Ngiraked: I move that the Committee of the Whole rise and report back to the Plenary Session.

Delegate Gulli seconded, and the motion carried. The Committee of the Whole rose at 6:09 p.m.

Re: 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."

Chairman: Delegate Daro Weital

Re: Committee Proposal No. 24, CD2, "A Proposal relating to a structure for the government of the Federated States of Micronesia." Article on EXECUTIVE only.

Chairman: Floor Leader Jake Pman

A motion was made and seconded that Committee Proposal No. 31 be adopted by the Committee of the Whole on Second Reading.

A question was raised as to whether the rights listed in Committee Proposal No. 31 were "fundamental rights" as the proposal states, but were really privileges accorded to citizens.

In reply, it was stated that basic fundamental rights were actually those in the Bill of Rights, most of which had already been passed by the Convention. Those are the basic fundamental rights recognized throughout most of the world, and those rights should not be touched by government. The rights in the proposal are affirmative rights and the intent of the proposal was to place an obligation on the government to provide those rights.

The propriety of the use of the term "fundamental rights" in Proposal No. 31, since this would seem to adulterate the meaning of that term as usually understood, was questioned. It was suggested that this wording could be left to the Style Committee which could make a change if the Convention so desired.

A question was raised concerning the use of the term "medical care", and a suggestion was made that this be changed to "health care".

A motion was made and carried to suspend Rule 62A. A motion was made and carried to amend Committee Proposal No. 31 as follows:

In the title, change the word "medical" to "health".

On line 2, change the word "Medical" to "Health".

On line 6, change the word "medical" to "health".

A question was raised as to whether the intent of the Committee was to place an obligation on the government to provide these services -- health care, legal services and education. It was pointed out that, as stated in the report, the intent was to establish a national policy of providing the services when requested by the individual citizens unable to provide for themselves and as the new nation acquires the revenue necessary to implement the policy.

In response to a question of whether these services would be provided free, it was said that this would not necessarily be so.

A statement was made that protection of these rights to obtain these services was negated by the fact that the government would decide what is reasonable and necessary.

A question was raised as to the level of government which would provide these services since the proposal seems to indicate it will be the National Government, but a previously passed proposal stated these services would be concurrently exercised. In reply, it was stated that in the previous proposal it stated that the National Government was responsible to the point where it would set the minimum standards for these services. Did the Committee on Civil Liberties consider that factor in considering Proposal No. 31, CWD 1? There was no response.

A statement was made that Committee Proposal No. 31, CWD 1, was already taken care of by other proposals, and that this would put too much burden on the government.

The Chair declared a short recess at 12:15 p.m.

RECESS

The Chair called the Committee of the Whole to order at 12:20 p.m.

The motion to adopt carried, and Committee Proposal No. 31, CWD1, was adopted by the Committee of the Whole, as follows:

Committee Proposal No. 31, CWD1

"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."

A motion was made and seconded to adopt Committee Proposal No. 32 on Second Reading.

A motion was made to amend Committee Proposal No. 32, as follows:

Amendment No. 1:

Delete Lines 2 to 7, inclusive, and insert the following:

"SECTION ____. Environmental Protection. It is a national policy of Micronesia to develop and maintain an environment of high quality and to assure clean air, pure water, freedom from excessive noise, and enjoyment of scenic, historic, natural, and esthetic values. The national legislature shall enact statutes to implement this Section."

Amendment No. 2:

Insert the following as a new Section:

"SECTION ____. Radioactive, toxic chemical, biological or other harmful substances may not be tested, stored or disposed of within the territorial limits of Micronesia in such a manner as to endanger the public health or welfare."

The motion to amend was seconded.

The Chair opened discussion on Amendment No. 1.

A request was made that the Style Committee take into consideration the wording of Amendment No. 1 in relation to Committee Proposal No. 31,CWD1.

A question was raised about penalties for violation of the environmental protection rights. In response it was stated that if legislation was enacted to protect the environment, violations would certainly be punishable.

The level of government responsible for this was questioned, and it was stated that both the Committees on Civil Liberties and on Governmental Functions felt environmental protection should be uniform throughout Micronesia, and perhaps that should have been included in Committee Proposal No. 21.

It was asked whether this could be handled by the Public Health Section rather than the National Government. In reply, it was stated that the concept behind bringing the proposal into civil liberties is to insure that environmental protection will be an affirmative right of each and every Micronesian, and should not be treated as a policy matter to be decided on by the Department of Health Services.

It was asked if the use of the term "esthetic values" would give the government the right to tell a citizen how to build his house or cut his hair to enhance the esthetic value of that community. There was no reply.

A motion was made to defer action on Committee Proposal No. 32 and the amendments thereto until Wednesday, November 5, 1975. The motion was seconded and carried. Action on Committee Proposal No. 32 was deferred until November 5, 1975.

A motion was made and seconded to adopt Committee Proposal No. 27.

A motion was made and seconded to adopt Committee Proposal No. 27A, as offered by Minority Report No. 40A.

A question was raised as to the rationale behind the five-year period in the proposal. The reply was that the five-year period was an arbitrary period and could be changed. It was further stated that negotiations were not yet completed concerning future political status and if the Constitution were to be ratified before that, there was some possibility that some of the districts could not accept the conditions. It was felt that after eight years the negotiations could be completed.

The Chair reminded the Committee of the Whole that the discussion on the floor was Proposal 27A as an amendment to Committee Proposal 27.

In reply to the remarks regarding future status and the Minority Report, it was stated that the Minority Report argues against secession because, one, it appears to say that a new government cannot be formed and a Constitution cannot be written until Micronesia's future status is known, and, two, districts should not be forced to commit themselves to union when the compatibility of putting together diverse political interests has not been tested. To refute this, it was stated that a compact may be negotiated and concluded prior to ratification of the Constitution, in which case the States will know the terms of future political status prior to the vote on the Constitution; therefore, the fears in the Minority Report would no longer exist.

It was further stated that State interests would be protected if a political status agreement with the United States was made under the provisions of the new Constitution. Any treaty which delegates major powers to the Government of Micronesia must be submitted to each State Legislature, and thus the States will have a voice in ratifying any future status agreement at both the national and state level. It was noted that the recent referendum indicated that the people of Micronesia favor unity since over 76% of the voters favored unity for Micronesia, and that this goal could be attained prior to a decision on political status.

At 12:59 p.m. the Chair declared the Committee of the Whole in recess until 3:00 p.m.

RECESS

The Committee of the Whole was called to order at 3:20 p.m.

Chairman Weital: The Committee of the Whole will come to order. Before the Committee of the Whole is Committee Proposal No. 27A as Amendment No. 2 from Proposal No. 27. Any more discussion? Delegate Ngiraked.

Delegate Ngiraked: Mr. Chairman, this Proposal is a very important measure before the Con Con. On behalf of some of the Delegates and myself, we requested an amendment to be written out by our legal staff and to be reproduced for proper distribution for tomorrow. I move that action on Proposal 27A be deferred until tomorrow.

Delegate Sawaichi seconded, and the motion carried to defer action on Committee Proposal No. 27 and Committee Proposal No. 27A, until tomorrow, Saturday, November 1, 1975.

The Chairman declared the Committee of the Whole in recess at 3:25 p.m.

RECESS

The Committee of the Whole was called to order at 3:45 p.m.

Chairman Tmetuchl: The Committee of the Whole will now come to order. We have before this Committee the article on the Executive Branch to Committee Proposal No. 24, I apologize for the delay. The Chair and the staff have been reviewing the progress and stage where this particular article stands now. The article on the Executive Branch was amended by Amendment No. 6, which amendment was further amended on the floor on the 27th of October; therefore, the article on the Executive Branch to Committee Proposal No. 24, CD2, has been amended by Amendment No. 6. Does this refresh your memory? The article on the Executive Branch as amended by Amendment No. 6 was deferred until the 27th and was further deferred until today. I wish now to recognize Chairman Heinrich Iriarte for the motion to adopt.

Delegate Heinrich Iriarte: Thank you very much, Mr. Chairman. I move that we adopt on Second Reading the article on the Executive Branch to Committee Proposal No. 24.

Delegate Falcam seconded the motion.

Delegate Wainit: Point of privilege.

Chairman Tmetuchl: The motion now is the adoption of Executive article in Committee Proposal No. 24, CD2. That article as I had indicated earlier has been amended by Amendment No. 6, as amended. Please state your point of privilege Delegate Wainit.

Delegate Wainit: I believe the motion for adoption of the article should be so stated to reflect the fact that it has been amended. Although our Chairman has so stated, I think it is important to be so stated in the motion.

Chairman Tmetuchl: As I indicated earlier the article on Executive has been amended by Amendment No. 6, which amendment was further amended on the floor. It passed the Plenary session, not the Committee of the Whole, on October 27th; therefore, the article on Executive Branch is already amended. Delegate Falcam.

Delegate Falcam: Thank you, Mr. Chairman. May I ask the Convention Secretary to read the article as amended.

The Convention Secretary complied with the request by reading in its entirety Amendment No. 6 to Committee Proposal No. 24.

Chairman Tmetuchl: You have heard the text of Amendment No. 6, as amended, to accept the Executive article on Committee Proposal No. 24. This is a substantive amendment as compared to Committee Proposal No. 24, and the primary changes include from first page to page 6, I believe, the first line of page 6. Any further discussion on the article of Executive Branch as amended? Delegate Haruo.

Delegate Haruo: Thank you, Mr. Chairman. On Section 7, Mr. Chairman, compensation for the positions, I assume that this section allows for the inflationary conditions that we might encounter in the future; however, there is no provision as to how much the president or the vice-president should receive nor are there any provisions for legislating so much allowance that the president or vice-president should receive. I am just wondering, Mr. Chairman, whether there should not be some provisions allowing legislation to set up how much the president or the vice-president ought to receive when he is in office.

Chairman Tmau: Would anyone wish to address himself to that question? Any further discussion? Delegate Falcam.

Delegate Falcam: Thank you, Mr. Chairman. I have for the last several days studied very carefully Amendment No. 6. I have thought about it against the background of a little experience, a little work and some consultation. I have thought about it against the background of Micronesia today. To me, Amendment No. 6, establishing the executive structure for Micronesia, today in Micronesia, will not work. I would like to expand why I think Amendment No. 6, as proposed, will not work.

The Committee on Governmental Structure, as has been indicated, looked up ideas contained in Amendment No. 6. We looked up the idea of a singular executive. We examined it very carefully. It was the feeling of the Committee that the Government of Micronesia should be established and that government should be responsive to our Micronesian situation. The Committee felt the singular executive structure is not responsive and will not be responsive. The idea of a rotating president to accommodate all districts, to me, is wishful thinking. We are not here to accommodate districts in this fashion. If we are to go by the rotation principle, it would take at least 24 years before this rotation is completed, it may even take 28 years if this principle is to be adopted. Mr. Chairman, when the rotation schedule is to be accommodated, a good effective president for Micronesia must leave office, he must relinquish that office to accommodate the rotation schedule. And, I must emphasize that this is a type of government that is new to me and perhaps is a little dangerous. Mr. Chairman, I would like to go on and indicate here some of the reasons why I feel that this system will not work in Micronesia.

It has been indicated that a plural executive is a government loaded with interest groups. It is a government bringing to the central national system provincial, national interests. Mr. Chairman, I submit that it is rather easier to check six regional feelings than to check one regional feeling in one president. Nobody is around to check him. If he wants to be regional, he will be regional; if he wants to be provincial, he will be provincial. The final decision is his and his alone.

It has been argued that a plural executive is expensive. Mr. Chairman, I submit that this is a matter of opinion. The national government, the national legislative body will establish the expenses that we are referring to. There is no government that will start a system declaring the price for that government. It has to be established on the basis of national income, national capability and resources.

It has been advanced that plural executive is inefficient and that the plural executive has not been tested here in Micronesia. Mr. Chairman, I submit that neither has the singular executive ever been tested in Micronesia. The singular executive that we have now is not a Micronesian singular executive. The plural executive, I agree, has not been tested. However, it has been tested elsewhere under similar circumstances. I don't see why we cannot test it here. Mr. Chairman, for a district to wait for 24 or 28 years, I think, is not an accommodating issue. We are here to accommodate Micronesia and what is good for Micronesia, not one district or several people.

Mr. Chairman, I regret very much that Amendment No. 6 went through this Convention rather swiftly, rather hastily, and, people, I found later, did not realize that such an amendment was being voted on and has passed this Convention. However, I would like to indicate here that looking at the amendment, examining it, it is my feeling that this will not work in Micronesia. I trust that when we vote

on this and we vote for a singular executive or vote for a plural executive, each Delegate will be responsible for what he votes for whether it works or not.

Thank you very much, Mr. Chairman, and I will reserve the opportunity to make a few more comments later on.

Chairman Tmau: Any further discussion on the article on Executive Branch, as amended? Delegate Wainit.

Delegate Wainit: Thank you, Mr. Chairman. I hope, for the last time, I will speak on this issue before the Convention. If my good fellow Delegate from Ponape is not very comfortable about the rotation system in Section 3 of this Proposal, I must say that it is something that we can amend to suit our needs.

Mr. Chairman, if I may, I would like to share my personal analysis of our three branches of our government with those Delegates who still maintain and argue that we should have equal voice and equal representation in the executive branch of our government just as in the legislative branch.

I think that of the three branches of our government, the most important body or branch of our government is the branch which can change and affect the financial and economic life of an individual citizen, it is also the branch which can change and affect the social life of an individual citizen as his life relates to society, and it is also the branch which can change and affect the political life of an individual citizen or individual state in the union. Now, I think that it is very clear that the branch that is capable of making all these changes is the legislative branch of our government.

Although the other two branches of our government are just as important, and their scope of operation can be said to be broad enough to give them flexibility, independence, and liberty to operate, I must say that they are really the servants, or working arms of our monster which is not only capable of good and right, but also evils as well.

The executive and judicial branches do operate within dictates, bounds and guidelines set forth by the legislative body. These two branches of our government are not at total liberty to change the economic, social and political life of an individual citizen or state in our union as the legislative branch is. They are working or operating according to prescription of the legislative body. So that it is really here in the legislative body, not the other two branches of our government, that I think the question of equal voice and equal representation is very important on the principle that rights of individual citizens and states are protected, not in the two branches of our government.

I really don't think that the question is that crucial in the other two branches of our government, namely, Judicial and executive. Therefore, if we are to institute equal voice and equal representation in the executive branch, we are really doing nothing but instituting complications in our system for no good purpose, and maybe for satisfaction and prestige. Thank you, Mr. Chairman.

Chairman Tmau: Any further discussion on the Executive article? Delegate Iriarte.

Delegate Heinrich Iriarte: Mr. Chairman, I would like to share with my fellow Delegates a very short comment in support of the idea behind plural executive.

Mr. President, Honorable Chiefs, Fellow Delegates:

As Chairman of the Structure Committee, I would like to share with you a few of the reasons that the Committee decided to recommend a plural executive structure made up of one minister elected from each of the Districts:

(1) The Council of Ministers reflects our unique Micronesian way of making decisions collectively, after discussion and consideration.

(2) Micronesia has several different and distinct cultures. I feel that it is important that executive as well as legislative decisions be made collectively, by individuals representing a cross section of most of the cultures in our country.

(3) A Council of Ministers will discourage hasty or poorly thought-out decisions.

(4) A Council of Ministers will discourage any State from feeling that it has no representation in the Executive Branch.

(5) Having six or seven co-equal ministers, one from each District, will tend to prevent discrimination against any State or its citizens in the allocation of jobs and federal benefits.

(6) There is stability in a plural executive. I feel that a Council of Ministers will add stability to the National Government.

(7) Diffusion of power in the Council of Ministers is particularly suited to the traditional Micronesian modesty. The Council system will tend to prevent one person from acquiring too much power in the executive branch of our new government.

My fellow Delegates, I urge you to seriously consider a plural executive for our Micronesia, based upon Committee Proposal No. 24. I feel that it is the best for Micronesia, based upon the diversity of our cultures, the current political situation in Micronesia, the custom in Micronesia of making collective decisions, and our unique Micronesia way.

Thank you very much, Mr. Chairman.

Chairman Tmau: Any further discussion on the article on Executive, as amended? Are you ready for the question? Delegate Tacheliol.

Delegate Tacheliol: Does "natural born" mean a child born in Micronesia whose parents are both Micronesian citizens, and does it also mean "natural born" if a child is born in Micronesia but one of the parents is a non-Micronesian citizen?

Chairman Tmau: Would anybody care to answer that? Delegate Nimwes, are you responding to the question?

Delegate Nimwes: Yes, what is his preference?

Delegate Tacheliol: That is not an answer, that's just another question.

Delegate Nimwes: I move for a short recess.

The Chairman declared the Committee of the Whole in recess at 4:10 p.m.

RECESS

The Committee of the Whole was called to order at 4:36 p.m.

Chairman Tmau: The Committee of the Whole will now come to order. Let us resume our discussion on the article of the Executive Branch, as amended. Delegate Sony.

Delegate Sony: Thank you, Mr. Chairman. I would like to offer an oral amendment, but before I do that, I would like to move that Rule 62(a) be suspended.

Delegate Tun seconded, and the motion carried to suspend Rule 62(a).

Delegate Sony moved that Section 3 be deleted in its entirety which starts from line 8 to line 18.

The Chairman declared a short recess with instruction to the mover of the oral amendment to look through Amendment No. 6 and make all the necessary amendments.

The Committee of the Whole recessed at 4:39 p.m.

RECESS

The Committee of the Whole was called to order at 4:41 p.m.

Chairman Tman: The Chair will recognize Delegate Sony.

Delegate Sony: Thank you, Mr. Chairman. Let me restate my amendment. I move that we delete Section 3 which starts on line 8 to line 18 on the first page, and on page 3, starting with the words "The National" on line 18 all the way to the first line on page 4. Those sentences should be deleted and all other provisions pertaining to the same section on rotation of office. Thank you, Mr. Chairman.

Chairman Tman: The motion as restated is the deletion of Section 3 in its entirety relating to rotation of office, that is line 8 to line 18 on page 1 and, also page 3 beginning on line 18 where it starts "The National", and all the way to the following page, is that correct? Line 18, page 3 of the amendment, which has already been adopted, to line 1 on the following page; also if there is any reference to the rotation of office in the whole article, it should be deleted. Any discussion on the motion to delete? Delegate Sigrah.

Delegate Sigrah: Thank you, Mr. Chairman. I just wish to point out that by deleting Section 3 we are going right back to where we started from, and that is Amendment No. 1, which was defeated some time ago.

Chairman Tman: Any further discussion on the motion to delete? Those in favor of deleting Section 3 in its entirety and the sentence that begins on line 18 of page 3 to line 1 of page 4, and other reference to rotation of office, including renumbering of the sections, please say "aye".

Motion carried to delete Section 3 in its entirety and any reference thereto.

Chairman Tman: Any discussion on the Executive article as further amended in the Committee of the Whole? Delegate Mwety.

Delegate Mwety: Mr. Chairman, I have a short comment which my interpreter will relate for me. Mr. Chairman, if you would look at the records of this Convention, by deleting Section 3 of Amendment No. 6, we are going right back to Amendment No. 1, Committee Proposal No. 24, which was soundly defeated by this Convention. Thank you, Mr. Chairman.

Delegate Falcam: Thank you, Mr. Chairman. I do not want to bore the ears of my good Delegates, but I would like to indicate here--and I would like this question answered if possible. When we are so concerned about cost, cost of government, cost of running a state and a national government, I would like to know who is going to pay for the presidential and the vice-presidential candidates traveling throughout Micronesia, whether this provision will be included in this article so that the government will take care of that expense. I don't believe we are ready to finance our political campaigns across three million square miles of ocean. I would like to be comfortable in knowing that somebody will take care of this expense; otherwise, only the rich will be able to run for those offices. Is this what we want? Thank you.

Chairman Tman: Any further comments on the article on Executive as amended? Delegate Sony.

Delegate Sony: Thank you, Mr. Chairman. I was going to respond to the remarks made by my good Delegate from Ponape. I think if a person is sincere, if he really wants the job, then he must expect to spend some money so that when he is in that office, he should behave because he wasted some money. Thank you, Mr. Chairman.

Delegate Nimwes: In addition to what was advanced by my colleague from Truk, I think the national election is very appropriate.

Delegate Ngiraked: Mr. Chairman, I have not fully made up my mind on the merits or demerits of these conflicting proposals. It seems to me that when the conflicting proposals are so diametrically opposed, since one of the proposals came from a Committee that spent so much time, I am afraid we will be forcing the matter to go--we could be throwing away a lot of time, a lot of work that has been devoted by a Committee over a long period of time. I was wondering, since we have almost exhausted all the debates on the points that we want to say, maybe we should defer action on the matter.

Chairman Tmaa: Thank you for your suggestion. Delegate Ismael.

Delegate Ismael: Mr. Chairman, it is true that we have almost exhausted various points, and I think we are ready for the question now, Mr. Chairman.

Chairman Tmaa: The Chair now chooses not to dilute the proceedings of this Committee of the Whole. Are you now ready for the question? All those in favor of adopting the article on Executive, as amended, to Committee Proposal No. 24, please say "aye".

The motion to adopt the article on Executive Branch, as amended, to Committee Proposal No. 24, carried with 20 in favor, 15 opposed.

Delegate Eperiam: Point of privilege.

Chairman Tmaa: State your point of privilege.

Delegate Eperiam: Thank you, Mr. Chairman. It is known to this Convention that on October 22nd I passed out an amendment No. 2 to Proposal No. 24. One day later, I withdrew that amendment. Now, on a point of privilege, I beg the indulgence of this Convention to submit Amendment No. 2, as an amendment to Committee Proposal No. 24, as amended.

Chairman Tmaa: If there is no objection, the Chair wishes to make this decision subject to appeal from the Delegates. Since Amendment No. 2 was formally withdrawn, if the Delegate from Ponape wishes to reintroduce the amendment, it should be labeled "Amendment No. 17". So, if there is no objection--I hope nobody has thrown his copy away of the previous Amendment No. 2--please change from "Amendment No. 2" to "Amendment No. 17". I stand to be corrected.

Delegate Eperiam: I move for the adoption of Amendment No. 17.

Delegate Falcam seconded.

Delegate Haruo: Mr. Chairman, before the Convention adopts Amendment No. 17, and while I do not have a copy of the amendment, I would like to ask that the Convention Secretary read Amendment No. 17.

Chairman Tmaa: I believe the amendment is quite lengthy. If there is no objection, the Chair will take the liberty to declare a recess.

The Committee of the Whole recessed at 5:01 p.m.

RECESS

The Committee of the Whole was called to order at 5:33 p.m.

The Chair recognized Delegate Wainit.

Delegate Wainit: After having read Amendment No. 17, and having read this Amendment between the lines, I fail to see a section or provision accommodating 6 jets to be made available to the 6 ministers who will be travelling back and forth everyday between Truk, Yap, Marshalls, and the capital.

Delegate Falcam: Thank you, Mr. Chairman. I am not going to make any statement regarding the proposed amendment. What I would like to do is to ask the Delegates to the Convention that, having looked at this amendment and the rest of the many amendments to the Proposal--I would like to now move for the deferment of this article, as amended, so that the proposed amendment will be considered on tomorrow's calendar.

Delegate Eperiam seconded, and motion carried to defer action on the article on Executive to Committee Proposal No. 24, CD2, CWD 1, together with the proposed Amendment No. 17, until November 1, 1975.

Chairman Tmetuchl: I believe there is now no further business before this Committee until tomorrow.

Delegate Toribiong: I move that the Committee of the Whole rise and report back to the Plenary Session.

Delegate Fulanruw seconded, and motion carried. The Committee of the Whole rose at 5:40 p.m.

Re: 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, CWD1, "A Proposal relating to a structure for the government of the Federated States of Micronesia.", Article on EXECUTIVE.

Chairmen: Delegate Daro Weital (Committee Proposals No. 33 and No. 27)
Floor Leader Luke Tman (Committee Proposal No. 24, CD2, CWD1)

A motion was made and seconded to adopt Committee Proposal No. 33.

It was hoped that Resolution No. 33 was being introduced and this resolution was in full agreement with the intent of Committee Proposal No. 33. In view of this, it was asked if the proposal was necessary, and in response it was stated that the proposal was necessary because the proposed Transition Commission in the resolution would recommend necessary legislation to the Congress of Micronesia to enact; however, when a new government comes into existence, because of conflicts between certain laws and the Constitution, such laws may no longer be in effect and, therefore, the new National Legislature would have to enact new laws to fill the legal void created.

A question was raised as to whether the responsibility should be with the Executive Branch rather than the Legislative Branch. In reply it was stated that the resolution empowers the National Legislature to enact laws to empower another body of government to carry out such duties.

The motion carried to adopt Committee Proposal No. 33, 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."

The Chair declared the Committee of the Whole in recess at 1:05 p.m. The Committee of the Whole was called to order at 1:25 p.m.

The Committee was advised that before the Plenary Session, the Committee on Administration met to try to reach a consensus on Committee Proposal No. 27 and the proposed amendment, and it was felt that the members should discuss this with their respective Delegations in order to reach an agreement. The Chair then declared the Committee of the Whole in recess until 3:30 p.m., at 4:30 p.m.

RECESS

The Chair announced, at 3:40 p.m., that because of the power outage, the Committee of the Whole would recess until 11:00 a.m., Monday, November 3, 1975.

The Committee of the Whole recessed at 3:41 p.m.

Re: Committee Proposal No. 34, entitled "A Proposal relating to imprisonment for debt."

Committee Proposal No. 27, entitled "A Proposal relating to secession and admission of new States."

Committee Proposal No. 24, CD2, CWD1. Articles on EXECUTIVE and LEGISLATIVE. "A Proposal relating to a structure for the government of the Federated States of Micronesia."

Chairmen: Floor Leader Tman and Delegate Weital

Chairman Weital called the Committee to order at 12:08 p.m., informing the Committee that they had before them several Committee Proposals. He stated that if there was no objection from the floor, they would begin deliberations with Committee Proposal No. 34.

Motion was made and seconded to adopt Committee Proposal No. 34.

Delegate Apis stated that he was wondering if the Proposal would encourage people to borrow money and then not pay it back; couldn't this provision be enacted by the National Legislature?

Delegate Cabrera informed the Committee that he felt a man should be put in jail for not paying his debts, and that such an article would encourage people to borrow and not repay funds. He said he felt the Constitution should remain silent on this subject and allow the National Legislature to pass a law governing nonpayment of debts.

Delegate Ninwes said that he felt such a provision would encourage people to be honest to the banks and other lending institutions. The banks were lending funds to people because they trusted them, and if that person was put in jail he wouldn't have a chance to repay the loan. He felt the provision was proper and should be included in the Constitution.

Delegate Mauro raised a point of information, asking when an individual would be immune to imprisonment. Would he be immune after litigation?

Delegate Ninwes stated that if the lending institution took the case to court and court order was issued, demanding repayment of the loan, then the borrower could be jailed for contempt of court if he did not repay.

Motion to adopt Committee Proposal No. 34 carried 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."

The Chairman informed the Committee that they had before them for consideration Committee Proposal No. 27.

Floor Leader Tman informed the Committee that at a meeting of the Administration Committee held that morning, they had decided to recommend that action on Committee Proposal No. 27 be delayed until after the articles on Executive and legislative had been disposed of from Committee Proposal No. 24, CD2, CWD1. He made the motion that such recommendation be made to the Plenary Session by the Committee of the Whole.

Motion to delay action on Committee Proposal No. 27 was seconded.

Delegate Saili asked if it was necessary to make the recommendation to the Plenary Session, or if the Proposal couldn't just be left in the Committee until the proper time to take action on it.

Chairman Weital stated that the decision was up to the Committee of the Whole.

President Nakayama suggested that the order of sequence could be changed, placing Committee Proposal No. 27 as the last order of business for the Committee of the Whole for that day.

Chairman Weital said that such would be done. He declared a short recess in order to turn the Chair over to Floor Leader Tmau for action on the remaining Proposals before the Committee.

Recess was declared by the Chair at 12:20 p.m.

RECESS

Chairman Tmau called the meeting to order at 12:21 p.m., informing the Committee that they had before them for consideration the Article on Executive of Committee Proposal No. 24, CD2, CWD1. He reminded the Committee that the Article on Executive had already been amended by Amendment No. 6, as amended. When action was deferred on the article on October 31, an amendment had been offered by Delegate Eperiam.

Delegate Heinrich Iriarte: Mr. Chairman, I move that we adopt the Article on Executive, as amended, under Committee Proposal No. 24, CD2, CWD1.

Delegate Eperiam seconded the motion.

Delegate Nimwes: Mr. Chairman, point of information. Is this proposed Amendment No. 24? Is that what we are discussing?

Chairman Tmau: The motion now on the floor is the adoption of the Executive Branch article of Committee Proposal No. 24. That article has already been amended by Amendment No. 6.

Delegate Nimwes: Mr. Chairman, Amendment No. 6 is the Council of Ministers, is that it?

Chairman Tmau: No, it is on the Single Executive.

Delegate Mauro: Point of information, Mr. Chairman. On line 9, section 2, Composition of Council, provides that the elected chief executive of each of the States will constitute or will be composed of the council. My question is, Mr. Chairman, that who will be in the State?

Chairman Tmau: Delegate Mauro, I believe the article on Executive, as amended by Amendment No. 6, deals with Single Executive rather than Council of Ministers.

Delegate Mauro: I stand corrected. I thought we were talking about Amendment No. 17.

Chairman Tmau: Today there has yet to be a motion for the adoption of Amendment No. 17.

Delegate Eperiam: It was my understanding that we adopted Amendment No. 17 last Thursday, and only postponed discussion.

Chairman Tmau: At the recommendation of the Chair, your amendment was assigned the label of Amendment No. 17.

Delegate Eperiam: I now move for its adoption.

Delegate Ngiraked seconded the motion to adopt Amendment No. 17 to Committee Proposal No. 24, CD2, CWD1.

Delegate Ismael: Thank you, Mr. Chairman. I cannot see how the Executive Branch of the districts can operate without the chief executive, who will be up here serving in the capital as a minister. For this reason, I just cannot see adoption of this particular proposed amendment.

Delegate Ngiraked: I think, Mr. Chairman, that it is the proper time to be thinking of taking a lunch recess and come back so we can discuss the amendment with a clear mind. But, before I make that motion, let me take the liberty to announce to the floor a development, or a decision, a consensus that was reached by the Administration Committee this morning. It has become very obvious that some Delegates are inhibited to speak in front of a large audience--and 50 people is large enough. If I may prevail upon the kindness and understanding of our public observers and guests in the gallery, it was decided that maybe we should sort out some of our differences in a closed door session. Then the Delegates could really express themselves in an open manner and candid manner. So, I would like to move that we take a lunch break, Mr. Chairman, and come back at 2:30 in a closed door session in the Committee of the Whole.

Delegate Nimwes seconded the motion.

Chairman Tmetuchl: If the Chair may make a recommendation, Committee of the Whole--and, in fact, Plenary--are supposed to be open. If you wish, the Administration Committee may call an Executive Session of its meeting, to which all the Delegates will be invited.

Delegate Ngiraked: I do not know how to best go about achieving the objective that is being desired by the Administration Committee. If it is by holding an Executive Session with all the entire membership of the Con Con, maybe it is proper to do so.

Chairman Tmetuchl: I think we can arrange that sort of meeting without any formal motion.

Delegate Ngiraked: The reason I made that announcement is to provide some notice for our audience so that they don't have to take the trouble to come in the afternoon, if we so desire. So, I wish we would make some sort of indication by taking this recess.

Delegate Salii: I would suggest that if the intent is a closed door meeting, a different time should be chosen for coming.

Chairman Tmetuchl: The Chair will declare a short recess.

Recess was declared at 12:33 p.m.

RECESS

The Committee of the Whole was called to order at 12:35 p.m.

Delegate Ngiraked: Mr. Chairman, I think we need to change the time in the motion from 2:30 to 3:00 p.m. We can assemble in the Committee of the Whole and, if necessary, ask the public to step out. By making this announcement we have given our public some notice and won't take them by surprise. So, I move that we take a recess now and come back into the Committee of the Whole at three o'clock this afternoon.

Delegate Toribiong seconded the motion.

Chairman Tmetuchl: The motion is that we recess for lunch and reconvene at three o'clock this afternoon in the Committee of the Whole, Executive Session.

Motion carried to recess until three o'clock.

The Committee recessed at 12:36 p.m.

Re: Committee Proposal No. 32, "A Proposal relating to the right to live in a healthful environment."

Committee Proposal No. 24, CD2, CWD1, SD1, CD3, "A Proposal relating to a structure for the government of the Federated States of Micronesia." Article on EXECUTIVE.

Committee Proposal No. 24, CD2, CWD1, SD1, CD3, "A Proposal relating to a structure for the government of the Federated States of Micronesia." Article on LEGISLATIVE.

Committee Proposal No. 27, "A Proposal relating to secession and admission of new States."

Chairman: Floor Leader Luke Tman

The Committee of the Whole was called to order at 3:26 p.m.

A motion was made and seconded that Committee Proposal No. 32 be adopted by the Committee of the Whole on Second Reading.

Delegate Carl Heine made a motion to amend Committee Proposal No. 32 by deleting the entire section and inserting thereof Amendment No. 2, which was distributed October 31, 1975. He feels that the whole section offered can be taken care of by the future national legislature. He further moved that Rule 62(a) be suspended in order for him to make an oral amendment.

The motion to suspend Rule 62(a) was seconded and carried.

Delegate Carl Heine made an oral amendment to delete on the third line the words "territorial limits" and insert thereof the word "jurisdiction"; after the word "Micronesia", insert "without the expressed approval of the Government of Micronesia.", and delete the rest of the sentence. He moved for the adoption of his oral amendment, and was seconded.

At the request of Delegate Nimwes, the Assistant Convention Secretary read Amendment No. 2, as amended:

"SECTION _____. Radioactive, toxic chemical, biological or other harmful substances may not be tested, stored or disposed of within the jurisdiction of Micronesia without the expressed approval of the Government of Micronesia."

The motion to adopt the proposed amendment to Amendment No. 2, carried.

The motion to amend carried, and Committee Proposal No. 32, CWD1, was adopted by the Committee of the Whole, 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 tested, stored, or disposed of within the jurisdiction of Micronesia without the expressed approval of the Government of Micronesia."

The Chair declared a short recess at 3:35 p.m.

RECESS

The Committee of the Whole was called to order at 3:43 p.m.

Chairman Tmau: We now have before this Committee of the Whole, Committee Proposal No. 24, CD2, CWD1, SD1, CD3. We have deferred articles on Executive and Legislative. You will recall that for the past several weeks this Committee of the Whole and the Plenary have not been able to reach an acceptable compromise on these two articles; consequently, the Plenary established a Special Conference Committee to see if any consensus could be reached. I now recognize Delegate Heinrich Iriarte.

Delegate Heinrich Iriarte: Thank you, Mr. Chairman. I move that the Committee of the Whole adopt on Second Reading the article on Executive to Committee Proposal No. 24, as amended.

Delegate John Heine seconded.

Chairman Tmau: The motion is to adopt articles on Executive and Legislative, is that correct?

Delegate Heinrich Iriarte: That is correct, Mr. Chairman.

Chairman Tmau: Any discussion before we proceed on the motion to adopt these two articles?

Delegate Cabrera: Point of information. I understand that the Committee of the Whole adopted an amendment on the Executive article.

Chairman Tmau: Yes, in the case of the article on Executive, Amendment No. 6 amended that article. The Chair now wishes to recognize the President.

President Nakayama: Mr. Chairman, I move to amend Committee Proposal No. 24, article on Executive.

Delegate Tun seconded.

Chairman Tmau: There is a motion to amend the article on Executive.

President Nakayama: Mr. Chairman, the amendment I propose appears on page 5 of Amendment No. 19, which in effect proposes a singular executive elected by the National Legislature. Basically, that is the amendment.

Chairman Tmau: The amendment being referred to is contained in Amendment No. 19. page 5. Any discussion on the proposed amendment? Delegate Toribiong.

Delegate Toribiong: Thank you, Mr. Chairman. There is a technical thing on page 6, Section 3, where it talks about qualifications and you begin to list a lot of things there. It would seem to me that if the member is going to be elected from the Congress, the qualifications for membership in the Congress shall in effect be qualifications for presidency, so we do not need all those things. For example, the age there seems to be different from the age of the Congress.

Delegate Sony: Thank you, Mr. Chairman. I will speak on behalf of the "Club, the Devil's Advocates", and I will express our point of view with regards to Amendment No. 19 on the article on Executive. To us, the proposed amendment is limiting the chance to run for office of the president for the Federated States of Micronesia to only the senators, and that is one reservation we have regarding this amendment. Our second reservation is that it decreases the power of checks and balances by virtue of the fact that the president will be elected by the Legislative Branch. However, for the sake of unity, the members of the "Club" will vote in favor of this amendment. Thank you, Mr. Chairman.

Delegate Falcam: Thank you, Mr. Chairman. Regarding the technical point raised by Delegate Toribiong, I would like to say that the age of members of the National Legislature of at least 30 and the person to qualify to be elected by them must be 35. In view of the fact that we do not want to have the same age for people running from election districts and people running from the district as a whole or at large, and provisions in this amendment also provide that selection of the president must come from people elected at large, and he must be 35. So, there is a little distinction there, however technical it may be. Thank you, Mr. Chairman.

Delegate Nimwes: Mr. Chairman, I am inclined to agree with Delegate Toribiong on this matter. I think the age here should be changed to "30" because if we leave this in, we are saying that all the senators should be 35 in order for one of them to be president of the nation.

Delegate Wiliander: Mr. Chairman, I wish to offer an amendment; therefore, Mr. Chairman I move to suspend Rule 62(a) regarding duplication of amendments. My amendment is to strike out the number "5" on page 6, Section 3, of line 4 and the figure "35" be changed to "30" in order for that section to be consistent with the qualification requirement of the members of the legislature as proposed in this Amendment No. 19.

Delegate Toribiong seconded and motion to suspend Rule 62(a) carried.

Chairman Tman: You may now offer your amendment, again.

Delegate Wiliander: The amendment is to strike out the figure "35" on line 4, of page 6 and insert the figure "30" in lieu thereof.

Delegate Toribiong seconded.

Delegate Ngiraked: Mr. Chairman, I am just wondering whether we would like to see a man who is 30 years of age be a president of a uation. I have nothing against people who are 30 years of age, but it seems to strike very low in the sense of maturity in my district. [Laughter]

Chairman Tman: I think the number of people who would be affected by the figure "30" in this Convention, if any, would be very few. Any further discussion on the motion to amend.

Delegate Robert: Thank you, Mr. Chairman. I think if the intent of the amendment is to conform the qualifications for the president and the senate, we might as well think about another possible amendment, that the qualification has to be natural born citizen and there might be a possibility that all the senators may not be natural born Micronesians, and we might think about that possibility.

The motion to amend by changing the figure from "35" to "30" carried.

Chairman Tman: Any further discussion on Amendment No. 19 to the article on Executive, as amended?

Delegate Wiliander: Thank you, Mr. Chairman. On the same page, page 6, Section 4 regarding the vice-president, this is just a point of clarification. I would like to know whether the vice-president would be the four-year term congressman or the two-year term congressman. It seems to me that this is not clear or it may be clear, but I am not clear.

Delegate Nimwes: It is clear. [Laughter]

Chairman Tman: It seems that within that section, the phrase "same term of office" might be construed to be a four-year term.

Delegate Wiliander: Mr. Chairman, what does the term "it is clear" mean?

Chairman Tman: I think Delegate Toribiong has the answer.

Delegate Toribiong: Section 4 makes it clear, it says it shall have the same qualification.

Delegate Wiliander: I wish to state my reluctance to accept this qualification. I think a two-year term congressman can also fill that position. It seems to me that we are limiting the offices of president and vice-president to the four-year term congressman.

Delegate Ismael: I will try to clarify some of the thinking behind this, Mr. Chairman. The reason why we arrived at that formula was that the vice-president should serve for four years whereas the second-year term congressman only serves for two years. Furthermore, the reason for this formula was that

it was felt by your Special Conference Committee that the president and the vice-president of the Federated States of Micronesia should come from those who represent the equality of the districts. Thank you, Mr. Chairman.

Delegate John Heine: Thank you, Mr. Chairman. I think Delegate Ismael has already expressed what I wanted to say, so I yield the floor.

Delegate Falcam: Thank you, Mr. Chairman. This is just a point of clarification also in addition to what Delegate Ismael pointed out. The thinking was that a president should be elected not by a single election district but by all the voters of the entire state. This is the thinking behind the formula recommended by the Special Conference Committee. Thank you.

Delegate Ngiraked: Mr. Chairman, the Legislature, as it is offered in this proposal, is going to have the total number of 2 legislators and since two of them shall be elected to the post of president and vice-president, and since those votes will be totaled, I wonder whether there should be a reduction on the number of legislators and I was wondering if we should increase the number of legislators on page 2 of the Proposal proportionately by one each.

Chairman Tmau: Would you defer that until we come to the Legislative article?

Delegate Ngiraked: I'm sorry.

Chairman Tmau: Any further discussion on the proposed amendment? Are you ready for the question?

The motion to adopt Amendment No. 19, as amended, to the Article on Executive carried.

Chairman Tmau: Any further discussion on the article on Executive, as amended by Amendment No. 19, as amended?

There being no further discussion, the motion carried to adopt the Article on the Executive Branch of Committee Proposal No. 24 as amended by Amendment No. 19, as amended by the Committee of the Whole.

Committee Proposal No. 24, CD3, CWD3, SDI

"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 the 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."

Chairman Tmetuchl: I now wish to recognize Mr. President.

President Nakayama: I move that the Committee of the Whole adopt the Article on Legislative Branch.

Delegate Ngiraked seconded.

Chairman Tmetuchl: It has been moved and seconded that the article on Legislative be adopted, as amended by Amendment No. 19, labeled "Amendment A."

Delegate Ngiraked: Mr. Chairman, I wish to offer an amendment, but before I do so, I move to suspend Rule 62(a).

Delegate Toribiong seconded, and the motion to suspend Rule 62(a) carried.

Delegate Ngiraked: Mr. Chairman, I go back to the subject that I was talking about on page 2. Since the appointment of the president and the vice-president of the nation operates to reduce the number of legislators by two, I move to amend page 2, starting on line 16 where a number appears next to the name of the district or state, to add one, to increase each number by one.

Delegate Tacheliol seconded.

Chairman Tmetuchl: It has been moved and seconded that on page 2 from lines 16 to 22 where a number appears following the name of each state, those numbers will increase by one.

Delegate Falcam: Thank you, Mr. Chairman. I was under the impression that the Special Committee understood the formula that should those vacancies occur there would be an election held in the district from where the president or the vice-president comes from, and if we add numbers along the lines suggested by Delegate Ngiraked, it will mess up completely the formula that we are trying to arrive at here. Consequently, if this is not clear, I suggest that we clarify this before we vote.

Delegate Ngiraked: Mr. Chairman, if that is the case, and if that is clear in the Proposal, I beg the indulgence of the Delegates, and I withdraw my motion--if it is clear.

Delegate Toribiong: Mr. Chairman, it is very clear on page 6, Section 5, under Vacancy.

President Nakayama: Mr. Chairman, I would like to point out on page 1, line 8, the word "first" should be changed to "final". This is a typo. On line 8, first page of Amendment 19, the word "first" should be changed to "final" so that the phrase will read "except on the final reading of bills." This is to conform with the way we pass bills on Final Reading.

Delegate Nakamura: Thank you. I just want to find out how the Committee came up with the numbers listed from lines 16 to 22.

Chairman Tmau: Delegate Lanwi, are you answering Delegate Nakamura's question?

Delegate Lanwi: Point of information, Mr. Chairman.

Chairman Tmau: Please state your point of information.

Delegate Lanwi: Thank you, Mr. Chairman. In the case of Kusaie, if the representative from Kusaie is selected president of Micronesia, who will be the legislator from Kusaie?

Delegate Ngiraked: In response to the question raised by Delegate Nakamura, the figures were arrived at in the Committee, generally, on the basis of population apportionment. And, Mr. Chairman, I have looked at the section pointed out by Delegate Falcam, and it does not seem to take care of the concern I was expressing. This talks about, on page 6, Section 4, the vacancy occurring in the offices of the president and the vice-president.

Chairman Tmau: Delegate Nakamura, you have a point of information?

Delegate Nakamura: Yes, Delegate Ngiraked had stated "based on population." What "population" is he referring to?

Delegate Ngiraked: The count of people in each district as much as they were available to the Committee.

Delegate Ismael: Thank you, Mr. Chairman. In response to Delegate Lanwi's point of information, the numbers stated on page 2 are those numbers of representatives by population apportionment. Included in this would be one senator from each state. It was thought in the Committee that when a person is elected to either the presidential or vice-presidential post that each district should have an election to fill that vacancy. However, I can realize Delegate Ngiraked's point in that we did not spell it out in this provision. Thank you.

Delegate Ngiraked: Point of privilege.

Chairman Tmau: State your point of privilege.

Delegate Ngiraked: Mr. Chairman, I move for a short recess.

Chairman Tmau: Thank you. I was just going to ask for a short recess. If there is no objection, we will take a short recess subject to the call of the Chair.

The Committee of the Whole recessed at 4:10 p.m.

RECESS

The Committee of the Whole was called to order at 5:00 p.m.

Chairman Tmetuchl: We have before us Amendment No. 19--an amendment to the Article on the Legislative Branch.

Delegate Ngiraked: Before we took the recess, the Special Conference Committee was confronted with a lot of questions as to the mathematical basis by which the Committee arrived at the figures that will determine the number of legislators which appear on page two of Amendment No. 19. The representatives from each of the districts held a meeting and tried to come out with some mathematical formula for determining the number of representatives to be elected from each state based on population apportionment. It was decided that we offer an oral amendment, so I move to suspend Rule 62a.

Delegate Sawaichi seconded, and the motion carried to suspend Rule 62a.

Delegate Ngiraked: As a method of achieving some figure for the purpose of writing this Constitution, it was decided to use 6,000 as a basis of providing one representative. Based on that formula, it was decided that Kusaie would have one representative, Marianas would have two representatives, Marshalls would have four representatives instead of five, Palau would have two, Ponape would have three instead of four, Truk would have five instead of seven, and Yap would have one representative. The number of legislators to be elected at large from each state was not affected by the proposal. Therefore, I move that on page 2 of Amendment No. 19, line 18, the figure of five appearing next to the Marshalls be deleted and in its stead insert the figure of four, on line 20, the figure of four appearing next to Ponape be deleted and insert the figure of three, and on line 21 delete the figure of seven and insert the figure of five for Truk.

Delegate Sawaichi seconded the motion.

President Nakayama: We found that in the first figures offered there was a larger disparity in the number of people that each congressman would represent. By using this formula of 6,000 per representative, all you have to do is divide 6,000 into the total population of the district to come up with a fairer figure. As a result of using this formula, we came to reach the numbers as offered in Delegate Ngiraked's amendment. This is fairer than the first figures we gave in the proposed amendment.

Delegate Weital: The population of the states at present may not be the same as the figures we are working with to come out with the following numbers. Are these figures going to be in the Constitution?

President Nakayama: I did not get the question.

Chairman Tmetuchl: Would you restate your question?

Delegate Weital: I am wondering about the present figures. We have changed the numbers from five to four and so on down the line as reported previously. Would these figures be written into the Constitution now that we are not sure about the exact population of each state?

President Nakayama: Yes, the figures will be written into the Constitution as appearing in the proposed amendment. The figure of 6,000 was just a convenient figure to use in calculating the number of representatives for each of the districts.

Chairman Tmetuchl: I would assume that in the future if the population increases or decreases that the base would change. The number of representatives that is included in the Constitution will remain in the Constitution unless amended.

Delegate Chief Bossy: Mr. Chairman, I am extremely flabbergasted about the many inconsistent, unsound arguments and theories of government that have been flooding this Convention and our minds for the past two days. We have

argued that we should not accept the Plural Executive system because there are not that many empirical cases to prove that it can work, even though such a system has worked for countries like Sweden. This so-called "compromise proposal"--Amendment No. 19--is not only yet to be tested empirically, but this is a completely new game for us, a game in which we don't even know the rules. The Negotiating Committee reached an agreement as depicted in Amendment No. 19 which, even though many of us are 100 percent against it, we accepted with pain only for the sake of unity. If we are going to change it again, then, Mr. Chairman, this Amendment No. 19, to me, is at best a camouflage and a fake. Mr. Chairman, I absolutely will refuse to let this Convention experiment its theories of government on the fate of our nation, and I will not vote for this proposal on Final Action if we pass the proposed amendment. Thank you.

Delegate Nimwes: My question here is somewhat similar to Delegate Weital's, in that I am wondering whether it is really necessary to have these figures in our Constitution. Should we put it in the form, if the Convention agrees, of having one representative per 6,000 people in lieu of these various figures as listed here?

President Nakayama: The problem that we face if we use the formula as suggested by Delegate Nimwes is that as our population grows, the size of the national legislature will grow proportionately. What we are trying to do here is fix the number of the members of the legislature so that, regardless of the change of the population in the future, the number will remain as is, except that future generations may find it necessary to amend the Constitution to change the composition of that legislature. My argument against this formula suggested is that every time there is a change in population as a census is taken, it will be reflected in the composition of the national legislature.

Delegate Nakamura: Since there is an amendment on the floor, I just want to amend the amendment. On page three, line one, it says that five members shall be elected from Ponape. It should be four.

Chairman Tmau: That should have been included in the amendment.

Delegate Cabrera: I only want to add a simple explanation in addition to what the President has said. In considering the amendment before us, the Special Conference Committee was also disturbed about the fact that we may not have adequate funds to continue financing an ever-increasing number of legislators. I think the rationale behind putting the numbers down at this point in time is pretty much in line of keeping the costs down. I think the number of representatives in the legislature will increase, but for the time being, without an amendment to the Constitution, the number of legislators will remain the same.

Delegate Robert: Point of information. On line 4, Section 6, page two, it seems to me that we are giving the states the power to reapportion themselves, and I am a little confused because I used to believe that anything of a national nature should be treated by Congress. I wonder whether or not there is any valid reason for changing it from the present system to this new system? By the present system, I mean that the Congress of Micronesia used to make reapportionment laws.

Due to a malfunction in the public address system, the Chairman declared a recess at 5:17 p.m.

RECESS

The Committee of the Whole was called to order at 5:35 p.m.

Chairman Tmau: The question before the Committee of the Whole is the adoption of the oral amendment offered by Delegate Ngiraked.

Delegate Mwoty: I wish to offer an oral amendment to the amendment proposed by Delegate Ngiraked. Therefore, I move to suspend Rule 62a.

Delegate Ngiraked seconded the motion.

Chairman Tmun: The rule is still suspended because we are still considering the amendment offered by Delegate Ngiraked, so you may proceed with your amendment.

Delegate Mwety: I move to amend Delegate Ngiraked's amendment by deleting the figure of 6,000 as used in his mathematical formula and insert in lieu thereof the exact population of the smallest district as a basis for one representative in our national congress.

Chairman Tmun: I think there is a little misunderstanding here. There is no figure of 6,000.

President Nakayama: There is no figure in the amendment. The figure of 6,000 was used as a basis of calculation but it's not even there. If we follow the proposed amendment, it will triple the number of people in the Congress. It would be too big and it will cost too much. The smallest district, or the district to be, is Kusaie with a population of 3,200. If you use that, the number of congressmen will increase to 36, plus seven, or it will be three times as big.

Delegate Mwety: We do want the exact population of Kusaie to be used as the figure for one representative in the national congress.

Chairman Tmun: The appropriate form for the type of amendment that you are proposing is to calculate the number of representatives per district on the basis of that figure and then merely change the number here, which is what Delegate Ngiraked did.

President Nakayama: If we use that as the basis of arriving at the number of congressmen, Truk will have 11 congressmen instead of five, for it has a population of 33,000.

Delegate Salii: There is a little problem, Mr. Chairman. At any given moment we do not know the exact population of Kusaie.

Chairman Tmun: Shall we dispose of Delegate Ngiraked's amendment, and then if you wish to offer an amendment you may do so?

Delegate Mwety: Yes.

Delegate Ngiraked: Once we agree on the proposal of population representation, the figure is really something that we can decide as a matter of the wish of the people. If the figure of 6,000 is not acceptable, maybe somebody would like to offer an alternative, but to tie it to an up-to-the-minute population of any one district is impossible.

Delegate John Heine: I don't know why we are bogged down on this problem here because Amendment No. 19 and the proposed amendment are well taken. I don't think we should go back and make any further changes on it because, as President Nakayama stated, if we use the number of people on Kusaie as a basis, with it being the smallest district, then Truk will have 11 congressmen which our government cannot handle. I think this is the best compromise we have come across and perhaps we should stay within it. I move for the previous question.

Delegate F.Lanwi: The way I understand how to represent the population is this: 6,000 people are represented by one representative. Regardless of whether there are 200 people or 1,000 people, any figure up to 6,000, there will be one representative. So, let us not be confused about Kusaie because it is not even up to 6,000 yet. There will be one representative representing the whole population of Kusaie for a four-year term and the other man will be elected for a two-year term. This formula is very fair and good for every district to follow.

Delegate Weital: We have come to a point where we must consider many of the discussions we have had during the past days. One of the points was that we must consider the size of the legislative body. We will have a government that will need money to support its activities. Gentlemen, it

is important that we keep in mind as much as possible reducing the number of members that will represent the people in our legislative branch. I am requesting and begging this body to please consider this before we vote on this issue. Thank you very much.

Delegate Nimwes: I am wondering whether or not this section of the Constitution will be amended when new states are admitted to the union. If that's the case, should we be specific here or should we leave it as is and just say that some formula should be developed to accommodate new states or future states?

Delegate Philippo: I want to state my personal opinion on this proposal. I have heard pros and cons and I just want to say that many of the statements presented by the Delegates are very good except one point, as stated by Delegate Cabrera from Saipan and also Delegate John Heine from the Marshalls, on the financial factor. I want to fully support this amendment.

Delegate Apis: In response to Delegate Nimwes, I would like to suggest that we delete lines 13 to 22 on page 2 and line 1 to the middle of line two on page three and just insert that this be based on one representative representing 6,000 people. I wonder if that will solve the problem?

Delegate John Heine: If that was a motion, then I second it.

Chairman Tman: It was merely a suggestion. In response to that suggestion, the President earlier explained that the figure of 6,000 was merely used as a ratio--1:6,000. If we put that figure in the Constitution, if the population of the states of Micronesia increases, we will have a corresponding increase in the number of representatives in the national legislature. However, this is your decision.

Delegate John Heine: I don't think we have to worry about that because our population won't grow that fast in the next ten years.

There being no further discussion, the motion carried to adopt the oral amendment offered by Delegate Ngiraked to Amendment No.19 to Committee Proposal No. 24.

Delegate Robert: Point of information. On page 3, line 2, I wonder whether the congressional reapportionment is going to be carried out by the same mechanism in Section 6, line 4? Is it going to be reapportioned by the state legislature?

Delegate Ngiraked: I think it was intended to leave that question for the legislatures themselves at the end of the tenth year and to come up with a solution to the problem that we are facing at this moment.

Delegate Ismael: In order to be consistent with the amendment we just passed, as offered by Delegate Ngiraked, the figure of five on line 1 of page 3 should be changed to the figure of 4. I therefore move to suspend Rule 62a in order to accommodate that amendment.

Delegate Toribiong seconded the motion.

Chairman Tman: I believe the record of the proceeding will show that the Chair stated in response to Delegate Nakamura that that is a part of the Ngiraked amendment.

Delegate Ismael: I withdraw my motion, Mr. Chairman.

There being no further discussion, the motion carried to adopt Amendment No. 19, as amended, to the Article on Legislative of Committee Proposal No. 24.

Delegate Olikong: I don't know whether it has been noted, but on page 1, Section 5, on Qualifications, starting from line 16, a person is ineligible to be a member of Congress unless he is a citizen of the Federated States. There is no "Micronesia" after the word "States". I wonder if there is an explanation by the Committee or is this a technical error?

Chairman Tmun: It was realized by the Committee, however we are assured that the Style Committee will accommodate that. Basically, we are interested in the idea of the Amendment, but the other typographical errors and things like that will be handled by our good Chairman, Hans Williander.

Delegate Mwely: This is a point of information with respect to those who are elected at large by districts to be candidates for President. I would like to know which representative (with due respect to the Kusaiean representatives here) from Kusaie will be a candidate for the Presidency since both representatives in Congress will be elected at large by the people of Kusaie?

Chairman Tmun: Please include Yap in your point of information. (Laughter)

President Nakayama: The candidate that runs for the office which has the four-year term will be the one qualified to seek the Presidency.

There being no further discussion, the motion carried to adopt the Article on the Legislative Branch of Committee Proposal No. 24 as amended by Amendment No. 19, as amended by the Committee of the Whole.

Committee Proposal No. 24, CD3, CWD3, SD1

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 15 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.

Chairman Tmau: Now I wish to ascertain the wish of the Delegates. Committee Proposal No. 24, as amended by various amendments, contains some other articles. Do you wish to dispose of them now?

Delegate Mwety: Point of privilege. My conscience troubles me. I would like my interpreter to relay the rest of the message for me.

Chairman Tmau: Please proceed.

Delegate Mwety: Mr. Chairman, it appears to me that this Convention has reached a consensus on the equality of states for the sake of unity. I am happy that united we will be as one nation, but I am sad that we may unknowingly fragmentize each state for more confusion and problems.

Mr. Chairman, I do not wish to see more fragmentation in Micronesia. However, unless we set up some safeguards now, we are in for more serious problems in the future. I can see that the best form of recognition for a group of people in every single Micronesian municipality is to opt for no other governmental status but that of an autonomous state.

In line with my personal concern, I wish to venture some predictions: Palau will have a hard time keeping Sonsorol and Tobi within its fold; Truk may see the lower Mortlocks, the Western Islands, the Hall Islands, and perhaps even Lukeisel opt for the status of autonomous states; Ponape may have to face the same problems with the outer islands; the Marshalls and the Marianas are no exceptions either.

May God bless us all. Thank you, Mr. Chairman. (Applause)

Delegate Ngiraked: As to your question, Mr. Chairman, I suggest that we go on for awhile on the rest of Committee Proposal No. 24.

Delegate Lanwi: I have only one wish--to go home. (Laughter)

Delegate Williander: I refer to our Order of Business. It specifies that we deal with the Executive and Legislative articles of Committee Proposal No. 24 and then the third item is Committee Proposal No. 27. So, I move that we follow the order of the day.

Delegate Nimwes seconded the motion.

Chairman Tmau: It has been moved and seconded that we follow the order of the day; however, it may be necessary to take up the other articles contained in Committee Proposal No. 24 later on tonight or tomorrow.

Delegate Olter: I would like to move that we refer Committee Proposal No. 27, along with the Minority Proposal, to the same Special Committee, which dealt with the Executive and Legislative articles of Proposal No. 24.

Delegate Ngiraked seconded, and the motion carried to refer Committee Proposal No. 27 and the Minority Proposal to the Special Committee.

Chairman Tmun: There is no further business now, but let us keep in mind that there are other articles contained in Committee Proposal No. 24 which have to be disposed of.

Delegate Toribiong: I move that the Committee of the Whole rise and report back to the Plenary Session.

Delegate Tachelial seconded, and the motion carried. The Committee of the Whole rose at 6:05 p.m.

Re: Committee Proposal No. 24, CWD3, SD1, CD3 - Articles on "National and Other Governments", "Oath of Office" and "Role of Traditional Leaders" as contained in the Committee Proposal, 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.", along with the Minority Proposal thereto.

Committee Proposal No. 27, entitled "A Proposal relating to secession and admission of new States.", along with the Minority Proposal thereto.

Chairmen: Floor Leader Tman and Delegate Weital

Chairman Tman called the Committee of the Whole to order at three o'clock in the afternoon, informing the Committee that they were scheduled to continue their discussion on the various parts of Committee Proposal No. 24, as amended.

Delegate Heinrich Iriarte moved that the Committee adopt the article on "National and Other Governments" as contained in Committee Proposal No. 24, as amended. Delegate Ngeriam seconded the motion.

Delegate Ismael: Mr. Chairman, we have adopted Committee Proposal No. 21 which delineates the expressly delegated jurisdiction to the National Government. On page 7 of this Committee Proposal No. 24, on line 4, there is a proviso here which seems to me that the National Government, relative to this Constitution, would infringe upon the autonomous sovereign states to tell them what to do relative to their local government. I question this particular last sentence, starting from the proviso on to line 6. Is this the intent of the Convention, or otherwise, in view of the fact that we have passed Proposal No. 21 already? Thank you, Mr. Chairman.

Delegate Falcam: Thank you, Mr. Chairman. I would like to clarify a little bit on the article, especially the question raised by Delegate Ismael. The intent of this article, as indicated, is exactly the concern that Delegate Ismael brought up. It does not direct any state to establish anything unless it is already there. It is open-ended and it is a proviso whereby it is permitted on the part of the states to do so. If that is not clear, I would be happy to clarify it further. Thank you.

Motion to adopt the article on "National and Other Governments" of Committee Proposal No. 24, CWD3, SD1, CD3 carried. The article was adopted by the Convention as follows:

"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."

Delegate Heinrich Iriarte moved to adopt the article relating to "Oath of Office" as contained in Committee Proposal No. 24, as amended. Motion was seconded by Delegate Tacheliol.

Delegate Weital: Thank you, Mr. Chairman, point of information. I am questioning the line 13 where it says "Department Directors". Does this mean directors of the National Government, or does this also mean directors in the States?

Delegate Falcam: The intent of the Committee, and I stand corrected by the members and the Chairman, is that reference to the departmental directors applies to any department--national, district--so long it is a department of government, state or whatever, some kind of routine oath of office is necessary and a routine practice.

Chairman Tman: Delegate Weital, does that answer your question?

Delegate Weital: Mr. Chairman, partly. Let's say, Mr. Chairman, that this Constitution will be effective five years from today. (That's a dream, of course, and not a fact.) But I am still the Director of C.C.M. at that time. Am I going to be taking oath? Is that what it means?

Chairman Tman: It says "upon assuming office" and you have already assumed that office. Would anyone like to respond to the question raised by Delegate Weital?

Delegate Heinrich Iriarte: I don't think those who have been assuming the offices as directors at the present time will need to go back at the time the Constitution goes into effect and take oath. However, this will apply only to those who become new directors as of the effective date of this Constitution.

Delegate Nimwes: I am not in agreement with the explanation given by Delegate Iriarte. If there is going to be a new government, then even though the present incumbents in those departments will continue to hold offices, I think they are required to take oaths because that is a new government.

Delegate Robert: Thank you, Mr. Chairman. Just another point of information. Am I right in assuming that the ambassador who is appointed by the President does not have to take the oath of office?

Delegate Falcam: The designation "ambassador" is not indicated here, but the intention includes all public offices, that all officers take the oath. If the Delegate wishes it to be included, it can be done. This is a matter of policy by the Convention.

Delegate Ismael: Thank you, Mr. Chairman. I was going to raise a question about the ambassadors. On line 12, maybe it should say "elected and appointed officers" to make it clear that ambassadors abroad also need to take the oath.

Delegate Tacheliol: We can either do as Delegate Ismael pointed out, or, as Leo said, since the intention of the Committee is that everyone is included, maybe the Style and Arrangement Committee can reword it and include the ambassadors and other officials.

Delegate Williander: Mr. Chairman, I am in agreement with Delegate Robert that the ambassadors should also take oath. For that reason, I move to suspend Rule 62(a) in order to offer an oral amendment.

Chairman Tman: If there is no objection from the floor, we will suspend that Rule and proceed with the oral amendment.

Delegate Williander: Thank you, Mr. Chairman. I move that we add the word "ambassadors" and a comma on line 12, after the word "officials". I so move.

Delegate Falcam seconded the motion. Motion carried to adopt the oral amendment as offered by Delegate Williander to the article on "Oath of Office" as contained in Committee Proposal No. 24, as amended.

President Nakayama: Mr. Chairman, I asked for recognition before we voted, but I was late. I was going to propose an amendment whereby we would delete "all judges, elected officials, and Department Directors", and in lieu thereof place the words "all public officials".

Chairman Tman: If there is no objection, and if this article as currently amended is adopted by the Committee of the Whole, we will recommend to the Plenary that the Style Committee have instructions to look at the article and come up with their recommendations in light of the suggestion made by Delegate Nakayama.

Motion carried to adopt the article on "Oath of Office", as amended. It is as follows:

"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."

Delegate Heinrich Iriarte: Thank you very much, Mr. Chairman. I will not at this time move for adoption of the article on "Role of Traditional Leaders" as I would like to offer an amendment. My amendment is labelled Amendment No. 15 to Committee Proposal No. 24, and I believe it was distributed to the Delegates on October 31.

Chairman Tman: It would be in order to first make a motion to adopt this particular article, and the amendment in a subsidiary motion to amend that article.

Delegate Heinrich Iriarte: I so move, Mr. Chairman.

Delegate Eperiam seconded the motion to adopt the article on "Role of Traditional Leaders" as contained in Committee Proposal No. 24, as amended.

Delegate Heinrich Iriarte: Mr. Chairman, I now move for the adoption by the Committee of the Whole of Amendment No. 15 to Committee Proposal No. 24, as amended, on the article pertaining to "Role of Traditional Leaders".

Delegate Tachelial seconded the motion. The amendment is as follows:

Amendment to Committee Proposal No. 24
Amendment No. 15

Amendment A:

On page 7, delete lines 16 through 21, inclusive, and delete all of pages 8 and 9.

Amendment B:

Page 7, line 16, insert the following:

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.

Amendment C:

On page 10, renumber Sections 4 and 5 to be Sections 2 and 3, respectively.

Delegate Heinrich Iriarte: Mr. Chairman, I believe that Section No. 13 of Committee Proposal No. 14 has already given the roles of the traditional leaders, however, in making this amendment to Committee Proposal No. 24, I hope the traditional leaders here will have a heart with me in that we will not provide their role in Committee Proposal No. 24 until "when needed".

Delegate Robert: Thank you, Mr. Chairman. I was just going to say that I am in accord with part of the proposed amendment for the following reasons, and I would like to share my views on Committee Proposal No. 24, as amended. With all due respect to the traditional leaders and chiefs in this Convention, and those others wherever they may be in Micronesia, I would like to make my observations regarding Article 4 of Committee Proposal No. 24, relating to the role of the traditional leaders in the National Government. I have several concerns over the tone and intent of this article. First of all, this article is rather limited and restrictive, if not discriminatory. Micronesia, as you know, is made up of diversified cultures and traditions unique to certain localities. In Truk, for example, there are over 10 major cultural spheres in which similar cultures do exist. I am aware that this case may be true, to a certain extent, in Ponape, where there are Kusaians and Kapinga-marangians with distinct cultures and traditions. By constitutionally providing for one representative of each state, we are, for all practical purposes, preserving certain cultures over others. And, Mr. President, if our intention is to preserve the various traditions of Micronesia, let every one of the chiefs take part in the process of preservation. Each chief, as we all know, has within his own community certain traditions which may not be shared by his neighbors on the next island. Therefore, it is only fair and proper that every chief shall take part with his equal in the preservation of his own tradition. My second concern stems from the tone of Section No. 1 of this same article which subjects the chiefs to the law by directing them to select from among themselves one who is sent to represent them in the Chamber of Chiefs. Mr. President, the irony that I found in this sentence is that the chiefs, who are thought to have been born to rule, have been born to serve the interests and dictates of the state legislature which may be comprised of not only traditional leaders like themselves, but of commoners, as well. And, fellow Delegates, I hate to see the commoners command my chiefs. It is not only humiliating and degrading, but it is untraditional, as well. This is not the Micronesian way that we have been talking about.

Section 1 of Article 4 further stipulated that those districts which have no traditional leaders shall select one, pursuant to state law, to represent that district in the Chamber of Chiefs. Again, this is unacceptable to me in that the state legislature is given the authority to fabricate chiefs from among the commoners. The commoner who represents that district, though he was "born to serve", has ascended by law to the "ruling class" through legislation. This in itself, Mr. President, is a deliberate falsification of our tradition. It offends, again, our Micronesian way.

In Section 3(a) the chiefs are given certain sets of duties by the state legislature to perform. Mr. President, you and I are aware that nobody ever prescribes duties to a chief. What we do here is that we destroy our tradition by subjecting the chiefs to the desire of the commoners in the state legislature. In so doing we are infringing upon their inherent supremacy.

Section 3(b) also states in part "the Chamber of Chiefs shall have thirty days to disapprove any bills it receives." Again, Mr. President, this subsection puts in the strongest language possible an ultimatum to the chiefs which, in effect, says "you must do this within this time, or else". Again, this is not the Micronesian way that I know of.

Section 3(c) states in part "The Chamber of Chiefs shall be entrusted with insuring the teaching, preservation and continuity of the various languages and better traditions of Micronesia...". In this subsection I am overly concerned with the phrase "various languages" because this includes the special language we have in Truk called itang. It is really un-Trukese to force other people who have known that special language to teach others. There are many instances where a father cannot give that language to his own beloved son; not because he does not love the son, but for certain unknown reasons, he just can't do it. I wonder whether or not this subsection (c) is not put in too strong of words for pressure on my chief or your chief. Aside from the injustice which I feel this article has done to our tradition and our Micronesian way, the intention of putting the traditional leaders in the national government to preserve the traditions of Micronesia is, to me, unwarranted. First of all, it is unwarranted because there is actually no "Micronesian" tradition. Secondly, through experience, I have never heard of

complaints by any traditional leaders over the passage of any legislation by the Congress of Micronesia because it is inconsistent with our tradition. This will, I think, continue to be the case. Our tradition will be even more protected under the Constitutional Government by virtue of the fact that not only the Congress of Micronesia shall be manned by Micronesians, but the judiciary and executive branches of our government as well. These are Micronesians, born in Micronesia, grown up and nurtured in Micronesia, therefore, they cherish so dearly the Micronesian traditions.

With this thought in mind, I support the proposed amendment by my colleague from Ponape. Thank you, Mr. Chairman.

The motion to adopt Amendment No. 15 to Committee Proposal No. 24, as amended, carried and was adopted by the Committee of the Whole.

Delegate Williander: Mr. Chairman, I have concern on page 10 of Committee Proposal No. 24, the Section 5 which has been amended to Section 3. I checked Committee Proposal No. 14, Section 11, and it took care of the first sentece, line 4 to line 6. The second sentence bothers me because, to me, it means that the traditional leaders don't have a right to vote, do not have the right to run for election, or the right to hold public office. I don't think it belongs there. Therefore, Mr. Chairman, I move to delete Section 3 in its entirety.

Delegate Falauruw seconded the motion.

Chairman Tman: Motion has been made to delete in its entirety the Section No. 3 which was previously Section No. 5. We need to suspend the rule. If there is no objection from the Committee, we will proceed to consider the amendment, assuming the rule has been suspended for this purpose.

Motion to delete Section No. 3, previously Section No. 5, of the article on the role of the traditional leaders, as contained in Committee Proposal No. 24, as amended, carried.

Delegate Sony: Mr. Chairman, I have an amendment to offer--Amendment No. 7. I believe a copy of that amendment was distributed a long time ago. On page 10, line 2, delete the word "shall" and insert in lieu thereof the word "may". Mr. Chairman, I think the purpose of my amendment is simple and clear. The word "shall" is mandatory and it will be unfair on the part of the state legislature. Putting the word "may" will avoid the possibility of forcing not only a state legislature that may not wish to do such, but also those chiefs who may not wish to have anything to do with the modern type of government, so that they would rather stick with their old and traditional way of ruling their islands or communities. That is the purpose of my amendment, Mr. Chairman, and I move for its adoption.

Delegate Falcam seconded, and motion carried to adopt the oral amendment as offered by Delegate Sony.

Motion to adopt the article on "Role of Traditional Leaders", as amended, contained in Committee Proposal No. 24, as amended, carried and was adopted by the Committee of the Whole as follows:

"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.

Chairman Tmetuchl: The Committee of the Whole has now disposed of Committee Proposal No. 24 in its entirety. I wish now to yield the Chair to Delegate Daro Weital to preside over the other deliberations regarding Committee Proposal No. 27 since he has previously been Chairman of the Committee of the Whole in considering that Proposal.

Delegate Falcam: Point of information, Mr. Chairman. Mr. Chairman, I was wondering whether the Chair would recognize that I offer Amendment No. 14 to Committee Proposal No. 24, as amended, to be attached to the article on the executive branch. This is with the idea that the Style Committee could appropriately put the amendment to where it would be more related, particularly in the area of amendments to the Constitution at a later date.

Chairman Tmetuchl: Is there any objection from the Delegates for the Committee of the Whole to consider Amendment No. 14? Since there is no objection we will proceed to consider the amendment offered by Delegate Falcam. You have the floor, Delegate Falcam.

Delegate Falcam: Thank you, Mr. Chairman. I would like the Convention to adopt Amendment No. 14 which, in essence, establishes, when needed in the future, a constitutional convention which will review this document against the changing circumstances and conditions in Micronesia. This amendment merely indicates that the National Legislature, when it so desires, will put the question to the public as to whether or not this Constitution needs to be revised, changed or improved. I believe this is routine in nature, and I urge that this amendment be adopted. I so move, Mr. Chairman.

Delegate Ismael seconded the motion.

Chairman Tmetuchl: It has been called to my attention that there are some typographical errors in the amendment as presented. For instance, the word "amendment" is misspelled. Such things should be treated as technical corrections by our staff.

Delegate Ngiraked: Mr. Chairman, I move for a short recess.

Delegate Toribiong seconded, and motion carried for a short recess, subject to the call of the Chair.

The Committee recessed at 3:40 p.m.

RECESS

The Committee of the Whole was called to order at 4:07 p.m.

Delegate Falcam: Mr. Chairman, again I would like the indulgence of the Committee. I regret that I overlooked another purely technical correction and that is: "page 25, after line 19," should be corrected to read "page 10, after line 3,". This is a technical correction to my offered Amendment No. 14 to Committee Proposal No. 24, as amended. I do appreciate the patience and hope that we consider this favorably. Thank you.

Chairman Tmetuchl: If there is no objection, we will make the technical corrections and change "page 25" to "page 10", and "line 19" to "line 3".

Delegate Nimwes: Mr. Chairman, I need some clarification regarding the proposed amendment because we have also adopted Committee Proposal No. 8, entitled "Amendments". This proposed amendment entitled "Convention" is incorporated in Committee Proposal No. 8. I wonder whether we are not duplicating efforts here because in Committee Proposal No. 8 it says "amendments to this constitution may be proposed to a constitutional convention... in a manner provided by law.". In this proposed amendment it says that every ten years there will be some kind of questionnaire, or what have you, sent out to the electorates. Can this proposed amendment be well taken care of by the already adopted Committee Proposal No. 8? I need some clarification before I case my vote, Mr. Chairman.

Delegate Falcam: Thank you very much, Mr. Chairman. I appreciate the concern from my fellow Delegate Nimwes. Committee Proposal No. 8 establishes the procedures and requirements. The proposed amendment under consideration now establishes that at least every ten years the Constitution that we have been living with at least ten years....that in view of the changing circumstances and conditions of the area, the Coustitution may need to be reexamined. This merely indicates that the National Legislature must take the initiative at least every ten years, and the rest of the procedural aspects of this are taken care of by Committee Proposal No. 8. Thank you.

Delegate Nimwes: Mr. Chairman, I have another question. Does this mean that we have to wait at least ten years before we can amend the Constitution?

Delegate Falcam: The answer is negative. We do not have to wait until every ten years.

Chairman Tman: Is there any further discussion as to proposed Amendment No. 14 to Committee Proposal No. 24, as amended? Delegate Nimwes, are you satisfied?

Delegate Nimwes: I am still trying to clarify myself on this.

Delegate Ismael: Point of information, Mr. Chairman. That was Committee Proposal No. 8?

Chairman Tman: Yes, Committee Proposal No. 8, CWD1, SD1, attached to the Committee Report No. 19. We will have a very short recess so that everyone can locate the correct Committee Proposal and Committee Report.

The Chair called a short recess at 4:15 p.m.

RECESS

The Committee of the Whole was called to order at 4:17 p.m.

There being no further discussion, vote was taken on the adoption of proposed Amendment No. 14 to Committee Proposal No. 24, as amended.

Motion carried, and the Committee of the Whole adopted Amendment No. 14 to Committee Proposal No. 24, as amended.

Chairman Tman: The Chair will now yield the Chair to Chairman Weital for the Committee to take up deliberations on Committee Proposal No. 27 and Committee Proposal No. 25.

The Committee of the Whole recessed at 4:18 p.m.

RECESS

Chairman Weital called the Committee of the Whole to order at 4:22 p.m.

Chairman Weital: Beginning October 31st we started discussion on the Committee Proposal regarding secession and admission. Today, I hope and I believe, we will make a decision on this particular Proposal. Mr. President?

President Nakayama: Mr. Chairman, thank you. Committee Proposal No. 27 was assigned to the Special Committee to deliberate upon that Proposal, along with the offered amendment which was the minority proposal. The Special Committee met this morning and, after lengthy discussion, unanimously agreed to propose an amendment to the Proposal as presented by the majority report. Mr. Chairman, I move that Committee Proposal No. 27 is adopted.

Delegate Falanruw seconded the motion.

Delegate Nakamura: Mr. Chairman, since the Special Committee has come up with an amendment in order to resolve the disagreement between the Majority Proposal and the Minority Proposal, I move to withdraw my Amendment No. 1, the Minority Proposal to Committee Proposal No. 27 regarding secession.

Mr. Chairman, I do this due to the fact that my chief, high chief, and our representatives and the members of the Special Committee have come up with a good amendment. However, I want to be indicated in our record that my conscience still bothers me due to the fact that this inalienable right should not be prohibited in this Constitution. I, however, move to withdraw my amendment.

Delegate Toribiong seconded the motion.

Chairman Weital: It has been moved and seconded that the motion offered during the past days be withdrawn. I see no disagreement, so the Chair declares that the amendment in the form of a minority proposal has been withdrawn. May I recognize the President.

President Nakayama: Mr. Chairman, now that the minority position has been withdrawn, I move that Committee Proposal No. 27 is amended by Amendment No. 1 as proposed by the Special Committee.

Floor Leader Tman seconded the motion.

Delegate Apis: Mr. Chairman, I have a minor observation on Section 1, line 3, where it says "and to promote and advance the principles of unity". It is kind of vague here and I am just wondering if we should insert the word "national". This can mean state unity, too, and I am just wondering if it is the intention here to refer to the state unity.

Delegate Sony: Mr. Chairman, I think it is clear that we are drafting the national Constitution, so I think that "unity" refers to "national unity" rather than "state unity".

Delegate Williander: Mr. Chairman, I am afraid I disagree with my colleague, Iskia Sony, because we cannot unite the islands. I think here it refers to the unity of the people instead of uniting the islands. We cannot move one island to connect it with another island.

President Nakayama: Mr. Chairman, I am not going to try to answer the inquiry, but I would just like to point out that if you finish reading the sentence, it says "advance the principles of unity upon which this Constitution is founded.". Now, if I can direct your attention for a moment to the Preamble to our Constitution, it does speak of unity. And I think that because the Constitution is founded upon that kind of unity, it is the unity that the Constitution speaks of.

Now, I would like to strengthen my report by saying that the Special Committee, after lengthy discussion, unanimously agreed to delete the section on secession. There were varied opinions in the Committee; there were members who wished the Constitution silent on the question on secession, and there were members who would not like to see it silent on that question. After further discussion and deliberation by your Committee it was decided that, rather than being silent, we should replace that entire section with the language appearing in Amendment No. 1(a). I urge this Committee to adopt that amendment as offered by the Special Committee.

Motion to adopt the Amendment No. 1 as offered by the Special Committee to Committee Proposal No. 27 carried.

Motion to adopt Committee Proposal No. 27, as amended, carried. The Proposal is as follows:

Committee Proposal No. 27, CWD1

"A Proposal relating to secession 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, 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."

Chairman Weital: The next Proposal before this Committee is Committee Proposal No. 25. That is Committee Proposal No. 25 attached to Committee Report No. 37. Action on this Proposal was deferred to November 8 and, as pointed out this afternoon, was put on the calendar of business for today. May I recognize Delegate Nakamura.

Delegate Nakamura: Mr. Chairman, I move that Committee Proposal No. 25, and the Minority Proposal thereto, be referred to the Special Committee.

Delegate Satii seconded the motion.

President Nakayama: May I ask which Special Committee.

Chairman Weital: Yes, Mr. President. This is the Special Committee chaired by Mr. President.

President Nakayama: Could I have some instructions as to how to treat this particular Proposal?

Chairman Weital: Delegate Nakamura, do you have any instructions in mind for the chairman of that committee?

Delegate Nakamura: Mr. Chairman, I would like that committee to iron out the differences between the Committee Proposal and the Minority Proposal.

The motion to refer Committee Proposal No. 25, and the Minority Proposal thereto, to the Special Committee carried.

Chairman Weital: I believe that is all the business of this Committee of the Whole. Therefore, I declare the Committee of the Whole recessed.

The Committee of the Whole rose at 4:37 p.m.

Re: Committee Proposal No. 25, "A Proposal relating to the capital of Micronesia and jurisdiction and control over property of the national government."

Chairman: Delegate Daro Weital

The Committee of the Whole was called to order at 6:40 p.m.

Chairman Weital asked the Chairman of the Special Committee, to which Committee Proposal No. 25 was referred, to give his report.

President Nakayama: Mr. Chairman, the Special Committee, to which Committee Proposal No. 25 was assigned, was able to agree and wishes to recommend to the Convention that the Constitution be silent on the capital of Micronesia. It was the consensus of the group, due to the absence of a lot of information that may be needed in making an informed decision as to the location, that we recommend to the Convention that it is not yet time for us to make the decision here and now. Therefore, it would beg the Delegates to not include in the Constitution a provision designating the capital of Micronesia, but rather leave it open so that an agency in the future, which will be detached and unbiased politically, can make a better analysis and appraisal of the whole question and perhaps come up with a more unbiased study and designate an appropriate place where the capital will be. At the request of the Chairman of the Palau Delegation, another Committee met this morning, which was the Administration Committee, to consider the possibility of introducing to this Convention an alternate course of action to cope with the question. I am made to understand that the Chairman will introduce a resolution to effectuate that thinking. Mr. Chairman, I move that the oral report be accepted.

Delegate Tman seconded, and the motion carried to accept the oral report.

President Nakayama moved that the Committee of the Whole recommend to the Plenary the filing of Committee Proposal No. 25; Delegate Tman seconded, and the motion carried.

Chairman Weital: The Committee of the Whole will now rise and report to the Plenary.

The Committee of the Whole rose at 6:45 p.m.

SCREP. NO. 1 COMMITTEE ON ADMINISTRATION JULY 31 1975

Re: Traditional Leaders' Petition
on Interpreters Per Diem

Your Committee on Administration, to which was referred the petition from the traditional leaders and the Delegates with interpreters, dated July 9, 1975, begs leave to report its action on the petition.

The petition, dealing with per diem payment to interpreters, contains two alternatives. The first alternative is to provide the interpreters with full per diem. The second alternative proposes fifty per cent of the standard T.T. per diem here, plus housing allowance.

The basic argument forwarded in the petition is that there exist basic "humanitarian needs," and that there is no reason why the Delegates and the interpreters should be treated unequally. Although the petitioners "know that these demands are extremely reasonable and fair in light of the circumstances surrounding this Convention," it is important that they also know that satisfaction of such demands depends upon availability of funds. Realizing this, the Committee directed the Director of Administration to review the budget and see if there are funds available for reprogramming.

The Director of Administration, after reviewing the budget in conjunction with the alternatives contained in the petition, reported that $32,782 are available under the various Convention's departments. These are funds either earmarked for positions which are presently vacant or positions that are filled by Congress of Micronesia's staff or other governmental employees.

In his report, the Director also indicated that in order to meet either alternative in the petition would require considerable amount of outlay not budgeted at this time. To accommodate alternative one, it would cost the Convention $30,400 for ten interpreters. For alternative two it would cost $22,700. Although this figure includes housing allowance, it should be noted that it has already been issued to everyone.

In assessing the needs of the various departments, the Committee took into consideration the relative importance of the vacant positions to the Conventionand the uncertainty of the Congress' staff with respect to the extent of time they will be with us. In other words, if the vacant positions are cancelled, will it not impair the efficiency of the Convention's functions later on when additional staff will be required. And, if Congressional staff is suddenly recalled for an unexpected task, will there be funds available to compensate the replacements.

Having weighed out all relevant questions, the Committee decided that a "temporary freeze" on hiring be effected, unless the position to be filled is indispensable for the operation of the Convention, in which case it will be referred to the Committee on Administration for review and approval. The Committee believes that this "temporary freeze" will allow reprogramming of funds to be considered in light of the petition. Your Committee also feels that it is necessary to have a certain amount of funds on hand to meet staff's contingency needs.

In thecourse of its deliberation, the Committee decided to include the other district staffs into the context of the petition, as it would not only be fair but will prevent treatment of a similar issue later on. The decision increased the number of people under consideration from ten to eighteen. The Committee has attached a financial sheet to show various calculations, reflecting the intent of alternatives and our recommendation.

In view of the above, the Committee respectfully recommends that each interpreter and district staff receives adaily allowance of $10.00 for three

months, such allowance to be retroactive to one day after date of arrival. The reason for this is that they received one day per diem for the first day.

Signed by 12 members of the Committee on Administration

SCREP. NO. 2 COMMITTEE ON CIVIL LIBERTIES AUGUST 8, 1975

Re: Freedom of Speech and the Press (Comm. Pro. No. 1)

Your Committee on Civil Liberties, to which was assigned the task of establishing a proposal regarding the freedom of speech and the press, begs leave to report as follows:

The Committee on Civil Liberties has been engaged for the past weeks in exhaustive debate and has held comprehensive public hearings regarding the freedom of speech and the press.

The freedom of speech and the press is basic to the principles of a free and knowledgeable society. Without such freedom a society cannot grow or change, and must forever stagnate.

The Committee found that freedom of speech and the press, however, must not be unrestrained. Speech which is slanderous or which causes violent, illegal activities surely must be limited. The problem lies in establishing exactly what speech should be left unprotected by the future constitution.

In working on these issues, the Committee continually sought the advice of the community and of recognized authorities. After carefully considering the content of these opinions, the Committee has concluded that the following definitions and limitations should be incorporated into the new constitution.

Freedom of speech and press is one of the most basic of all rights. Without this freedom to communicate there could be no truly free society.

Press includes newspapers, periodicals, pamphlets and every other publication that provides a means for communication; it includes published matter, whether circulated with or without charge; it includes the right to publish, circulate, distribute and make known, and not merely the right to speak and write. The concept of press includes all forms of broadcast journalism and reporting by whatever means.

Speech includes the right to form and hold opinions and to receive opinions expressed by others, by any means of communication. It includes the freedom of the individual to speak, to write, to use the graphic arts, the theater, or any other art form that may present his ideas.

This freedom to communicate is the rule and restraint is the exception. Examples of justifiable exception is speech that incites to violence or crime, or that slanders or libels, or that is coupled with unlawful conduct, or which is obscene.

The critical question is whether speech is constitutionally protected against any form of punishment. As noted here, speech that incites to violence is not constitutionally protected. The society's interest in public order and safety of its citizens outweighs the value of this kind of speech. On the other hand, speech that simply stirs people to anger, or invites public dispute is not subject to governmental sanction. This is constitutionally protected speech.

Censorship, a form of prior restraint, is the most suspect punishment in a free society; ideas do not even get to the marketplace to compete for

recognition and acceptance. Censorship thus runs counter to the freedom of speech and press. As illustration, in the United States, an injunction to suppress as a nuisance the publication of newspapers devoted to defamatory, scandalous and scurrilous attacks upon public officials was struck down as an infringement upon freedom of the press in the landmark case of Near v. Minnesota ex rel. Olson (283 U.S. 697 (1931)). But prior restraint is permissible where the utterance or publication presents a clear and present danger to society or where it is "shown likely to produce a clear and present danger of serious substantive evil that rises far above public inconvenience, annoyance, or unrest." (Terminiello v. Chicago, 337 U.S. 1, 4 1949).

It must be stressed that this analysis is not exhaustive. Its purpose is to inform of the basic meaning and limitations of this important freedom to communicate.

Your Committee submits herewith the attached Committee Proposal, entitled "A Proposal providing for Freedom of Speech and Press.", and your Committee recommends its adoption at the next plenary session.

Signed by 11 members of the Committee on Civil Liberties

SCREP. NO. 3 COMMITTEE ON CIVIL LIBERTIES AUGUST 11, 1975

Re: Right to Petition and Peaceably Assemble (Comm. Pro. No. 2)

Your Committee on Civil Liberties to which has been assigned the task of establishing a Bill of Rights for the Micronesian Constitution, begs leave to report on the right to petition and peaceably assemble as follows:

Right to petition and peaceably assemble

Like freedom of expression, the rights to petition and to peaceably assemble are based on the premise that the governed have a right to a system under which their consent is the accepted basis of all just political authority. These political rights provide the necessary conditions upon which the governed assert their consent, and affect or change public policies.

The right to peaceably assemble recognizes man's fundamental instinct and need for group activity. It expresses the right to form or join political, economic, religious, social and cultural associations. It expresses the right to exercise essential rights, such as the right to petition, in association with others.

The rights to petition and peaceably assemble are frequently intermeshed with the freedom of speech. For example, conduct such as patrolling, marching, or picketing on streets or peaceably assembling in public places for purposes of protest against governmental policies is clearly a form of petition and assembly, where it is done by at least two persons. Yet, any of these actions also constitutes symbolic speech since it involves communication of ideas.

Although the rights to petition and peaceably assemble are stated in absolute terms and are the rules rather than the exceptions, there are limitations on these rights. An assembly must be peaceable. Although persons in exercising their right to petition and peaceably assemble are generally permitted to patrol, march, or picket in public places, the state has valid interest in keeping the public places open, safe and available for movement. But if the state is to impose a ban on any form of petition and assembly in public places, the ban must be without discrimination. To avoid potential discrimination against one exercising his fundamental rights, a governmental agency must not be given an open-ended delegation of discretionary power to grant or deny a permit for

reasons related to the government's interest in regulating the egress and ingress to public places.

However, an even-handed nondiscriminatory treatment under narrowly drawn criteria, designed to promote law and order, protect the community against disorder, regulate traffic, or protect the administration of justice and other essential governmental functions, may justify a ban on the rights to petition and peaceably assemble.

Your Committee submits herewith the attached Committee Proposal entitled "A Proposal providing for the Right to Petition and Peaceably Assemble.", and your Committee recommends the adoption of both this report and this proposal.

Signed by 8 members of the Committee on Civil Liberties

SCREP. NO. 4
MAJORITY REPORT

COMMITTEE ON
GOVERNMENTAL FUNCTIONS

AUGUST 15, 1975

Re: Power of Eminent Domain (Gens. Pro. No. 3)

Your Committee on Governmental Functions which, under the rules of procedure of this Convention, is assigned the task to consider matters relating to the functions to be exercised by government in Micronesia, has devoted a great deal of time to the question of whether the power of eminent domain should exist in the new government, and if so, how that power should be exercised and by what level of government. This task has been complicated by the fact that the power of eminent domain has been exercised by the present Trust Territory government in a questionable and sometimes abusive manner.

Eminent domain is the power of a government to take private property for public use. This power is said to be inherent in a sovereign government unless expressly denied by the Constitution. Where use of the power is permitted, it is normally limited to taking property for a public purpose upon the payment by the government of fair compensation. The determination of whether the taking is for a public use and benefit is usually left to the court to decide.

The power to take private property for public use is considered by your Committee to be an essential one if the new government of Micronesia is to be able to carry out its duties and responsibilities. Accordingly, your Committee has concluded that the new government of Micronesia must be empowered through constitutional provisions to exercise this power when necessary for the public interest.

Having disposed of this basic question, the question of which level of government should be vested with the eminent domain power must be considered. After thorough consideration and extensive debate, it is the conclusion of your Committee that in most cases the purpose for which a private property will be required for public use will be those cases in which projects of a public nature are urgently needed by a district, and that only in rare cases will the Central Government require land for projects not originated by a district. In reaching this conclusion, your Committee recognizes the need to make it possible for the Central Government to acquire private property for a public purpose in those rare cases where certain projects were not originated by a district.

In order to meet these potential requirements of both the district and Central Governments, your Committee is introducing a Committee Proposal in the form attached hereto. Under this proposal, the Central Government is required to first obtain the approval of the district government concerned before the former can exercise the eminent domain power. The approval of the district government is to be expressed to the Central Government in

the manner provided by law enacted by the Central Government. The procedure to be followed in exercising the eminent domain power by the Central Government shall be established by law enacted by the Central Government.

Your Committee wishes to express its hope, desire and intention that the power of eminent domain be used only as a last resort and that every effort be made to lease private property instead of acquiring it in fee simple; that when private property is taken for public use, just compensation be paid; and that in exercising the eminent domain power, the government must take care to ensure that no citizen or individual is rendered landless as a result; and that the government has the obligation to ensure that displaced persons as a result of the eminent domain procedure are relocated and compensated by the government.

The subject matter of Delegate Proposal No. 10, entitled "A Proposal relating to the power of eminent domain.", is included within the scope of the Committee Proposal attached to this report, and it is recommended that Delegate Proposal No. 10 be referred to file.

Your Committee submits herewith the attached Committee Proposal, entitled "A Proposal relating to the power of eminent domain.", and your Committee recommends its adoption at the next plenary session.

Signed by 11 members of the Committee on Governmental Functions, two of whom did not concur.

SCREP. NO. 4(A) COMMITTEE ON
MINORITY REPORT GOVERNMENTAL FUNCTIONS AUGUST 13, 1975

Re: Power of Eminent Domain

The Committee on Governmental Functions has reported a proposal regarding the granting of the power of eminent domain. The proposal deals with the acquisition of private land by the Central Government for a public purpose. The proposal in effect denies the eminent domain power to the Central Government, by requiring district approval for the acquisition of land through the use of the power. The undersigned members of the Committee on Governmental Functions are not in concurrence with the decision of the Committee, and we hereby submit a minority report expressing our concern.

The power of eminent domain is considered to be a very basic, inherent power of government. It is a power recognized and exercised by most if not every sovereign government in the world. We know of no example of the power being exercisable at the local level, but denied at the national level. We feel that when the national government of Micronesia needs land for a public purpose it ought to be able to acquire that land through the direct exercise of the power of eminent domain if necessary.

We feel that the reason for hesitation among some delegates to this Convention to grant the Central Government an eminent domain power is based on abuses of that power which have occurred during the past thirty years, abuses resulting from the improper use of the power by the United States Government. The present Trusteeship system in effect grants the United States Government an eminent domain power. This Constitutional Convention is considering granting the government of Micronesia an eminent domain power. We do not feel that the two should be confused, nor do we feel that abuse of the power of eminent domain by the United States during the past thirty years is even relevant to the question of granting the power to the Central Government of Micronesia, and therefore do not feel that such abuse should influence the thinking of the delegates on the question.

In addition, we feel that this Convention ought to be drafting a constitution creating a balanced federal system of government in Micronesia, one in

which both the district governments and the Central Government are assigned certain responsibilities and granted the appropriate powers to perform those responsibilities. All delegate proposals submitted to this Convention so far, even proposals calling for the most extreme form of decentralization, assign the Central Government an important role in education, health, transportation, etc. To perform its functions the Central Government may sometimes find it necessary to acquire land. The district governments will also be assigned functions requiring the acquisition of land. In order to form a balanced federal system in Micronesia, each level of government ought to be empowered to exercise the eminent domain power with respect to land it needs in the performance of the functions assigned to it by the Constitution. The general proposition of assigning one level of government a certain responsibility, but granting a different level of government a power essential to perform that responsibility, should be avoided at this Convention and can only lead to conflict between the Central Government and the districts.

All levels of government in Micronesia are going to need land for such public purposes as building roads, hospitals, schools, government offices, etc. Under normal circumstances this land can be acquired through purchase from private land owners. Only in extreme cases will the exercise of the power of eminent domain be necessary. For example, if the Central Government is building a road on a particular island and has purchased every parcel of land necessary to complete the road except one key parcel—in the absence of the power of eminent domain, the landowner of the key parcel could use his favored position to extort a grossly unfair price for the land. With an eminent domain power residing in the district governments but not in the Central Government, the district government could use its favored position to extort political concessions from the Central Government, a process not unknown in the current relationship between the district and Central Governments. Neither result is desirable in our view and the Constitution should be drafted so as to preclude their occurrence.

In summary, we feel that both the district governments and the Central Government are going to occasionally need land for public purposes and that therefore each ought to have the independent power to acquire such land through the exercise of the power of eminent domain.

Signed by 2 members of the Committee on Governmental Functions

SCREP. NO. 5 COMMITTEE ON CIVIL LIBERTIES AUGUST 16, 1979

Re: Preservation of local customs (Comm. Pro. No. 4)

Your Committee on Civil Liberties to which has been assigned the task of establishing a Bill of Rights for the Micronesian Constitution, begs leave to report on the preservation of local customs as follows:

The preservation of local customs is the intent of this Committee Proposal. Custom is such usage as by common consent and uniform practice has become the law of the place, or of the subject matter, to which it relates. Custom becomes binding when established by long usage.

Customs, however, may change and new ones emerge. But new ways of doing things do not become established and legally binding or accepted custom until they have existed long enough to have become generally known and have been peaceably and fairly uniformly acquiesced to by those whose rights would be naturally affected.

Where local custom, firmly established and widely known, is not in conflict with the Constitution or the statutory laws, the local custom will have the full force and effect of law. Additionally, all courts will take judicial notice of such local customs.

Where local custom comes in conflict with the Constitution or the statutory laws made thereunder, the Constitution or the statutory laws will prevail. For example, a custom that permits a murder victim's family to retaliate by murder, by arson, or by larceny, must yield to the statutory punishment for murder.

The substantive language of this Committee Proposal is incorporated in Volume 1, Section 102 of the Trust Territory Code. As such, it has established meaning, since it has been interpreted by the courts.

Your Committee submits herewith the attached Committee Proposal, entitled "A Proposal providing for the preservation of local customs.", and your Committee recommends its adoption at the next plenary session.

Signed by 7 members of the Committee on Civil Liberties

SCREP. NO. 6 COMMITTEE ON GENERAL PROVISIONS AUGUST 19, 1975

Re: Preamble to the Micronesian Constitution (Comm. Pro. No. 5)

Your Committee on General Provisions, to which was referred Delegate Proposal No. 100, Preamble, begs leave to report as follows:

The preamble is a part of a constitution which usually contains a statement of the purposes of the document and of the guiding intention of the representative assembly drafting the constitution. The proposed preamble does not contain a succinct legal statement of constitutional purposes, rather these purposes are more eloquently stated in its "poetry". It states that by establishing this Constitution, we are manifesting the sovereignty that has always resided with the people of Micronesia. It declares the strong desire for unity of the people in midst of diversity. It notes our origins and reviews our modern history of wars and domination by outside powers. It proclaims our national desire for peace and cooperation with other nations and peoples, and it affirms our desire to be the guardians of our own destiny.

Your Committee on General Provisions submits herewith the attached Committee Proposal, entitled "A Proposal relating to the Preamble to the Constitution of Micronesia.",and recommends its adoption by the Convention.

Signed by 9 members of the Committee on General Provisions

SCREP. NO. 7 COMMITTEE ON GOVERNMENTAL STRUCTURE AUGUST 20, 1975

Re: Basic Composition of Central Government (Comm. Pro. No. 6)

Your Committee on Governmental Structure, to which was assigned Delegate Proposal No. 33, calling for establishment of a Central Government of Micronesia, and all other proposals dealing with the overall structure of government, begs leave to report as follows:

It is the firm belief of the members of your Committee that all delegates wish their islands to be self-governing. This Convention is being held because our leaders in the Congress of Micronesia as well as the voters believe that the islands throughout Micronesia share common values and goals, including that of self-government, and that in order to attain self-government there are certain governmental functions which cannot be provided by the people or the districts acting independently. In order to perform these functions, a Central Government is necessary. Your Committee on Governmental Structure therefore agrees with the sentiments expressed in Delegate Proposal No. 33, calling for establishment of a Central Government of Micronesia.

In addition, there are now pending before your Committee on Governmental Structure twenty-six delegate proposals. Of these, Delegate Proposal Nos. 29, 77, 100, and 120 all set forth a proposed structure of the entire national government. All propose a three-branch government consisting of an executive, legislature, and judiciary. To your Committee's knowledge, there has been no serious discussion to date, either informally or in the form of a proposal or resolution, which advocates that the future government of Micronesia be other than a three-branch government consisting of an executive, legislature, and judiciary.

Although your Committee on Governmental Structure is still considering the details of each of the proposals now before it, it is clear to your Committee at this point in time that there is a consensus among delegates to this Convention that there should be a national Central Government of Micronesia, and that that government should have executive, legislative, and judicial branches. In so stating, however, your Committee wishes to clarify that it does not intend to imply or otherwise declare that such a three-branch Central Government will necessarily exclude a presidential, parliamentary, or other particular system of governmental functions.

Your Committee submits herewith the attached Committee Proposal, entitled "A Proposal providing for a three-branch Central Government.", and your Committee recommends its adoption at the next plenary session.

Signed by 9 members of the Committee on Governmental Structure

COMMITTEE ON

SCREP. NO. 8 STYLE AND ARRANGEMENT AUGUST 22, 1975

Re: Committee Proposals No. 1, No. 2 and No. 4

Your Committee on Style and Arrangement hereby submits a progress report on the following three Committee Proposals it has received:

> Committee Proposal No. 1, Committee of the Whole Draft 1, relating to freedom of expression.
>
> Committee Proposal No. 2, Committee of the Whole Draft 1, relating to freedom of peaceable assembly, association, and petition.
>
> Committee Proposal No. 4, Committee of the Whole Draft 1, providing for the protection of local custom.

All three have subjects which pertain to personal freedoms, and, together with other related provisions which we can anticipate receiving, will comprise a Bill of Rights for the Micronesian Constitution.

Your Committee on Style and Arrangement met on Thursday, August 21, and after serious consideration of these Proposals, concluded that it would be best not to report them out until after the Delegates return from the recess and your Committee has an opportunity to deliberate further on them. This decision was reached because of the following three reasons:

1. We are writing a constitution in English, a second language for most Micronesians, which is mainly unintelligible to our older citizens. As a consequence, we ought to use language which is easy to understand, and equally easy to translate. We recognize it is essential that ambiguity be avoided, and sometimes this can be achieved only by employing technical words and phrases which have well established legal meanings. Notwithstanding, to the extent possible, we believe we should avoid such expressions in favor of more commonly used terms. To avoid danger of future misunderstanding, the report of the subject matter committee,

which accompanies a Committee Proposal, can always make clear that the language used in the Proposal is intended to have the same meaning as a designated technical expression which has already become well known to persons skilled in dealing with constitutional language.

Here is one illustration: The word "abridge," as used in Committee Proposal Nos. 1 and 2, appears synonymous with "limit," "reduce," "contract," or "shorten," all words more commonly used in Micronesia. While "abridge" has been subjected to judicial interpretation, and therefore has the advantage of legal clarity, it may not be familiar to many Micronesians. Therefore, your Committee is considering whether one of the listed synonyms, or possibly another, ought to be recommended as a substitute.

2. Your Committee understands that a number of other provisions destined for the Bill of Rights are being considered and most likely will be reported by the Committee on Civil Liberties. Given their subjects, many of them will probably be in style similar to that of the provisions contained in Committee Proposals Nos. 1 and 2. Under these circumstances, your Committee desires to consult further with the Chairman of the Committee on Civil Liberties regarding the format of these other sections before concluding that the style adopted for Proposal Nos. 1 and 2 is best suited for the drafting of the Constitution's Bill of Rights.

3. Committee Proposal No. 4 proposes a means for resolving the potential problem of traditional rights coming in conflict with basic freedoms protected under the Bill of Rights. Whether it is properly phrased so as to be applicable to sections expressing protection of freedoms other than in Committee Proposal Nos. 1 and 2 is unknown. Under these circumstances, it appears best to defer action until this can be clarified.

Signed by 8 members of the Committee on Style and Arrangement

SCREP. NO. 9 COMMITTEE ON GENERAL PROVISIONS SEPTEMBER 19, 1975

Re: National Territory of Micronesia (Comm. Pro. No. 7)

Your Committee on General Provisions, to which were referred Delegate Proposals dealing with territorial jurisdiction, begs leave to report as follows:

It was the intent of your Committee that the description of the area over which Micronesia asserts territorial jurisdiction be precise enough to avoid controversy with neighboring nations while at the same time containing an element of flexibility. The first sentence of the Committee Proposal is a general statement which designates the islands comprising the nation and asserts jurisdiction over water and airspace. The inclusion of "historic right or legal title" allows us in the future to assert jurisdiction over other areas which through historic or traditional ties should properly be part of Micronesia. The second sentence insures Micronesian ownership of the resources in the waters, seabed and subsoil to a distance 200 miles out from the archipelagic baselines. The Micronesian position in the Law of Sea negotiations is consistent with the proposed provision. The final sentence of the section allows us to expand jurisdiction over waters or to bring our position into conformity with accepted principles of international law.

In the State Boundaries section, the reference to laws currently in effect guarantees that the States will be made up of the same islands which now comprise the respective Districts of the Trust Territory. It was the opinion of the Committee that Trust Territory Code designations of longitudinal

and latitudinal lines were not acceptable to divide the waters among the States. Therefore, the use of mean distances between the outermost islands was adopted as the basis for the computation of marine boundaries. It is the intent of the Committee that this method be utilized to establish fair and equitable marine boundaries in the event marine resource revenues should accrue to the State wherein the resources are found.

The section dealing with addition of territory is a very general statement allowing addition of territory subject to the approval of the people living within the territory as well as the people of Micronesia.

Your Committee submits herewith the attached Committee Proposal, entitled "National Territory of Micronesia", and recommends its adoption by the Convention.

Signed by 10 members of the Committee on General Provisions

SCREP. NO. 10 COMMITTEE ON GENERAL PROVISIONS SEPTEMBER 18, 1975

Re: Amending the Constitution (Comm. Pro. No. 8)

Your Committee on General Provisions, to which were referred Delegate Proposals relating to amending the Constitution, begs leave to report as follows:

Provisions allowing for change in the basic charter of the nation are an integral part of the Constitution. Social, economic, and political changes occur which may necessitate amending the Constitution from time to time. Procedures within the Constitution for its revision, permit an orderly and legitimate process by which a constitution can adjust to changing circumstances.

Your Committee recommends three methods be employed to propose amendment to this Constitution:

1. proposal by constitutional convention;
2. proposal by popular initiative petition; or
3. proposal by the national legislature.

Ratification of any proposed amendment would require an affirmative majority vote of the people in three-fourths of the states of Micronesia.

The constitutional convention is the method most frequently used in writing new constitutions and in revising old ones. It approaches the desired goal of popular control of the constitution-making power because delegates are specifically chosen by the people for the express purpose of revising the constitution. Proposal of amendments by popular initiative is a method permitting the people to directly introduce constitutional changes. An individual or a group of persons may sponsor a petition, collect signatures, and place a proposed amendment on the ballot for consideration in a popular referendum. The third method, initiation of proposed amendments by the national legislature, is a cheap, fast, and efficient method. It requires a minimum of planning and preparation. Organizing a constitutional convention or sponsoring an initiative petition are complex and quite expensive undertakings and require a considerable amount of time. By contrast, a legislature is already organized, has the necessary staff and facilities, and may already be intimate with the question submitted for consideration as an amendment to the constitution.

These three methods of proposing constitutional changes guarantee to the people of Micronesia alternate avenues by which amendments to their constitution may be suggested. Popular control of the government is insured. The right of future generations of Micronesian citizens to revise, reform, and change the constitution is secured.

The Committee on General Provisions was of the opinion that the future national legislature should be empowered to establish the mechanics by which amendments are proposed. The text of our Constitution should not be burdened with these detailed procedures.

Approval or ratification of a constitutional change is accomplished by submitting the proposed amendment to the people in a referendum. An amendment becomes a part of the constitution when approved by a simple majority vote on the question by three-fourths of the states of Micronesia. For example, if there are six states in the new nation of Micronesia, an affirmative majority vote in five of the six states would be required for ratification of any proposal.

The Committee draft provides a means to decide what shall prevail when conflicting amendments, presented to the voters at the same election, are adopted. Internal contradictions in the text of the Constitution may result. This may happen when legislative amendment proposals, initiative amendment proposals, or proposals originating in a constitutional convention are placed on the ballot at the same election and, though inconsistent, some or all obtain a majority of the votes cast. In such cases, the amendment receiving the highest number of affirmative votes prevails to the extent of any conflict.

Your Committee on General Provisions submits herewith the attached Committee Proposal, entitled "Amendments" and recommends its adoption by the Convention.

Signed by 9 members of the Committee on General Provisions

SCREP. NO. 11 COMMITTEE ON CIVIL LIBERTIES SEPTEMBER 22, 1975

Re: Freedom of religion (Comm. Pro. No. 9)

Your Committee on Civil Liberties, to which was assigned the task of establishing a proposal regarding freedom of religion, begs leave to report as follows:

The Committee on Civil Liberties has held extensive internal debates and discussions on freedom of religion and has conducted comprehensive public hearings in which testimony from the community was solicited.

The term "religion" refers to one's views of his relation to a Supreme Being. Necessarily, religion includes obligations that stem from one's relation to his Maker. Further, religion may include essentially political, social or philosophical views, or merely a personal moral code firmly held to with ardor and faith. Welsch v. U.S., 398 U.S. 333 (1970).

Free Exercise of Religion

The phrase "free exercise of religion" embraces two concepts--freedom to believe and freedom to act. Freedom to believe includes not only the freedom of conscience in all its religious aspects and concepts but also includes one's right to be free from religion.

Freedom to believe is absolute. No law shall compel anyone to accept any creed. The corollary of this inhibition is that everyone is allowed to adhere to any belief or disbelief as dictated by his conscience. The mind and soul of man must not be controlled.

The second concept of the "free exercise of religion" is the freedom to act as one's conscience dictates. This aspect of the "free exercise" clause includes conduct such as a particular manner of worship, freedom to distribute and sell religious literature, to hold religious meetings in public places and to raise one's children in his own faith.

However, freedom to act, unlike freedom to believe, is not absolute. Freedom to act is subject to the rights of others and the compelling interests of the

society. For example, under freedom to believe, one may believe that God demands human sacrifice, but he does not have the right to put this belief into practice. His freedom to act must yield to the society's compelling interest in the preservation of life. In the final analysis, it is the court that must weigh the competing values on a case by case basis. The problem, as indeed it is in all fundamental right cases, is this: is it more important to a society to restrain a particular liberty at a certain time and under certain circumstances or to permit its free exercise.

The Establishment Clause/The Principle of Separation of Church and State

Since governments by nature can be intrusive and since religion is an entirely private matter, it is necessary to keep religion out of the domain of public affairs. The "establishment clause", that is, the principle of separation of church and state, is a means to ensure the freedom to believe and act, i.e., the free exercise of religion.

The "establishment clause", however, is not hostile to religion. Accommodations by state to church may be permissible where such do not infringe upon the free exercise of religion. For illustration purposes, a state may, on the basis of general public policy, provide bus transportation, free lunches, free medical care and like auxiliary services to all children in school, including those attending parochial schools. In determining the permissibility of state aids to parochial schools, the court may use as guidelines the following three-part test:

1. The statute that provides for auxiliary services to all schools must have a secular legislative purpose, e.g., Epperson v. Arkansas, 393 U.S. 97.

2. The statute must have a "primary effect" that neither advances nor inhibits religion, e.g., School District of Abington Township v. Schempp, 374 U.S. 203.

3. The statute and its administration must avoid excessive governmental entanglement with religion, e.g., Walz v. Tax Commission, 397 U.S. 664.

An important point of emphasis is that the "establishment clause" is only a means to ensure the free exercise of religion.

Signed by 10 members of the Committee on Civil Liberties

SCREP. NO. 12 — COMMITTEE ON STYLE AND ARRANGEMENT — SEPTEMBER 22, 1975

Re: Three-branch central government (Comm. Pro. No. 6)

Your Committee on Style and Arrangement hereby submits its report on Committee Proposal No. 6 - a three-branch central government:

In the consideration of the first few Committee Proposals referred to it, your Committee on Style and Arrangement is being called upon to make style decisions which will constitute precedents for Proposals later to be considered. As a consequence, your Committee will call attention to these matters, even though no amendment is being recommended for the specific Proposal being reported upon.

Tentatively, your Committee has decided that the Constitution should be divided into Articles, and each Article into one or more Sections. Each Article will be numbered, and have a title; each Section will be numbered and have a heading. Such titles and headings are only included to facilitate use of the constitutional document, and will not constitute part of the Constitution, nor are they intended to be used in interpreting or limiting its contents. Except where necessary to make some corrective

change prior to passage on Second Reading, Article and Section numbers will be allowed to remain either blank or numbered, as found in the Committee Proposal considered, to be subsequently modified in the arrangement of the final form of the Constitution. The same applies to Article titles and Section headings.

This Committee Proposal was the first which required the Committee to choose the style it would suggest be adopted in writing the Constitution. Called upon to decide between a prescriptive style ("There shall be..."), a declaratory style ("There is..."), and a descriptive style ("The national government consists of..."), the Committee recommends the use of the prescriptive form. As Committee Proposal No. 6 is phrased in this style, no amendment is necessary. However, amendments may be recommended for Proposals subsequently received so as to have them conform to the same style.

Your Committee recommends that the reference to "central government" in the title and body of Committee Proposal No. 6 be changed to "national government". Both carry the intent of referring to the government of the new political entity being created. However, "central" also incorporates overtones of geographical placement as well as of importance, and possibly even of dominance. These overtones were apparently not intended by the Committee on Governmental Structure which proposed the measure, as in its Committee Report No. 7 it used both designations as synonyms, as well as combined them both in a single reference to "national central government". Your Committee therefore proposes that the designation "national government," which is in common usage throughout the world, be substituted both in the title of the Proposal, in the Section heading on line 2, and in the body of the Section on line 3.

Unless and until a Proposal is adopted by the Convention which incorporates a specific name for the new government, the Committee will continue to apply the designator "national government" as appropriate, and will recommend amendments of this nature to all Committee Proposals submitted to it before final passage on Second Reading in which the designations "general government," "state government," etc., are incorporated.

Your Committee on Style and Arrangement submits herewith Committee Proposal No. 6, SD 1, incorporating the change of designator from "central government" to "national government" discussed in this report, and recommends the adoption of these amendments before the passage by the Convention of Committee Proposal No. 6, SD 1, on Second Reading.

Signed by 9 members of the Committee on Style and Arrangement

SCREP. NO. 13 — COMMITTEE ON STYLE AND ARRANGEMENT — SEPTEMBER 22, 1975

Re: Preamble (Comm. Pro. No. 5)

Your Committee on Style and Arrangement hereby submits its report on Committee Proposal No. 5 - Preamble:

Committee Proposal No. 5 presents a Preamble which constitutes an introduction to the Constitution, providing a setting for appreciating the significance of the details incorporated into the body of the document. The provisions of the Preamble are not intended to be enforceable as law, nor to be a source for augmenting the powers of any unit of government as granted or limited by the Constitution.

We are impressed by the beauty of phraseology employed in the Preamble, and the flow of ideas it expresses. The few amendments which are recommended by your Committee are designed either to avoid possible misunderstandings or, in one case, to conform the Preamble to the punctuation style being adopted for the entire Constitution.

Amendment No. 1:

As the Constitution is a formal document, your Committee recommends that a "closed punctuation" style be adopted for any series of three or more items. As a result, on page 1, line 5, a comma should be added after the word "past":

page 1, line 5: "in peace and harmony, to preserve the heritage of the past, and to protect"

Amendment No. 2:

In the third paragraph on page 1, line 9, refers to not being "divided" while in the fourth paragraph on the same page, line 13, carries a reference to "having been divided". To eliminate any possibility of seeming conflict, it is recommended that the word "separate" be substituted for "divide" in line 9:

page 1, line 9: "they do not ~~divide~~ separate us. Our islands sustain us, our island nation enlarges"

Amendment No. 3:

The fourth paragraph on page 1, line 11, refers to "found their homes". This has several possible meanings, including "discovered." However, what appears to be the intent is "made." It is therefore recommended that "made" be substituted for "found":

page 1, line 11: "Our ancestors, who ~~found~~ made their homes on these islands displaced"

Amendment No. 4:

In the fifth paragraph on page 1, line 15, reference is made to the beginnings of Micronesian life, which may imply that it started only with people sailing to the Islands. However, the legends of some of the areas in Micronesia tell of their peoples originating in the Islands. It obviously was not the intention to have the Preamble attempt to establish when Micronesian life began. By changing the focus to "Micronesia", that is, the Micronesian society, which by its scope requires inter-island movement, the problem is eliminated:

page 1, line 15: "~~Micronesian life~~ Micronesia began in the days when men explored seas in rafts"

Amendment No. 5:

To adopt a style which reduces capitalization to a minimum, the word "Peace" on line 3 of page 2 is reduced to lower case "peace". And to indicate more adequately the sentiment that "recognition of our common humanity" is an expression of love based on the common humanity of the world, lines 3 and 4 are modified accordingly:

page 2, lines 3 and 4: "what we seek from each: ~~Peace~~ peace, friendship, cooperation, and ~~the recognition~~ of love in our common humanity. With this Constitution, we who have"

Your Committee on Style and Arrangement submits herewith Committee Proposal No. 5, SD 1, incorporating all of the amendments discussed in this report, and recommends the acceptance of these amendments by the Convention before the adoption of Committee Proposal No. 5, SD 1, on Second Reading.

Signed by 9 members of the Committee on Style and Arrangement

Re: Citizenship, Naturalization and Immigration (Comm. Pro. No. 10)

Your Committee on General Provisions, to which were referred Delegate Proposals dealing with citizenship, naturalization and immigration, begs leave to report as follows:

It was the opinion of your Committee that a restrictive definition of citizenship be adopted. Some persons who are not made citizens under the Committee Proposal will be given the status of "nationals".

The terms "citizen" and "national" both refer to the status of an individual in his relationship to the state. The word "national" has a broader meaning than "citizen". The domestic law term "citizen" is applied to persons with full political and civil rights. "National" is an international law term applied to citizens, as well as persons who, while not citizens, owe permanent allegiance to the state and are entitled to its protection. Under the Committee Proposal all citizens will be nationals of Micronesia, but all nationals will not be citizens.

The importance of nationality is clear in international law and domestic law. In the present international system, the state is thought of as the legal entity having rights under international law. Thus, the legal rights of the individual in international law are derived primarily from the state of which he is a national. That state is normally the only state which can press his claims or represent him through diplomatic channels or before international tribunals. If he derives protection or advantage under treaties, it is because of his status as a national of the state which is one of the parties to the treaty.

In domestic law the tie of nationality is recognized as a basis for the state's jurisdiction over the individual. No other state has the power or right to object to the manner in which a state treats its own nationals. Frequently, political and civil rights are not extended to nationals but are automatically given to citizens. The right to vote for or to run for elected office in the government, the privilege of appointment to certain positions, the right to own and sell land, etc. are examples of status distinctions which may be made between nationals and citizens.

Your Committee considered many proposed classifications for inclusion in the citizenship section. Under section 1 all persons who are citizens of the Trust Territory of the Pacific Islands on the day the Constitution becomes effective will become citizens and nationals of Micronesia. This guarantees that no person who is now a citizen will be excluded under the definition. Section 2 grants citizenship to any person born of parents at least one of whom is a Micronesian citizen regardless of where they are born. Since this classification is fairly broad, the Committee inserted section 3 which requires that Micronesians who are also citizens of some other state register their intent to retain Micronesian citizenship and renounce their citizenship of any other state, within three years of becoming age 18 or within 3 years of the effective date of the Constitution. Failure to register this intent will result in a loss of Micronesian citizenship. However, due to their blood ties with Micronesia, they will retain their status as nationals of Micronesia.

The Committee felt that the affirmative requirements of section 3 will guarantee that persons granted citizenship truly intend to remain with Micronesia. Dual citizenship is not allowed under the Committee Proposal. A more rigid requirement of physical presence within Micronesia for a specified term of years was not adopted since the Committee felt that this might work unfairly against those working, in school, or unable to afford transportation costs.

Section 4 grants national status to any minor found within Micronesia whose parents are unknown. Other constitutions contain similar provision. The intent of this provision is to provide protection for children who may in

the future be abandoned in Micronesia. The occurrence of such events will likely be rare but your Committee feels that this is an appropriate safeguard.

Section 5 of the Proposal refers to Trust Territory citizens who become nationals of the United States of America under the terms of the Covenant. Under section 302 of the Covenant, a person who declares under oath that he intends to be a national and not a citizen of the United States, within six months of the effective date of the section of the Covenant which granted him citizenship or within six months of reaching 18 years of age, shall become a United States national only. This proposed provision anticipates that there will be persons in the Marianas who prefer to be citizens of Micronesia. This may be due to family ties or the desire to retain land ownership rights in the states of Micronesia. The Committee agrees that the act of renouncing United States citizenship is a sufficient guarantee that these persons have the requisite intent to be Micronesian citizens. Therefore, section 5 allows them to become Micronesian citizens by applying to a Micronesian court of competent jurisdiction. The words "may become citizens" were used so that the courts will be able to consider the circumstances and background of each applicant before citizenship is granted.

Section 6 specifies that the citizenship and nationality section will apply both retroactively and prospectively. This means that in the future we can always look to this provision in order to determine a person's citizenship. For example, if an infant should be found prior to the ratification and effective date of the Constitution, his status will be determined at a later date according to section 4, although it was not effective at the time he was found. Without this section, which makes the provision apply to the past as well as the future, we would often have to investigate a person's status under other laws in order to know his status under Micronesian law.

In order to be consistent with the expressed desire to be restrictive in terms of citizenship, your Committee felt that only specified groups should be eligible for naturalization as citizens. Naturalization is the procedure by which aliens are allowed to become citizens, with all the rights and privileges of all other citizens. By inserting certain classes as the only persons eligible for naturalization, we are able to limit the future power of Congress to expand the class of citizens. Under the Committee Proposal only Micronesian nationals, persons adopted when under the age of 8 years by a Micronesian citizen, and spouses of Micronesian citizens are to be eligible for naturalization as citizens. It is left for the future Congress to establish other requirements and procedures for these specified classes to meet prior to becoming citizens.

Immigration is the process by which aliens are admitted to a country for the purpose of establishing permanent residences. Under present Trust Territory laws there is really no immigration since no one is allowed into Micronesia for this purpose. There are procedures through which tourists and workers may enter but many other persons, such as some spouses of Micronesian citizens, are illegal "immigrants". The current Trust Territory immigration laws, or lack thereof, are the result of military control over what is termed a strategic area. Your Committee recognizes that this restrictive policy helps to protect Micronesian culture and tradition from "harmful" outside influences. However, an overly restrictive policy which seriously impedes the entrance of wanted or needed aliens may not be desirable in the future.

The Committee Proposal on Immigration leaves to the future Congress the task of establishing eligibility requirements and procedures. The need for alien immigrants will change as conditions in Micronesia change and therefore it is not desirable to include eligibility requirements in the Constitution. Leaving this area to the Congress insures that immigration laws will be susceptible to necessary change under future conditions and needs.

Your Committee on General Provisions submits herewith the attached Committee Proposal, entitled "Citizenship, Naturalization and Immigration" and recommends its adoption by the Convention.

Signed by 11 members of the Committee on General Provisions

SCREP. NO. 15 — COMMITTEE ON STYLE AND ARRANGEMENT — SEPTEMBER 24, 1975

Re: Eminent Domain (Comm. Pro. No. 3)

Your Committee on Style and Arrangement hereby submits its report on Committee Proposal No. 3 (CWD 1) - Eminent Domain.

This Proposal is the first received by the Style Committee which contains a reference to "district." Unless and until a Proposal is adopted by the Convention which incorporates a specific name for the regional units of government in Micronesia, your Committee will continue to apply the designation "district", and will recommend amendments as appropriate to other Proposals received in which some other general classifier for the regional units of government is used.

On line 3, your Committee recommends the deletion of the word "hereby" as it is superfluous. The Constitution itself will declare the location of the eminent domain power.

Your Committee recommends that the phrase "by law" be adopted as the standard means for referring to normal legislative action, approved by the executive, and having the force of law. As a consequence, it is recommended that lines 4 and 5 of the Committee Proposal be amended to incorporate this standard phraseology:

Lines 4 and 5: "Upon request by the national government, a district legislature may, by law, grant to the national government ~~by legislative action~~ the right to"

Your Committee on Style and Arrangement submits herewith Committee Proposal No. 3 (CWD 1) (SD 1), incorporating the amendments discussed in this report, and recommends the acceptance of these amendments by the Convention before the adoption of the Committee Proposal on Second Reading.

Signed by 11 members of the Committee on Style and Arrangement

SCREP. NO. 16 — COMMITTEE ON GENERAL PROVISIONS — SEPTEMBER 27, 1975

Re: Supremacy of the Constitution and Sovereignty of the Micronesian People and State (Comm. Pro. No. 11)

Your Committee on General Provisions, to which were referred Delegate Proposals dealing with supremacy of the Constitution, begs leave to report as follows:

The intent and purpose of this proposal is to provide in the Micronesian Constitution a clear expression of the sovereignty of the Micronesian people and State. It provides that the Constitution shall be the supreme law of Micronesia, meaning that no other document, law, or treaty shall be given legal effect greater than the Constitution. Laws enacted by the national legislature or passed by district legislative bodies and ordinances promulgated on a local level must be in conformance with this Constitution. Likewise, any treaty, compact, covenant, or other agreement with an international organization or with another foreign state must conform to the provisions of the Constitution. Any act of government, law, or agreement that conflicts with any provision in the Constitution shall be invalid to the extent of the conflict.

Not all constitutions are supreme. Constitutions of political subdivisions of a nation are generally subdominant and inferior to the basic charter of the state. For example, state constitutions in the United States are inferior to the Constitution of the United States.

A statement of the supremacy of the Micronesian Constitution means that it will be the basic charter of the nation. No other documents will be given greater authority. No foreign court will have the legal competency to interpret its provisions.

It is expected that the new government of Micronesia will enter into an agreement or compact with the United States. This agreement may parallel the areas of accord reached in negotiations for a Compact of Free Association between the People of Micronesia and the United States of America. Anticipating that such an agreement with the United States may involve delegation of certain governmental functions and powers to the United States, the second section of the proposal lists certain rights of the Micronesian people that cannot be prejudiced, delegated, or diminished. This section guarantees traditional and civil rights provided in the Constitution, the right that only Micronesian citizens can own land in Micronesia, the right of ownership and disposition of all resources, and the sovereign status of Micronesian State under international law.

The section containing the terms "prejudice, delegate, or diminish" is an important addition to the statement of supremacy contained in the first section of the Committee Proposal. A treaty provision in obvious conflict with a section of the Constitution will be invalid to the extent of such conflict. However, the case may arise where a treaty is not in actual conflict with a Constitutional provision, yet may "prejudice, delegate or diminish" certain provisions in the Constitution. For this reason, the Committee on General Provisions has enumerated certain fundamental and inalienable rights of the Micronesian people that may not be altered by agreement or treaty.

The international legal effect of failure to comply with a constitution was commented on in the Vienna Convetnion on the Law of Treaties, May 23, 1969. Article 46 provides:

> "1. A state may not invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of its internal law regarding competence to conclude treaties as invalidating its consent unless that violation was manifest and concerned a rule of its internal law of fundamental importance.
>
> 2. A violation is manifest if it would be objectively evident to any state conducting itself in the matter in accordance with normal practice and in good faith."

The second section of this proposal defines and limits the authority of any Micronesian representative to negotiate and conclude a treaty with a foreign state or international organization. It also raises the enumerated rights to a position of fundamental importance, giving all other states notice of limitation imposed on the treaty-making power of the national government.

The third section of the Committee Proposal guarantees that any agreement involving the delegation of any governmental powers shall be a treaty. The intent of this provision is aimed at any compact which may be negotiated with the United States delegating certain powers of defense or the conduct of foreign affairs. Any such agreement, whether it is called a covenant, compact, convention, protocol, or agreement, must be made as a treaty. It is not the intent of this section to define all agreements as treaties. It is generally recognized that nations may make executive agreements.

The importance of any agreement which delegates governmental powers being concluded as a treaty cannot be overstated. The Committee Proposal insures that the parties entering into agreement consider it a treaty. Thus, the

procedures established in this Constitution or by law for the negotiation and ratification of treaties must be followed. Likewise, it assures that the foreign state making an agreement with Micronesia, treat the agreement as a treaty also. The provision reasserts the international personality of Micronesia as a sovereign State. The Government of Micronesia will negotiate and conclude treaties with other nations as a party of equal legal status under international law. Interpretation of language and settlement of disputes will be a matter for resolution in international law courts if not otherwise specified in the treaty.

The Constitution symbolizes our nationhood. As the birth certificate of a nation, the Constitution is the announcement of our entrance into the international political system. It is our application for admission to the United Nations and other international organizations, and it establishes our credentials as an international personality. The Constitution is also the blueprint for our suggested federal system, assigning some powers to the national government while reserving other power to the component territorial units. The Constitution is an instrument which embodies the social contract of the people with their government. It is the organizational chart or power grid of our new nation defining powers, rights and obligations. Your Committee on General Provisions, strongly recommends that the Constitution be the supreme law of Micronesia.

Your Committee submits herewith the attached Committee Proposal, entitled "Supremacy of the Constitution", and recommends its adoption by the Convention.

Signed by 7 members of the Committee on General Provisions

SCREP NO. 17 — COMMITTEE ON PUBLIC FINANCE AND TAXATION — SEPTEMBER 29, 1975

Re. Public Auditor (Comm. Pro. No. 12)

Your Committee on Public Finance and Taxation, to which were referred Delegate Proposals dealing with an independent auditor, begs leave to report as follows:

Several issues within the jurisdiction of your Committee involve controversial and partisan rallying points of special concern to district delegations. Certainly the areas of taxation and revenue allocation fall within that category.

Other issues referred to your Committee are virtually free from vested district interests, but rather may be characterized as the fiscal aspects of good government. Such is the case of the independent auditor.

Many national governments have provided for constitutionally required periodic audits of government expenditures and reports to the legislature. The primary purpose has been to hold the executive branch to account in its expenditures, ascertaining (1) if funds have been spent legally, and (2) if they have been spent for programs and purposes encompassed by the budget which was approved.

Your Committee felt it would be inappropriate to leave the matter of establishing the position of an independent auditor to the discretion of the national legislature. It was also felt that sufficient specificity was necessary to guard against legislative efforts to control and circumscribe the independent character of the position. For these reasons, a relatively extensive Committee Proposal is now being offered to the Convention for passage. Further explanation of the five sections which comprise this Committee Proposal are offered below.

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 is appointed and confirmed.

(a) Appointment. Your Committee is of the opinion that both the executive and legislative branches of the central government should be involved in the appointing process, with the legislature exercising the final powers of confirmation and removal. This method was chosen in the interests of ensuring the selection of a highly qualified and rigorously objective Public Auditor. It is assumed that expertise available in the executive branch will be employed to ascertain the most qualified nominee. It is also assumed that the legislative branch will only confirm an individual who will perform his functions in such a manner as to permit the legislature to be placed on notice of any expenditures which are inconsistent with the law.

(b) Term of Office. The Committee specified a term of four years for the Public Auditor with the additional language, "and thereafter until a successor shall have been appointed and confirmed."

It was felt that a four-year term was sufficiently long to attract a qualified, career-orientated individual, but not so lengthy as to prevent periodic review ensuring continued efficiency. If, at the expiration of a four-year term, the current chief executive is satisfied with the work of the Public Auditor, he could reappoint the same individual for another four-year term, subject to the advice and consent of the Legislature. There is no prohibition against successive terms for a person serving in the position of Public Auditor. If, on the other hand, the legislature were to disapprove such a renomination at the expiration of a four-year term, the individual would remain in office until either (1) another executive appointee was confirmed, or (2) he was removed from office for cause by the legislature pursuant to the Constitution.

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.

While the primary purpose of the Public Auditor is to inspect and audit the executive branch in its expenditure of central government public funds, your Committee does not intend for the Auditor's office to be used as a political device of the legislature to discredit the particular executive in office. In the performance of his functions, the Public Auditor is to be an impartial and objective public servant, neither manipulated by the legislature nor intimidated by the executive. Although laws inevitably will be passed expanding the Auditor's functions and duties, in the performance of those functions and duties he must be independent of political influence and administrative controls. This characteristic of "independence" is the principal motive behind your Committee's inclusion of a Public Auditor provision in the Constitution.

Section _____. Functions and Duties. The Public Auditor shall inspect and audit all public accounts and shall report the result 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.

Your Committee adopted this provision for inclusion in the Constitution recognizing the implied power it conveys to the Public Auditor. Simply put, it means that the Public Auditor shall have the power, as well as the responsibility, to inspect and audit all public accounts and report his findings to the legislature no less than once a year. This provision includes the power and duty to audit and inspect accounts which may (e.g. for reasons of national security) be characterized as not for public disclosure. The legislature may, in its discretion, pass laws which safeguard the integrity of the resultant reports of such an inspection. Generally speaking, however, the reports of the Public Auditor are to be matters of public record. Without this provision the legislature, as well as the general public, is inherently at a disadvantage in understanding how the executive is spending public funds. With reports from the Public Auditor, the lawmakers can gain the knowledge of program operations necessary to its review of the executive, one of the prime constitutional duties of the legislative body.

Section _____. Jurisdiction. The jurisdiction of the Public Auditor shall extend to all branches, departments, agencies, and statutory authorities of the central government and to other public entities receiving public funds from the central government.

With or without a constitutional formula for revenue sharing of central government funds with the districts, it is again said that there will be central government collected and/or levied funds expended in the several districts of Micronesia. Your Committee determined that the Public Auditor should inspect and audit, as a matter of duty, financial accounts of district and local government which contain central government funds.

In addition to this mandatory jurisdiction, the Public Auditor may, upon the request of a district or municipal government, perform audits on accounts which do not contain central government funds.

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.

In order to protect the independent status of the Public Auditor, your Committee has prescribed a two-thirds vote for removal and a showing of cause for such removal. Since it is not known at this time whether the Convention will adopt a unicameral or bicameral national legislature, participation in the two-thirds vote has been left blank. Should the Convention adopt a bicameral legislature, your Committee recommends that a vote of two-thirds of the entire membership of the upper house (Senate) be necessary for removing the auditor. Should the Convention adopt a unicameral legislature, the requisite vote for removal would be two-thirds of the entire membership of the legislature.

The provision for temporary appointments by the Chief Justice was inserted to take care of the situation where legislative removal has created a vacancy in the position of Public Auditor. Your Committee recognizes the possibility that (1) executive delays in making an appointment, (2) lengthy confirmation procedures, or (3) legislature rejections of appointees, all may account for long intervals in which there would be no Public Auditor. To avert this situation, the Chief Justice was given the authority to make temporary appointments.

Your Committee on Public Finance and Taxation submits herewith the attached Committee Proposal, entitled "Public Auditor" and recommends its adoption by the Convention.

Signed by 8 members of the Committee on Public Finance and Taxation

SCREP NO. 18 — COMMITTEE ON STYLE AND ARRANGEMENT — SEPTEMBER 30, 1975

Re: Territory of Micronesia (Comm. Pro. No. 7)

Your Committee on Style and Arrangement hereby submits its report on Committee Proposal No. 7 (CWD 1) (CWD 2) - Territory of Micronesia.

Committee Proposal No. 7, as amended in the Committee of the Whole, refers to both the national territory and to the territory of the regional governments within Micronesia. In both cases, the name "state" is used for the entity whose territory is referred to. Rather than continue this dual and potentially ambiguous use, your Committee recommends that the designation "nation" be employed for the whole entity, and "district" be used for the regional (as previously recommended in your Committee's Report No. 15). Once the Convention agrees upon names for the national and regional governments of the new nation, the necessary substitutions can be made in the complete draft of the Constitution before its adoption on Final Reading.

Amendments designed to accomplish this purpose, and to make language changes to accommodate them, are incorporated in the draft attached.

In the second section of the Proposal, on page 2, reference is made to fixing a boundary between two districts using a "principle of computing mean distances between the outermost islands of adjacent districts". Exactly how this would be applied is not clear, but apparently it is intended to approximate what is known in international law as the "principle of equidistance" which, based on the dialogue of the law-of-the-sea conferences, would draw arcs with radiuses of 200 miles around the outermost islands of each district, and the boundary would then be determined where the arcs bisect. Your Committee recommends that the more specific "principle of equidistance" be substituted in the Proposal.

In the last sentence of the last section in the Proposal, a comma has been added, to set off the conditional clause with which the sentence starts.

Your Committee on Style and Arrangement submits herewith Committee Proposal No. 7 (CWD 1) (CWD 2) (SD 1), incorporating all of the amendments discussed in this report, and recommends their acceptance by the Convention. (It will be found that all amendments made in the Committee of the Whole have been incorporated into the body of the Proposal, and your Committee's recommendations are shown in strike out (delete) and underline (add) type; if this innovation is found satisfactory, it will be followed in subsequent reports of your Committee.)

Signed by 9 members of the Committee on Style and Arrangement

SCREP. NO. 19 — COMMITTEE ON STYLE AND ARRANGEMENT — SEPTEMBER 30, 1975

Re: Amendment of Constitution (Comm. Pro. No. 8)

Your Committee on Style and Arrangement hereby submits its report on Committee Proposal No. 8 (CWD 1) - Amendment of Constitution.

Two minor amendments are recommended:

a) In line with its previous reports, your Committee recommends that the designator "districts" be substituted for "states" in the second sentence. As indicated, this will be replaced in the final draft of the Constitution when the Convention adopts specific names for the national and regional governments.

b) The same sentence refers to the vote cast upon "that question". Your Committee recommends that this be changed to "that amendment". While the question before the voters will be whether or not to adopt the amendment, the vote is cast on the amendment.

Your Committee on Style and Arrangement submits herewith Committee Proposal No. 8 (CWD 1) (SD 1), incorporating the two amendments discussed in this report, and recommends their acceptance by the Convention. (It will be found that all amendments made in the Committee of the Whole have been incorporated into the body of the Proposal, and your Committee's recommendations are shown in strike out (delete) and underline (add) type; if this innovation is found satisfactory, it will be followed in subsequent reports of your Committee.)

Signed by 8 members of the Committee on Style and Arrangement

Re: Budget Process (Comm. Pro. No. 13)

Your Committee on Public Finance and Taxation, to which were referred Delegate Proposals dealing with the national budgetary process, begs leave to report as follows:

It is generally accepted that the preparation of a national budget is essential in ensuring responsibility and efficiency in government. The budget is a plan which sets forth the priorities of society in allocating its resources. Accordingly, as in other areas of public finance, it is readily apparent that questions of political and social philosophy merge with principles of sound management, yielding hybrid concepts of the budgetary process.

One view of this process, which assists in identifying the issues involved is that of a contract under which the programs of government are to be conducted for the fiscal period. Taking this approach, a group of people who have formed a political unit, such as a nation, then contract with that unit for the provision of governmental services. To represent the interests of the people in the contractual process, legislators are selected to act on their behalf. These representatives (the legislature) are charged with the responsibility of ensuring that the funds entrusted to the government, in the form of tax revenues and other receipts, are spent in accordance with the needs of society, upon whose behalf they act.

To assist in this task the executive branch of government, to which is given the management function, may lend the expertise gained in the operational sphere. Specifically, in many modern governments, this assistance takes the form of grouping functions and expenses into a programmatic plan. Tentative in nature, the plan may then be passed to the legislature to be used as a framework, within which that body must decide if the priority of needs of its constituency will be met.

It is at this point in the analysis, using the contract analogy, that a debate exists--more philosophical than fiscal--concerning how to best ensure serving the needs of the people. Various mechanisms have been developed and tested which weight the balance of responsibility for the budgetary process more heavily on the side of either the executive or legislative branches. The balance to be struck is generally thought to involve the elements of fiscal responsibility and expertise, embodied in the executive branch of government, and the close representational ties to the people, which rests with the legislative. Your Committee considered at length how to best provide for a budgetary system suited to the unique needs of the people of Micronesia; the outcome of these deliberations is discussed below.

Your Committee was also concerned that principles of sound management--termed "good government" in the public sphere--be anchored firmly in the constitution itself. This was viewed as superior to leaving this important characteristic of government to future legislative enactment. Returning to the contract analogy, it was deemed preferable to establish certain constitutional ground rules by which the contract would be drawn each fiscal year, which would remain constant over time. Common sense dictates that efficient managerial techniques and sound fiscal administration will flourish more readily within a fixed operating pattern.

To provide a fundamental and broad basis for fiscal efficiency, and to provide for the application of those several principles which your Committee has determined to be best suited for Micronesia, a comprehensive Committee Proposal regarding the budgetary process was drafted, and is now offered to the Convention for adoption. Specific discussion of the three sections comprising this Proposal are set forth below.

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 or omit any item in the proposed annual budget submitted by the Executive.

(a) Budget Submission. It is the sense of your Committee that the executive branch of government, being the repository of managerial expertise, is best suited to devise an organizational plan for expenditures. The approach taken in this section allows the utilization of such proficiency, without sacrificing the flexibility of legislative alteration to best serve the public needs. Depending upon the working relationships which exist at a given time, between these two branches of government, the comprehensive plan could serve as the actual budget, to be ratified by the legislature without modification, or simply as a flexible proposal which the legislature might use to develop its own plan, tailored to its own understanding of the priorities of the people.

(b) Relating Expenditures to Revenues. Your Committee believes that sound fiscal management requires programmatic reflection of anticipated receipts and disbursements. Here again, flexibility is the hallmark. Through enactment of laws, the legislature might deem it advisable to key certain expenditures, for example highway maintenance, to a specific source of revenue, such as a tax on gasoline. Moreover, in considering whether to authorize borrowing on the nation's credit, the legislature will have, under this provision, a schematic outline of the public sector's finances, which will indicate "soft spots" which are not self-supportive. It seems clear that a "balance sheet" will encourage fiscal responsibility in government as it does in business.

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.

Your Committee has concluded that sound fiscal planning requires action on the national budget before extraneous appropriation measures are considered. This is to ensure first, that the continuity of services is not broken and, secondly, that funds that are perhaps required in the master plan are not spent in less crucial areas through oversight.

There are two exceptions to this statement of priority. First, the Executive may recommend immediate passage of appropriation bills not budgeted within the general budget. This exception is essential, since not all funding requirements may be foreseen. To illustrate, if there were a typhoon or other national calamity requiring disaster relief, the executive would be able, under this provision, to recommend immediate enactment of an appropriation bill to release emergency funds.

The rationale supporting the second exception seems clear. Your Committee recognizes that, without the requisite operational funds, the legislature would be able to conduct no business--not even the appropriation of funds for the National Budget. Since this part of the legislative workload is given priority by the constitutional mandate of this section, it is logical to provide therein for the wherewithal to proceed.

Section _____. Item Veto. The Executive may strike out items in appropriations 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.

Your Committee feels that this section is mandatory, in order to balance the natural tension of responsibility for the national budget between the legislative and executive branches. Here, the Executive branch has the initiative in the budgetary process, by compiling and submitting a comprehensive plan for expenditures. Then a corresponding assignment of power is made to the legislature, by granting it the power to alter, increase or decrease, add or omit items within the executive's plan. This section provides additional discretion for the executive branch, enabling that branch to veto items upon which it does not share the view of the lawmakers.

Under this provision, such item veto may be accomplished without disapproval of the national budget as a whole--a step which might imperil the public welfare.

Naturally, an item veto provided for by this section may be overridden by the legislature, in those instances when a vetoed appropriation enjoys broad political support, in the same manner as vetoes of other bills. The difference in votes required to pass the bill, and those to override an item veto, may be viewed as a measure of the power granted by this section to the executive branch. This measure is in turn dependent upon provision for veto-override elsewhere in the Constitution.

In summary, the Proposal which your Committee hereby respectfully submits to the Convention for adoption is the result of considered reflection and discussion on how best to ensure fiscal responsibility in identifying and attempting to satisfy the diverse needs of people.

Your Committee on Public Finance and Taxation submits herewith the attached Committee Proposal, entitled "Budget Process" and recommends its adoption by the Convention.

Signed by 8 members of the Committee on Public Finance and Taxation

SCREP. NO. 21 — COMMITTEE ON STYLE AND ARRANGEMENT — OCTOBER 3, 1975

Re: Citizenship, Naturalization, Immigration (Comm. Pro. No. 10)

Your Committee on Style and Arrangement hereby submits its report on Committee Proposal No. 10 (CWD1, CD1) - Citizenship, Naturalization, Immigration:

In subdivision 1 of the first section (page 1, line 5) reference is made to "citizen and national of the state of Micronesia". Thereafter, in subsequent subdivisions and sections, reference is made only to "citizen of Micronesia" or "citizen and national of Micronesia" without the phrase "of the state" being included. For purposes of consistency, your Committee recommends that the words "of the state" be removed from page 1, line 5.

Again for purposes of internal consistency, your Committee recommends on page 1, lines 9 and 12, that the word "state" be replaced by the word "nation".

Finally, your Committee proposes that the word "classes" as found on page 2, line 9, be replaced by the synonym "categories". The term "classes" can also carry overtones of higher or lower status, especially when in translation. The proposed substitution will eliminate any risk of misunderstanding.

Your Committee on Style and Arrangement submits herewith Committee Proposal No. 10, CWD 1, CD 1, SD 1, incorporating the changes discussed in this report and recommends the adoption of these amendments before the passage by the Convention of Proposal No. 10 on Second Reading. (These amendments are all shown in strike out (delete) and underline (add) type.)

Signed by 8 members of the Committee on Style and Arrangement.

SCREP. NO. 22 — COMMITTEE ON STYLE AND ARRANGEMENT — OCTOBER 3, 1975

Re: Supremacy of the Constitution (Comm. Pro. No. 11)

Your Committee on Style and Arrangement hereby submits its report on Committee Proposal No. 11 (SD 1) - Supremacy of the Constitution:

It is recommended that the same designation "nations" be used when referring to the making of treaties and agreements. Section 1 (line 7) refers to "states", Section 2(line 12) to "nations", and Section 3 on page 2 (line 10) to "states." As necessary, "nations" has been substituted.

On page 1, line 8, when referring to concurrence of governmental actions with the Constitution, provision is made for invalidity to the extent of "such" conflict. As there is no preceding reference to conflict, apparently the word intended is "any" and the substitution is recommended.

The intent of Section 2 and Section 3 may be clarified by rearranging clauses, this without changing the substantive content of either section. The recommended rearrangement is shown incorporated in the attached proposed Committee Proposal, as amended.

On page 1, line 13, it is recommended that a comma be added after the word "delegate" so as to follow the style of closed punctuation for a series of three or more items.

On page 1, line 15, it is recommended that the phraseology "Micronesia traditional rights" be used in lieu of "Traditional Micronesian rights" as being a more appropriate descriptive.

Subdivision 2, on lines 1 and 2 of page 2, is not stated in a manner which fits the style of expression adopted for the other three Subdivisions. To make it conform, it is proposed that the Subdivision read: "The limitation of the right to own land in Micronesia to Micronesian citizens only."

Your Committee on Style and Arrangement submits herewith Committee Proposal No. 11, SD 1, and recommends the adoption of the amendments proposed before the passage by the Convention of Proposal No. 11 on Second Reading. (These amendments are all shown in strike out (delete) and underline (add) type in the attached draft.)

Signed by 8 members of the Committee on Style and Arrangement

SCREP. NO. 23 — COMMITTEE ON CIVIL LIBERTIES — OCTOBER 2, 1975

Re: Bill of Rights (Comm. Pro. No. 14)

Your Committee on Civil Liberties, to which was assigned the task of establishing a proposal regarding the Bill of Rights, begs leave to report as follows:

SECTION _____. SEARCHES, SEIZURES, PRIVACY AND INTERCEPTIONS 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 persons or things to be seized.

This Section prohibits only such searches, seizures, invasions of privacy or interceptions of communication that are "unreasonable". As such, this Section is to be construed in the light of what is deemed an unreasonable search, seizure, invasion of privacy or interception of communication in a

manner so as to protect the rights of the individuals as well as the legitimate public interests. The Section applies only to governmental action (not the unlawful acts of the individuals in which the government has no part).

Security "in their persons, houses, papers and other possessions" is assured to the people. The protection includes a dwelling, a place of business, a vehicle, or any area where a person has a reasonable expectation of privacy. Communication is also secure from interception by any means.

However, the protection of individual rights, as in other instances, may yield to a superior public interest. In the just administration and enforcement of criminal laws, governmental seizure of papers, possessions, or of persons, invasion of privacy, or interception of communication, if controlled by reasonable safeguards, are indispensable needs in a civilized and ordered society. Necessarily, the apprehension, prosecution and punishment of criminals require a governmental power to seize, search, invade privacy or intercept communication. Thus, the problem again is one of balance. This Section seeks to secure that balance by a categorical denunciation of unreasonable search, seizure, invasion of privacy, or interception of communication by any means, and recognizes the legitimacy of searches, seizures, invasion of privacy or interception of communication authorized by warrants:

1. based on probable cause and supported by affidavit, and
2. particularly describing the place to be searched and the person or things to be seized.

In this way the evils of the open-ended, indiscriminate search, seizure, invasion of privacy or interceptions of communication are avoided, while the public interest in the administration and enforcement of its criminal law is preserved.

An important point of emphasis is that the Section only denounces unreasonable searches, seizures, invasions of privacy, or interceptions of communication and that a reasonable search, seizure, invasion of privacy or interception of communications, based upon a proper warrant, is permissible. Further, this Section does not prohibit:

1. search, seizure, invasion of privacy, or interceptions of communications that are voluntarily consented to, and
2. where the search, seizure, invasions of privacy or interceptions of communications are incident to a valid arrest.

A second point of emphasis is that warrants must be issued by a judicial officer. It is critical that an impartial judicial officer be required to issue a warrant. Warrants may not be issued except upon probable cause being established. Probable cause is not proof of guilt, but shows that a reasonable ground for suspicion, sufficiently strong to warrant a cautious man to believe that the accused is guilty of the offense, exists.

To remove the temptation to ignore the restraints of this Section, evidence obtained in violation thereof is made inadmissible against the accused.

SECTION _____. THE RIGHT TO OWN PRIVATE PROPERTY.

The right to own private property shall not be deprived without due process of law.

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.

Like all fundamental rights, the right to own property is not absolute. In the legitimate exercise of its police power to promote and safeguard the health, safety, morals or general welfare of the public, the district

legislature may in so doing restrict the use of one's property. In case of extreme necessity, the district legislature may even destroy the property itself when its continued existence constitutes a nuisance or a threat to public health or safety. For example, if one owns several pigs infested with a disease which is fatal to other pigs and human beings, the district legislature, by appropriate exercise of its police power, may destroy the infested pigs. A district legislature may enact zoning laws to protect the health, safety, morals or general welfare of the public. The effects of zoning laws and building codes may restrict one's use of his property. One may be prohibited by zoning laws from building a bar adjacent to a graveyard or be required to meet construction safety requirements.

An important point of emphasis is that the police power is directed against property and the uses of property which are considered harmful to society. Where the conduct of the district legislature transcends the police power and does not conform with the requirements of due process of law, such conduct is violative of this Section.

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.

"Due process of law" is much broader than its Magna Carta ancestor which guaranteed only that no person should be proceeded against except for violation of an existing law. Due process includes this but goes much further. It guarantees that when a person is proceeded against for violation of a law, the government will act fairly and justly within the concept of ordered liberty. All the unmentioned safeguards as well as those yet to be established are guaranteed by the due process of law.

However, the concept of fairness and justice is relative. It varies with the subject matter and the necessities of the situation. For example, what is fair in one set of circumstances and thus conforms with the requirements of due process may be an act of tyranny in others. Snyder v. Massachusetts, 291 U.S. 97, 116, 117 (1934). Necessarily, due process as a legal concept is elastic which conveniently allows room for evolution and expansion. As such, it cannot be defined in incisive and precise terms.

Without attempting exact meanings of the terms "person" and "liberty", the term "person" at least means all human beings regardless of their differences or citizenship. "Liberty" definitely includes freedom from bodily restraint, right of the individual to contract, to engage in any of the common occupations of life, to acquire knowledge, to marry, establish a home and to bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges recognized as essential to the orderly pursuit of happiness by free men. Meyer v. Nebraska, 262 U.S. 390, 399 (1923).

The due process clause, as applied, has two distinct components. One is known as the procedural element, which refers to the process which governmental decision-making must observe. It is a process due an individual in accordance with the concept of what is fair and just under a set of circumstances. For example, judicial trials, to conform with due process, normally require that the parties must be given adequate notice, a right to a hearing, the right to be informed of adequate notice, a right to a hearing, the right to be informed of the charges, the right to confront and cross-examine adverse witnesses, the right to counsel, and the right to speedy and public trial. To illustrate the elasticity of procedural due process, a form of notice and its sufficiency may vary depending upon the nature of governmental action. For example, if an administrative agency drafts regulations of general application affecting an unknown number of people, the agency need not grant a hearing prior to the promulgation of the regulations. If the regulations affect an identifiable class of individuals, then notice may be required. But here again, whether notice must be given depends on the facts of each case, e.g., the extent to which one's legal interests are affected. In civil judicial trial, due process requires that the state may not enforce a judgment against a party

without first affording him an adequate notice. Notice must be provided as an essential part of the statutory provision and not as a matter of grace as is sometimes the case with administrative agency. Coe v. Armour Fertilizer Works 237 U.S. 413 (1915). And because of the high value of individual liberty, due process requires that procedural rights be applied most stringently. A criminal statute must not be so vague and indefinite as to fail to give fair notice of what acts will be punished. To deprive one of his physical liberty under a statute fatally vague and indefinite constitutes a failure to observe fundamental fairness essential to the very concept of justice. It is a denial of due process of the law. For this reason, the degree of sufficiency of notice is higher in criminal proceedings than in civil. In short, what is due process of law depends on the circumstances. Hays v. Port of Seattle, 251 U.S. 233, 238 (1920).

While procedural due process requires governmental decision-making to conform with the concept of what is fair and just, substantive due process, on the other hand, addresses the rationality of the legislature. With substantive due process, the court basically looks at the rationale or legitimacy of the governmental interest. In subjecting a statute to the requirements of substantive due process, the court asks: (1) Does the government have power to regulate the subject matter? If the statute is not within the power of the government, such statute will be struck down. For example, inasmuch as public monies cannot be expended for other than public purposes, a fortiori, an exercise of the taxing power for merely private purposes is beyond the authority of the legislature. Loan Association v. Topeka, 20 Wall. 655 (1875); Carmichael v. Southern Coal & Coke Co., 300 U.S. 644 (1937). (2) If the government has the power to regulate, the court next asks if what the statute proposes to do bears a rational relationship to the implementation of the legislative goal. Another way of asking the same question is, "Can any reasonable legislature choose this particular statute to achieve its goal?" In subjecting a statute to this second test, it must be pointed out that the statute is presumed to be valid. The challengers of the statute must bear the burden of proving that the statute is devoid of any rational basis. Additionally, with respect to economic measures, the courts do not substitute their social and economic beliefs for the judgment of legislative bodies. Munn v. Illinois, 94 U.S. 113 (1877); Ferguson v. Skrupa, 372 U.S. 726, 730, 733 (1963). (3) Finally, where the statute involved arguably infringes upon individuals' fundamental rights, the court must ask how important is the legislative objective. In other words, where fundamental rights are involved, the court resorts to balancing the legislative goals against the fundamental rights which would arguably be infringed if the statute were to stand. The court must ask if there is a compelling governmental interest to justify holding the statute valid, even though the statute might limit fundamental rights. The burden of proving compelling governmental interest shifts to the government. The presumption is in favor of protecting fundamental rights, until the government proves a compelling justification to so curb these rights. Such presumption also protects against irrational application of valid statutes.

Equal Protection of the Law

Equal protection of the law means the protection of equal laws. The clause requires that those similarly situated must be similarly treated. It means also that the application of the law must be equal. Yick Wo v. Hopkins, 118 U.S. 355, 369 (1886). For illustration purposes, equal protection requires "that equal protection and security should be given to all under like circumstances in the enjoyment of their personal and civil rights; that all persons should be equally entitled to pursue their happiness and acquire and enjoy property; that they should have like access to the courts of the country for the protection of their persons and property, the prevention and redress of wrongs, and the enforcement of contracts; that no impediment should be interposed to the pursuits of anyone except as applied to the same pursuits by others under like circumstances; that no greater burdens should be laid upon one than are laid upon others in the same calling and condition, and that in the administration of criminal justice no different or higher punishment should be imposed upon one than such as is prescribed to all for like offenses." Barbier v. Connolly, 113 U.S. 27, 31.

However, equal protection forbids only invidious discriminations. Where relevant differences exist between two classes, different treatment by the state is permissible. Additionally, the state has inherent power to prescribe regulations to promote the health, peace, morals, education and good order of the people and to legislate so as to increase the industries of the state, develop its resources, and add to its wealth and prosperity. Regulations for these purposes are not designed to impose unequal restrictions upon anyone, but to promote the general good with as little individual inconvenience as possible.

However, any statute that classifies and affords different treatment is subject to the same tests as those under substantive due process: (1) does the legislature have power to enact the statute that classifies? (2) does the classification bear a rational relationship to the legislative goal? Again, the classification is presumed to be valid and the burden of proving that the statute is without a rational relationship to the legislative objective is on the challenger of the classification. (3) Where fundamental rights are involved, the classification constitutes a suspect criteria. As such, the burden of proving that the classification bears a close rational relationship to some compelling governmental interest shifts to the government. Fundamental rights are presumed to be absolute until the government proves a compelling governmental interest to curtail or restrain them. Bates v. Little Rock, 361 U.S. 516 (1960), Loving v. Virginia, 388 U.S. 1 (1967).

Thus, due process and equal protection clauses overlap. However, the due process clause tends to secure equality of law in that it requires minimum protection of everyone's right to life, liberty and property. Truax v. Corrigan, 257 U.S. 312, 332-333 (1921). Equal protection aims at undue favor of one individual or class over the other and invidious discrimination.

SECTION _____. PROHIBITION ON DISCRIMINATION.

The equal protection of the laws shall not be denied or abridged on account of sex, race, ancestry, national origins, langugage or social status by the state.

This Section prohibits discrimination based on sex, race, ancestry, national origin, language or social status. Any governmental action that classifies according to sex, race, ancestry, national origin, language or social status constitutes an inherently suspect criteria. As such, the government must prove a compelling governmental interest in the classification. For example, if the government hires interpreters who speak the required languages, clearly those who do not speak the required languages are being discriminated against. However, the compelling governmental interests in hiring only those who speak the required languages is that the positions so require. Where government fails to show a compelling interest in any classification based on sex, race, ancestry, national origin, language or social status, the governmental action involved must fall as violative of this Section.

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.

A witness in any proceeding in which testimony is legally required may claim the privilege against self-incrimination and refuse to answer, provided his answer might do any of the following:

1. His answer might be used against him in a future criminal proceedings, or
2. his answer might uncover further evidence against him.

Because any governmental inquiries, investigations or proceedings could lead to the disclosure of evidence which might thereafter be used in a criminal prosecution, the privilege is extended to legislative investigations, and any proceedings, criminal, civil, administrative, judicial investigative, or

adjudicatory, whenever an answer to an inquiry might tend to subject the person to criminal responsibility.

Another application of the privilege against self-incrimination is with respect to the case of Miranda v. Arizona, 384 U.S. 436 (1966). If the mandates of Miranda are not followed and the advice and warnings are not given to the person in custody, e.g., that he has a right to remain silent, and that any statement he makes may be used as evidence against him, no statement, even if voluntarily offered, may be used against the accused. Further, a prosecutor's comment on the accused's silence in weighing evidence violates the accused's privilege against self-incrimination. Griffin v. California, 380 U.S. 609 (1965).

Like all fundamental rights, there are limitations on the privilege against self-incrimination. In the absence of a claim of privilege, it is waived; the privilege is personal and does not apply to corporate records which may incriminate corporate officers; those physical examinations, including blood testing, finger-printing and handwriting sample which are nontestimonial in nature are not within the ambit of the self-incrimination privilege. Additionally, statutes that grant immunity for compelled testimony do not violate the guarantee against self-incrimination if the scope of the immunity is as broad as the protection of the self-incrimination privilege. Once a statutory immunity displaces the self-incrimination privilege, the witness is immune from prosecution, penalties and forfeiture. However, consequences of his compelled testimony such as a loss of his job do not impair the sufficiency of the immunity conferred.

The relationship between the guarantee against unreasonable search, seizure, invasion of privacy and interception of communication and the self-incrimination privilege is apparent. Evidence unlawfully seized, if permitted to be used, can obviously involve self-incrimination. The two guarantees, though not identical, have an area of overlap.

In its traditional application, double jeopardy is a rule of finality. A single fair trial on criminal charges bars reprosecution. As such, double jeopardy protects the defendant from continuing distress, enables him to consider the matter closed and to plan ahead accordingly.

Double jeopardy has come to mean much more than a rule of finality. It equalizes, in some measure, the adversary capabilities of grossly unequal litigants, the state with all its resources against the defendant. It reflects demands for speedy justice, respect for the court's or jury's verdict, and an aversion to needless harassment, punishment and persecution.

Out of the foregoing policies, three rules have developed:

1. Where a defendant has been acquitted, double jeopardy bars reprosecution. Benton v. Maryland, 395 U.S. 784 (1969). Even where a judge erroneously directs a judgment of acquittal, double jeopardy precludes a second trial of the defendants. Fong Foo v. United States, 369 U.S. 141 (1962). Where a defendant is charged with first degree murder, but is convicted on second degree murder, the defendant is impliedly acquitted from the first degree murder charge and cannot be reprosecuted.

The first rule makes the status of innocence meaningful and minimizes the chance that innocent men will be convicted. Without a rule of finality, the prosecution could keep trying until he found an accommodating court or jury.

2. Double jeopardy prohibits reprosecution after a conviction. This denies the control that the prosecution would have over punishment. If the prosecutor were able to reprosecute after a conviction, he could continue to prosecute until he found a judge willing to impose an "appropriate" sentence. The double jeopardy rule forces the prosecutor to accept the first judge's decision on sentencing just as he must accept the first judge's or jury's verdict on guilt.

3. Finally, the double jeopardy rule against reprosecution after either prior acquittal or prior conviction, prevents the prosecutor from using criminal prosecution to inflict unnecessary suffering on the defendants. A

criminal trial can have detrimental and lasting effects on the defendant's life. Double jeopardy allows this ordeal to be imposed only once and for reasonable cause, not repeatedly at the prosecutor's whim.

There are, however, limitations on the right not to be twice put in jeopardy. A plea of former jeopardy must be upon a prosecution for the same identical offense. Burton v. United States, 202 U.S. 344 (1906). Only successive prosecutions for the "same offense" are prohibited by double jeopardy. United States v. Ewell, 383 U.S. 116, 124, 86, S. Ct. 773, 778, 15 L. Ed. 2d 627, 633 (1966). The test of identity of offenses is whether the same evidence is required to sustain them. In other words, offenses are not the "same" if upon the trial of one, proof of an additional fact is required which is not necessary to be proved in the trial of the other.

Another limitation is that double jeopardy attaches only when the court begins to hear evidence, i.e., after the first witness is sworn. If it is a jury case, jeopardy attaches when the jury has been impanelled and sworn.

However, whether the discontinuance of a trial without a verdict precludes a second trial depends on the circumstances of each case. For example, if a trial judge concludes that it is not possible for the defendant to obtain substantial justice unless the judge declares a mistrial and calls for a second trial, double jeopardy in this instance does not bar the second trial. Likewise, discharge of a jury because it is unable to reach agreement or because of the disqualification of a juror does not preclude a second trial. In any event, the determination of whether a discontinuance of a trial after double jeopardy has attached bars a second trial depends on the merits of each case.

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 case of rebellion or invasion, the public safety may require it.

The underlying concept of this Section is the protection of the dignity of man. The protection guarantees the principle of civilized treatment. The content of this Section is not static, but must draw its meaning from the evolving standard of decency that marks the progress of a maturing society.

Excessive Bail

Right to freedom on bail before conviction of a crime is justified on two grounds. One is that the accused needs adequate time to prepare for his defense. Such preparation is made more difficult if the accused is in prison. Secondly, bail avoids punishment while still presumed innocent and before conviction. A person later acquitted will have been punished for a crime he did not commit if he were confined in jail before the acquittal.

The state, however, has a valid interest in assuring the presence of the defendant at his trial. For this reason, bail is permissible as long as the bail set is reasonably calculated to assure the presence of defendant at his trial. To set bail higher than reasonably calculated to assure the presence of defendant at trial constitutes "excessive" bail, prohibited by this Section. However, bail of a larger amount than is usually fixed for serious crimes is permissible if justified by evidence to the point.

Excessive Fines

Fines must not be greatly disproportionate to the offense committed. It lies with the court to determine what is a just fine on the merit of each case.

Cruel and Unusual Punishment

Cruel punishment includes punishments of torture and all unnecessary cruelty. Unusual punishment covers penalties which shock the sense of justice and fairness by their excessive length or severity.

It rests with the court to determine what constitutes excessive bail or fines, and what constitutes cruel and unusual punishment on the merit of each case.

The Writ of Habeas Corpus

The writ of habeas corpus traditionally is a command by a court of law to bring before it a person held in custody and to show the court that the prisoner is being legally detained. If the court is not satisifed that the prisoner is held justly under the law, the court may command that he be released.

However, the use of the writ is not restricted to those cases where the judgment of conviction is void for want of jurisdiction of the trial court to render it. The writ extends to those exceptional cases where the conviction has been in disregard of the rights of the accused and where the writ is the only effective means of preserving his rights. It must also be understood that habeas corpus is available whenever the state fails to meet procedural fairness mandated by the due process of law.

The writ, however, need not actually result in the discharge of the prisoner. The writ can be made conditional in order that the state may re-try the prisoner consistent with the concept of fairness and justice embodied in the due process of the law.

Due deference shall be given to the courts of each district. This deference, partly based on the premise that the local courts are in a better position to interpret the district's laws, may be shown by requiring through statute that an applicant for the writ must exhaust remedies actually available to him in the district courts before he applies for the writ from the national court. This is a possible limitation on the writ which depends on a judiciary system yet to be established.

SECTION _____. FREEDOM OF MIGRATION AND MOVEMENT.

The citizens of Micronesia shall be accorded freedom of migration and movement within Micronesia.

The right to migrate and travel is basic to one's personal liberty. Every Micronesian citizen shall enjoy the right to migrate and travel within the length and breadth of Micronesia uninhibited by statutes, rules, or regulations which unreasonably burden or restrict this right. Without this basic right to migrate and travel, one would be prevented from the enjoyment of his other equally important rights, e.g., right to seek a new life, right to seek employment, right to attend school of one's choice and the like.

However, this right is not absolute. For example, each district may impose reasonable residency requirements for eligibility to vote. A statute may require that one coming from another district must reside in his new home for a reasonable period of time, allowing the district time to determine his eligibility as a voter, before he is allowed to vote. However, if the District imposes a ten-year residency requirement, the length of time may well discourage migration and movement and thus violate this right as well as the right to vote. What constitutes a permissible restriction on this right is determined on the merits of each case by the court.

SECTION _____. EX POST FACTO LAWS AND BILLS OF ATTAINDER.

No bills of attainder or ex post facto laws shall be passed.

The concept of ex post facto laws is limited to legislation which does any of the following: (1) makes criminal and punishable an act innocent when done; (2) aggravates a crime, or makes it greater than it was when committed; (3) increases the punishment for a crime and applies the increase to crimes committeed before the enactment of the laws; or (4) alters the legal rules of evidence so that testimony insufficient to convict for the offense when committeed would be sufficient as to that particular offense and accused person. Calder v. Bull, 3 U.S. (3 Dall.) 386 (1798).

It does not take much reflection to note that a classic ex post facto law that makes criminal and punishable conduct which was innocent when committed is a kind of raw power offensive to the concept of fairness and justice. Even without a specific ex post facto ban, such a law would most likely be held violative of due process guarantees.

However, habitual criminal laws, which punish an offense more severely if the offender has previously been convicted of the same or other criminal offenses, do not violate the ex post facto prohibition, it being within the power of the state to provide increased punishment for recidivists. Also, where the criminal offense occurred prior to the enactment of the statute defining the conduct as one offense or increasing the punishment therefor, the statute would not be viewed as ex post facto if the offense is continuing in nature.

The ban on ex post facto law applies, however, to criminal acts only. This means that retroactive noncriminal laws may be valid. It means judicial acts which might otherwise be deemed to have ex post facto attributes do not come under the purview of the ex post facto prohibition. However, judicial acts must still conform to due process guarantees.

Bills of attainder prohibit all legislative acts that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial. Such punishments without a judicial trial are prohibited.

SECTION _____. RIGHTS OF DEFENDANTS IN CRIMINAL PROCEEDINGS.

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.

Right to a Speedy Public Trial

The placement of this provision in the Constitution combines two elements essential to the overriding guarantee of a fair trial to all persons who stand accused of violating the laws of our nation.

a. Speedy Trial. The purpose of this guarantee is basically two-fold:

1. to ensure a fair trial, and
2. to protect the individual from prolonged pretrial incarceration and/or the anxiety of an unresolved criminal charge for unreasonably long periods of time.

As stated by the U.S. Supreme Court in United States v. Rusell, 383 U.S. 116 (1966), "...this guarantee is an important safeguard to prevent undue and oppressive incarceration prior to trial, to minimize the anxiety and concern accompanying public accusation and to limit the possibility that long delay will impair the ability of the accused to defend himself."

Delays, alleged by a defendant to have violated his right to a speedy trial, must be considered in view of all the circumstances. The question then

becomes whether, in view of all the circumstances, the delay was reasonable. The question of reasonableness is a question which must be determined by the discretion and sense of justice of the courts.

b. Public Trial. The guarantee of a public trial is based upon the principle that justice cannot endure behind a curtain of secrecy. The guarantee, however, is subject to the rule of reasonableness. It does not, for instance, require that the judicial process should sacrifice the solemnity of the court-room in an effort to permit all interested observers to view judicial proceedings. Nor does it prohibit the court from exercising its discretion in protecting youthful defendants from the harmful effects of a public trial.

In addition, there may arise cases involving the very security of the nation, when circumstances require nondisclosure of sensitive information placed in evidence at trial. Courts, in general, must balance the guarantee of an open and public trial against what may be countervailing considerations of public morals, peace and good order.

The Right to be Informed of the Nature and Cause of the Accusation.

This guarantee places burdens on the government at two stages.

First, it requires that statutes which impose a criminal penalty for certain kinds of activity must be defined with appropriate definiteness and contain ascertainable standards of guilt.

The statute must be sufficiently explicit in its description of the acts, conduct, or conditions required or forbidden, to prescribe the elements of the offense with reasonable certainty, fix an ascertainable standard of guilt, and make known to those to whom addressed what conduct on their part will render them liable for its penalties, and not be so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application. (16A CJS Constitutional Law Sec. 580).

Second, the right to be informed of the nature and cause of the accusation requires that the formal accusation (whether it be by information, indictment, complaint or other form of accusation) must set forth the offense with clarity and all necessary certainty to make known to the accused the crime with which he is being charged. The rationale behind the provision is, that in order for a defendant to intelligently prepare his defense, specific notice of the charges against him is essential to that preparation. Additionally, specificity is essential to prevent the defendant from being tried a second time for the same offense.

The Right to Have Compulsory Process for Obtaining Witnesses in His Favor.

A defendant in a criminal trial who is aware that witnesses who would testify in his behalf are available, has a right to require that the court compel such witnesses to appear and testify. The right of confrontation and the right of compulsory process ensure the fundamental evidentiary elements of the adversary process. While other dispute settling mechanisms may be used in civil cases, the rights of the accused and the cause of justice in criminal cases can best be served by the adversary system. That system requires the dual safeguards of confrontation and compulsory process.

The Right to be Confronted with Witnesses Against Him.

The general rule of confrontation in criminal cases is that witnesses for the state must appear in open court and give their testimony under oath. It also includes the right of the accused to cross-examine such witnesses. Whereas in civil cases, depositions (sworn statements) of witnesses may be used, they are not normally permissible in criminal trials. An exception is in the use of a dying person's statement which, under the circumstances, is presumed to be truthful. Other exceptions historically used to limit the right of confrontation are matters which must become the subject of judicial determination.

The Right to Have Assistance of Counsel for His Defense.

The intent of this provision is to require that in all crimes of a serious nature, the accused shall be afforded the opportunity of effective representation by counsel. While this provision in no way diminishes the privilege of the accused to waive his right to counsel, such a waiver must be both clearly and intelligently made.

"Serious crimes" include those crimes fixing a penalty involving the deprivation of liberty. "Effective representation" means not only the assistance of competent and loyal counsel, but the presence of legal counsel both in the preparation for, and conduct of, the trial.

SECTION _____. THERE SHALL BE NO CAPITAL PUNISHMENT.

No crime under the laws of Micronesia shall be punishable by death.

The unmistakable trend of history is toward the abolition of capital punishment. At one time or another, it has been used as a punishment for a wide variety of crimes in every country of the world. Most of the developed nations of the world have abolished the death penalty, including Great Britain, West Germany, Italy, the Netherlands, all the Scandinavian countries, Switzerland, Australia and Portugal. In addition, several other countries have abolished the death penalty in practice by simply refusing to administer it. These countries include Argentina, Bolivia, Colombia, Costa Rica, Dominican Republic, Ecuador, Honduras, most of Mexico, Nicaragua, Panama, Uruguay and Venezuela.

Capital punishment is not a part of historical Micronesia and the whole concept of punishment by death is in opposition to Micronesian customs and tradition with respect to the value of each individual member of society.

It should be clear that "There shall be no capital punishment" is an absolute and total prohibition. There shall be no exceptions to this prohibition, and, by placing this prohibition in the Constitution, it is our intent that the only possible way for capital punishment to be imposed would be by first repealing this constitutional provision by means of a constitutional amendment.

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.

This Section applies to personal slavery or involuntary servitude. It does not apply to property. The term "servitude" is of larger meaning than slavery. Thus, servitude forbids all shades and conditions of slavery.

While the term "servitude" means the state of a person who is subjected, voluntarily or otherwise, to another person as his servant, only involuntary servitude is prohibited under this Section. Peonage, for example, is prohibited by this Section. As defined, peonage is a condition of enforced servitude by which the servitor is compelled to labor in liquidation of some debt or obligation, either real or pretended, against his will. (Peonage Cases, 123 F. 671 (1903).) For illustration purposes, if a district legislature enacts laws that impose criminal liability and a term of imprisonment on employees who abandon their employment, breach their contracts and exercise their legal right to enter employment of a similar nature with another, such statute runs counter to the prohibition of slavery and involuntary servitude. The clear intent of such a statute is the coercion of payment by means of criminal proceedings of a purely civil liability arising from breach of contract. Peonage Case, 123 F. 671 (1903).

However, the determination of what constitutes "involuntary servitude" or what is regarded as "badges of slavery" shall be made in the context of well established Micronesian customs. There may be duties which the individual owes according to the customs of his community which may not constitute either slavery or involuntary servitude. Further, the determination of the balancing of the right embodied in this Section against strongly held and widely shared communal values is for the court to make on a case by case basis.

COMMITTEE ON
SCREP. NO. 24 STYLE AND ARRANGEMENT OCTOBER 7, 1975

Re: Public Auditor (Comm. Pro. No. 12)

Your Committee on Style and Arrangement hereby submits its report on Committee Proposal No. 12 - Public Auditor:

In Committee Report No. 12, your Committee on Style and Arrangement recommended that "national government" be used in lieu of "central government", and other comparable designations, until the Convention arrives at a decision on the name to be used for the new government. Thereafter, in the final draft of the Constitution, all such references will be correspondingly modified. In line with this, on lines 17 and 18, page 1, it is recommended that "national" be substituted for "central" in the phrase "central government".

Your Committee believes that the Public Auditor should be protected against retaliation for politically unpopular actions by being assured his salary cannot be reduced while he is in office, unless all salaries are being proportionately reduced. However, this is a substantive change beyond the power of your Committee to recommend as an amendment.

The Finance Committee, on page 4 of its report (Report No. 17) indicates how the blank on line 2, page 2, of Committee Proposal No. 12 is to be completed as soon as a decision is made on the form of the national legislature. This Proposal is thus in satisfactory form for passage. Later, when completing the final draft of the Constitution, these directions can be followed in filling in the blank.

Your Committee on Style and Arrangement submits herewith Committee Proposal No. 12, SD 1, and recommends the adoption of the amendments proposed before the passage by the Convention of Proposal No. 12 on Second Reading.

Signed by 9 members of the Committee on Style and Arrangement

COMMITTEE ON
SCREP. NO. 25 STYLE AND ARRANGEMENT OCTOBER 7, 1975

Re: Budget Process (Comm. Pro. No. 13)

Your Committee on Style and Arrangement hereby submits its report on Committee Proposal No. 13 - Budget Process:

1. On page 1, line 5, the word "such" is deleted as surplusage. If it is desired that it be retained, then the additional language "as may be" would have to be added, so that the whole phrase would read "such other monies as may be available".

2. On page 1, line 14, the phrase "to finance" appears unnecessary and is deleted. Also, "appropriating monies" is substituted for "authorizing expenditures" as this language makes it clear that "appropriation acts" are intended and not "authorization acts." The latter refers to acts setting ceilings for expenditures, followed by other acts appropriating funds within the limits of those ceilings.

3. On page 2, lines 1 and 2, while the physical act of the Executive may literally be to "strike out items," the legal act is to item veto an appropriation. Also, the intent of the Committee Proposal is to allow the executive to eliminate one or more items of appropriation, but not to permit the Executive to touch non-appropriation, substantive matters. The changes recommended are designed both to replace the "strike out" reference and also to clarify the fact that the item veto power of the Executive runs only to appropriation items.

4. On page 2, line 3, a comma is added to facilitate understanding of the section.

Your Committee recognizes that in this Proposal reference is made to "National Legislature" while in other Proposals (as Committee Proposal No. 12) the name used is only "Legislature." The intent to refer to the same body is clear, and all of these designators will be replaced in the final draft of the Constitution by the names selected by the Convention for the various offices and officers of the national government.

Signed by 9 members of the Committee on Style and Arrangement

SCREP. NO. 26 COMMITTEE ON GENERAL PROVISIONS OCTOBER 7, 1975

Re: Designation of Name for Nation and National Government
(Resolution No. 31)

Your Committee on General Provisions to which was referred Resolution No. 29, relating to the name of the new government of Micronesia, begs leave to report as follows:

The Committee on General Provisions has studied various possible names for the new state and recommends that the new nation and national government be designated the "Federated States of Micronesia".

The government of Micronesia will be composed of a union of districts, joining together to form a national government. Such an association of political units is known as a federation. The term "district" now used in the Trust Territory of the Pacific Islands does not accurately describe the new political relationship being constructed at this Convention between the national government and the component territorial political units. Accordingly, your Committee recommends that the term "state" be used to designate the political unit formerly known as a district. Municipalities shall be known as "districts".

The suggested name for the new nation is descriptive in a political and geographic sense. It embodies an expression of the general nature and form of government--a federated system of associated states where powers of government are both divided and shared. The name also reflects that nation's geographic location in the area of Oceania known as Micronesia.

Your Committee also reviewed the following names and submits them for consideration by the Convention:

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

The Committee on General Provisions recommends adoption of the Resolution attached hereto.

Signed by 11 members of the Committee on General Provisions

Re: Disposition of Public Monies (Comm. Pro. No. 15)

Your Committee on Public Finance and Taxation, to which were referred Delegate Proposals dealing with the disposition of public monies, begs leave to report as follows:

Your Committee's purpose in introducing the attached Committee Proposal entitled "Disposition of Public Monies" is to establish a national treasury and constitutionally provide for the funds it shall contain.

The national treasury performs a function for a nation similar to that served by assorted banking programs for individuals. Within the treasury are contained the funds of the nation, the accounts of receivables and payables, systematized information on loans and debt service, and other data covering the government sector of the economy.

As with any type of financial planning involving a system of accounts, there are two primary goals to be pursued when establishing a national treasury. Primarily, the system must provide for financial responsibility, to ensure that the people's money is safely guarded, and legitimately spent. Secondly, the system must ensure a degree of flexibility in the system of accounts which will allow changes in fiscal planning, reflecting unforeseen events as well as new developments in public finance. The process of striking a balance between these two goals is a technical, non-political process. The organizing of the national "bank accounts" is merely an aspect of good government, and sound fiscal policy.

With that purpose in mind, your Committee has determined the structure of national accounts best suited to the needs of Micronesia, acknowledging the uncertain nature of any predictions concerning future economic and political activity. A comprehensive Committee Proposal regarding the disposition of public monies was drafted, and is now offered to the Convention for adoption. The three sections comprising this Proposal are set forth below, with specific discussion following each.

> "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."

The General Fund provided by this section is the major account within the treasury system established by this proposal. The "public monies" contained therein will include tax revenues, receipts from sales of obligations of the National Government, proceeds of loans, and all other monies available for appropriation by the Legislature not sent to special funds. In other words, this fund is intended to be the central pool out of which appropriations are drawn by the National Legislature.

The Proposal requires that all withdrawals made from the General Fund must be by an appropriation law enacted by the Legislature. This ensures that the money entrusted by the people to their government will be controlled in ways prescribed by laws which establish the accountability of those handling the money.

Finally, this first section contains a constitutional exception to the normal flow of all public monies into the General Fund. This exception accommodates special funds, discussed below. Your Committee saw two reasons for this exception: first, it would be unnecessarily burdensome to require the National Legislature to separately appropriate monies from the General Fund every year for specific purposes long agreed upon and recurring and, second, to allow funds to proceed directly to their own account helps to ensure that funds will be set aside, thus achieving what is known as "integrity" of those funds.

"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."

The purpose of constitutionally providing for a system of special funds is to ensure that certain accounts remain intact--and cannot be used for other purposes than those for which they were established. Your Committee feels this is necessary for several reasons. Such integrity will promote public confidence in the financial affairs of the National Government. Moreover, such funds will aid in pursuing difficult goals, such as economic development, over long periods of time, by making provision for setting aside the funding for such purposes. Finally, a system of special funds provides flexibility in fiscal management within a framework of constitutional responsibility.

Special funds as anticipated by your Committee might include a social security fund similar to the present funding arrangement in the Trust Territory, an economic development loan fund, an agricultural and marine production fund, and an ecological trust fund. Using the last for illustration, if it were the desire of the National Legislature to guarantee some sort of financial compensation for victims of environmental disasters, a fund could be established for the benefit of those prospective victims as beneficiaries. Over time the fund could be increased until it was believed adequate to meet any demands that might be made on it.

Since the special funds are statutorily created as accounts separate from the General Fund, special funds will contain monies that are disbursed in ways that may differ from normal appropriations. One way of handling special funds is to establish in the act creating the fund, an autonomous board of trustees to control and administer the account, as under the current Social Security arrangement. The language of the section is broad enough to permit this as well as any other provision made by law. Such a board could, of course, be given the power in the enabling legislation to "disburse" the particular fund back into the General Fund; or, in the case of special fiduciary relationships, such as social security insurance programs, the uses could be strictly controlled.

"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."

This section constitutionally provides for one of the special funds described in the previous section: for collection and distribution of funds received from abroad as foreign financial assistance. At this time it is extremely speculative to try to forecast either possible receipts or disbursements for this specialized fund.

This section was most carefully considered by your Committee. Extensive Committee sessions were required to arrive at a conclusion best suited to a developing Micronesia in a rapidly changing world. What became very clear was that foreign funds should be distributed so as to ensure the welfare and financial security of all Micronesians.

Due to the uncertainty which the future holds in the area, your Committee concluded that maximum district development could be accomplished within a system of disbursements built on equity. The equitable distribution provided for, then, refers to a system of wholly unconditional grants, to be spent at the districts' discretion. The same formula will also determine the fair division of grants between the districts and the General Fund of the National Government.

Your Committee realizes that foreign assistance itself is not always unconditional, but instead often requires the establishment of some sort of program or administrative structure which will put the funds to a particular use. Accordingly, an exception was drafted into this provision, excluding from the Special Foreign Aid Fund those monies which are conditional (or "earmarked") grants, in order to avoid discouraging potential grantors.

Your Committee has had as its goal a balance between flexibility and financial responsibility, two elements of a sound fiscal policy. With the provision made in the attached Committee Proposal for both a general fund and special funds, and the latter to include specific provision for distribution to the districts, your Committee believes that sound fiscal planning and and orderly national accounting will be the result of the adoption of this Proposal.

Signed by 9 members of the Committee on Public Finance and Taxation

SCREP. No. 28 COMMITTEE ON GENERAL PROVISIONS OCTOBER 11, 1979

Re: Existing Laws, Rights and Proceedings (Comm. Pro. No. 16)

Your Committee on General Provisions to which were referred Delegate Proposals dealing with transition begs leave to report as follows:

Your Committee is of the opinion that the Committee Proposal entitled "Existing Laws, Rights and Proceedings" is necessary in order to provide a smooth and orderly transition from the old to the new. To avoid the serious problems which would arise if no laws existed, the Proposal provides constitutional authorization for the continued validity of existing laws. The principle of this section is that a new Constitution ought to bring with it no greater changes than are necessary to effectuate its terms. All laws on the statute books not inconsistent with the Constitution shall continue in force until they expire or are amended or repealed by the new National Legislature. Additionally, all private and public rights, duties and proceedings continue unaffected except insofar as they may be modified in accordance with the provisions of the new Constitution.

It should be noted that under the Committee Proposal the new government is not assuming any duties or obligations. It simply states that those rights, duties, and proceedings which exist now will not be terminated when the Micronesian Constitution goes into effect.

The precise impact of a new constitution on particular private or public rights may be a difficult legal issue which can only be resolved by the courts. The Committee Proposal does not attempt to define the changes which will come about but only states the general principle that existing rights, duties, and proceedings will remain in effect as modified by the terms of the Constitution.

The list of legal terms in the body of the provision is intended to include all rights, duties, and proceedings which currently exist. The failure to include in this list a particular right, duty, or proceeding is not intended to extinguish it. In order to aid in the understanding of the provision the following definitions are included:

WRIT	A mandatory directive issuing from a court of justice, addressed to a sheriff or other officer of the law requiring the performance of a specified act, or giving authority to have it done.
ACTION	A legal and formal demand of one's right from another person or party made and insisted on in a court of justice.

SUIT	A proceeding by one person or persons against another or others in a court of justice in which the plaintiff pursues the remedy which the law affords him for the redress of an injury or the enforcement of a right.
PROCEEDING	The form and manner of conducting juridical business before a court or judicial officer, including all possible steps in an action from its commencement to execution of judgment.
LIABILITY	A broad legal term including almost every character of hazard or responsibility, absolute, possible, or likely.
CRIMINAL LIABILITY	Liability imposed or possible resulting from a criminal act.
CIVIL LIABILITY	Liability resulting from anything other than criminal action.
PROSECUTION	A proceeding before a competent court for the purpose of determining the guilt or innocence of a person charged with crime.
JUDGMENT	The official and authentic decision of a court.
SENTENCES	The judgment of a court after conviction in a criminal prosecution, awarding the punishment to be inflicted.
ORDER	Every direction of a court or judge made or entered in writing, and not included in a judgment.
APPEAL	The removal of a cause from a court of inferior to one of superior jurisdiction, for the purpose of obtaining review and retrial.
CAUSE OF ACTION	The right to pursue a legal action which has arisen through some event or occurrence.
DEFENSE	That which is put forward by a defendant in order to diminish or defeat a plaintiff's cause of action or recovery.
CONTRACT	An agreement between parties which creates, modifies or destroys a legal relation.
CLAIM	The assertion of ownership of rights to something.
DEMAND	An imperative request, given by one person to another, under claim of right, requiring the latter to do or yield something or to abstain from some act.
TITLE	The evidence of right which a person has to the possession of property.
RIGHT	A capacity residing in one man of controlling, with the assent and assistance of the state, the actions of others.

Your Committee submits herewith the attached Committee Proposal and recommends its adoption by the Convention.

Signed by 8 members of the Committee on General Provisions.

SCREP. NO. 29 COMMITTEE ON GENERAL PROVISIONS OCTOBER 9, 1975

Re: Transition Provisions - Local Government (Comm. Pro. No. 17)

Your Committee on General Provisions, to which was assigned the task of constructing provisions relating to transition, begs leave to report as follows:

The attached Committee Proposal, relating to existing district and municipal governments, is submitted by your committee in order to facilitate a smooth and orderly transition from operation under the Government of the Trust Territory of the Pacific Islands to operation under the provisions of this Constitution. It is the intent and purpose of this proposal to continue the legal existence of all district and municipal governments, including agencies thereof, district legislatures and municipal councils, to the extent that their charters or operations are consistent with this Constitution and laws thereunder. Provisions of this Constitution will change certain relationships and powers in district governments. These changes must be made as provided in the Constitution. However, until districts can organize their own constitutional conventions or otherwise organize themselves under the new form of government created by this Constitution, district and municipal governments as they are now chartered or organized under laws of the Trust Territory shall continue to exist and to function.

Your Committee on General Provisions submits herewith the attached Committee Proposal and recommends its adoption by the Convention.

Signed by 10 members of the Committee on General Provisions

SCREP. NO. 30 COMMITTEE ON GENERAL PROVISIONS OCTOBER 11, 1975

Re: Assumption of Rights, Obligations, Liabilities and Contracts (Comm. Pro. No. 18)

Your Committee on General Provisions, to which was assigned the responsibility of dealing with transition issues, begs leave to report as follows:

The intent and purpose of the attached Committee Proposal is to affirmatively declare the new government of Micronesia to be the legal successor to the old government of the Trust Territory. All rights, obligations, liabilities, and contracts of the Government of the Trust Territory of the Pacific Islands shall be assumed and honored by the new national government. Only those districts which do not join the new government will be excluded from the coverage of this provision.

Adoption of this Proposal will require the new government to honor all obligations entered into by the Trust Territory Government on behalf of the people of Micronesia. Debts owed by the TTPI will have to be paid by the new national government. Contracts for the construction of infrastructure must be assumed and honored. Employment agreements will continue in existence and shall be assumed by the new government. Accounts receivable, bank deposits, and taxes due the Government of the Trust Territory of the Pacific Islands will become assets of the Federated States of Micronesia. Some new governments do not assume all the obligations and contracts of the government being replaced. Frequently, this occurs following a revolution or after the overthrow of a burdensome government that, in the opinion of the new government, did not truly represent the people. Certain acts of the old government are repudiated or declared illegal and obligations entered into by the prior government are not assumed by the new government.

In the interest of a smooth and orderly transition from government under the Trust Territory of the Pacific Islands to operation of the Government of the Federated States of Micronesia, your Committee on General Provisions recommends that the new national government be the legal successor to all rights, obligations, liabilities, and contracts of the former government. The only exception would be that districts which fail to ratify this Constitution would not be covered by this provision. For example, a

construction project in a district which does not join the union, should not be the legal obligation of those districts which vote to join the Federated States of Micronesia. It is the intent of this provision that if a contract, entered into by the Government of the Trust Territory of the Pacific Islands, benefits several districts, one of which fails to ratify the Constitution, only that portion of the contract applicable to districts joining the union shall be honored or assumed.

Your Committee submits herewith the attached Committee Proposal and recommends its adoption by the Convention.

Signed by 8 members of the Committee on General Provisions

SCREP. No. 31 COMMITTEE ON GENERAL PROVISIONS OCTOBER 11, 1975

Re: Suffrage (Comm. Pro. No. 19)

Your Committee on General Provisions begs leave to report as follows:

Your Committee feels that it is appropriate to include a provision in the Constitution which guarantees the right to vote in national elections. The Committee Proposal relates only to national elections, such as for the chief executive and members of the national legislature. The whole area of the right to vote in state elections is left open for the states to provide for as they see fit.

Under the Committee Proposal, all Micronesian citizens who have attained the age of 18 years are guaranteed the right to vote in national elections. The Committee decided upon the age of 18 since it was felt that by this age a person would have the knowledge necessary to understand the issues and to vote intelligently. The choice of this age is arbitrary but parallels current law.

Realizing that some restrictions are necessary upon the right to vote, the Committee Proposal specifies certain areas where the national legislature shall establish limitations. The listed limitations are exclusive. The legislature cannot establish others. If these limitations were not exclusive the legislature might pass requirements such as the payment of a poll tax, a limitation on the right to vote to landowners, literacy tests, or various other limitations the Committee feels are unacceptable.

The first limitation allows the legislature to establish a minimum period of local residency. Unless a voter has been a resident of a specific state or electoral district for this time period prior to the election, he will not be eligible to cast his vote there. Through this provision the legislature can insure that voters have the requisite knowledge of a local candidate's qualifications, reputation, and views on the issues.

The second limitation allows the legislature to disqualify persons from voting who, through insanity or other cognitive disorders, are not mentally capable of casting an intelligent and meaningful ballot.

Your Committee was of the opinion that persons serving a jail sentence, or who are still under the terms of probation or parole for any crime for which they have been convicted by any court in Micronesia should not be allowed to vote. This disqualification will apply to persons still under sentence from Trust Territory courts since their sentences will remain effective under transition provisions. After completion of the term of sentence, a person will have his right to vote restored. It should also be noted that this disqualification applies to the serving of a sentence for any crime, whether it be a misdemeanor or a felony.

The fourth and final limitation allows the legislature to establish a system of voter registration. This will provide the procedures whereby age, citizenship, residence, and other information relative to the process of

voting can be obtained and through which lists of eligible voters can be compiled for use in the election. The process of voter registration is common in the election process of most nations and is necessary for the orderly conduct of elections.

The Committee Proposal guarantees that Micronesian citizens who have reached the age of 18 shall have the right to vote in national elections. It provides for the establishment by law of necessary restrictions, but strictly limits the power of the legislature to go beyond the specified limitations on this fundamental right to vote. Your Committee on General Provisions recommends the adoption by this Convention of the attached Committee Proposal entitled "Suffrage" as a part of the Micronesian Constitution.

Signed by 8 members of the Committee on General Provisions

SCREP. No. 32 COMMITTEE ON GENERAL PROVISIONS OCTOBER 10, 1975

Re: Renegotiation of Certain Land Leases
(Comm. Pro. No. 20)

Your Committee on General Provisions begs leave to report as follows:

The attached Committee Proposal relating to renegotiation of land leases of an indefinite term is submitted by your Committee on General Provisions. Certain land lease agreements entered into between the Government of the Trust Territory of the Pacific Islands and persons in Micronesia are for an indefinite period of time. The propriety of these agreements has been challenged because of the manner in which the terms were originally negotiated, the availability of legal counsel to the landowners, the conditions imposed, the fairness of the remuneration agreed upon, and the availability and correctness of translations of the agreements.

Your Committee recommends favorable action on this Proposal. It requires that the national government renegotiate all land lease agreements which are for an indefinite period of time. A two-year period after the effective date of the Constitution was felt to be sufficient time for the new government to conclude all negotiations. Your Committee feels that a longer period of time would only serve to prolong settlement of this outstanding problem and continue to work a hardship on the landowners concerned. The two-year period protects the landowner from dilatory maneuvers by the government. The two-year period also serves as a cutoff date to end the government's requirement to renegotiate with the landowners. Without this cutoff time it is feared that landowners would seek continual negotiations for protracted periods. That is not the intent of the Proposal.

The term "good faith" is used in the Proposal to guarantee that the government does more than perfunctorily review the lease agreements. The government is to approach the renegotiation with honest intentions. Unfair provisions in the agreements should be excised and the new negotiations should be conducted in a fair and equitable manner.

The term "any person" means any individual, family, or corporation which may be a party to an indefinite term lease agreement with the Government of the Trust Territory of the Pacific Islands.

Your Committee submits herewith the attached Committee Proposal and recommends its adoption by the Convention.

Signed by 7 members of the Committee on General Provisions

SCREP. NO. 33 COMMITTEE ON GOVERNMENTAL FUNCTIONS OCTOBER 10, 1975

Re: Functions of Government (Comm. Pro. No. 21)

Your Committee on Governmental Functions begs leave to report as follows:

Under the Rules of Procedure your Committee was assigned the task of considering matters "relating to the functions to be exercised by government in Micronesia...central/local relations and divisions of functions...sharing of powers among the district and municipal governments...[and the] application of the national Constitution to the districts..." The primary task of your Committee is therefore:

(a) to deal with the issue of a federal versus a unitary system of government; and
(b) the issue of centralization versus decentralization.

The Committee Proposal reported by your Committee to the Convention today, though still incomplete, is relatively comprehensive in nature. It incorporates no particular delegate proposal, but rather is an amalgam of ideas extracted from delegate proposals and from the members of the Committee. In this proposal, your Committee has attempted to express clearly and concisely its views on all functions of government on which it is prepared to report. There are two major areas omitted in this report, the taxing power of the national government, and the jurisdiction of the national court system. Since both of these areas are the primary concern of other Committees, your Committee has decided to postpone expressing its views until after those Committees have had an opportunity to report.

NATURE OF THE COMMITTEE PROPOSAL

Your Committee views Micronesia as a collection of diverse cultures with diverse ethnic origins, history, problems and interests. Your Committee recognizes that Micronesia is not unique in this respect, that in fact most nations are composed of a multitude of diverse groups. However, though Micronesia's cultural diversity may not be unique, its geography is. The states of Micronesia are separated by vast expanses of sea providing a natural obstacle which has hindered the efficient operation of government since a centralized governmental system was first introduced. Your Committee recognizes the lesson of history that union brings strength, and that diverse groups can be molded into a harmonious viable society. Your Committee believes that while a homogenous people living in a geographically compact area can perhaps have their aspirations best served by an all powerful national government, nations such as Micronesia which lack the bond of common cultural origin and which lack the advantage of compact geography must permit local autonomy in order to have efficient government and to avoid the destructive consequences, real or imagined, of domination by one group over another. Your Committee therefore proposes the establishment of a union of autonomous states with state rule constitutionally guaranteed, in which the collective government of all the states is responsible for external affairs and for the solution of national problems, and the individual state governments are responsible for all other affairs of government.

The proposal of your Committee contemplates a constitution which is supreme in that it is the basic charter for government in Micronesia. Treaties, public laws at all levels of government, and state and local constitutions must be in conformity with the national Constitution.

The proposal establishes a federal system of government in which the national government reigns supreme in its very limited and narrowly defined sphere of responsibility and the state governments are supreme in their much broader sphere. The powers of the national government are "express powers" and those of the states, "residual". That means that the national government has only those powers expressed in the Constitution, while the state governments have all other powers of government. While the powers of the national government are express, limited and narrowly defined, your Committee does not feel that the system of government herein proposed establishes a "weak" national government. Your Committee views the responsibilities of the national government as being limited and that

therefore the powers necessary to fulfill those responsibilities are also limited, though not insufficient.

The major powers assigned to the national government in the proposal of your Committee are:

- National defense and foreign affairs.
- Regulation of immigration, emigration, naturalization and citizenship.
- Currency, banking, commercial paper and securities.
- Foreign and interstate commerce.
- Insurance.
- Patents and copyrights.
- Navigation and shipping.
- Bankruptcy and insolvency.
- Offshore natural resources.
- The power to establish a postal system.
- The duty and power to promote education and health.
- The power to establish social security and public welfare programs.
- The power to legislate regarding major crimes.

Some of these powers reside exclusively in the national government while others may be exercised concurrently by the state governments.

The bulk of the power and legislative authority of government resides in the states. Most of these powers are reserved exclusively to the states, but some may be exercised concurrently by the national government. The powers which your Committee contemplates would be reserved to the states include:

- Administrative and policy-making control of all branches of the state government.
- Personal property law.
- Land law.
- Legislation regarding protection of local custom.
- Marriage and divorce law.
- Adoption law.
- Inheritance law.
- Basic criminal law jurisdiction.
- Basic responsibility for law enforcement.
- Basic social welfare legislation, such as:
  - Housing.
  - Public assistance programs.
  - Consumer protection.
  - Liquor control.
  - Food and drug control.

- Primary responsibility for:
  - Health and education.
  - Intrastate transportation and communications.
  - Environmental protection.
  - Economic development.
  - Foreign investment.
  - Regulation of basic business activity.

- Basic lawmaking power in such areas as:
  - Torts.
  - Contracts.
  - Administrative law.
  - Corporations and other forms of business associations.

Powers of government can be broken down into several basic types. There are the express powers which set forth the basic relationship between the state and national governments by delegation to the national government of a number of broad grants of power such as "national defense", "foreign affairs", "interstate commerce", etc. These broadly stated express grants of power

contain within them innumerable incidental or implied powers. For example, 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. But the Committee's proposal does not expressly state that the national government shall also have the power to issue stamps, build post offices, hire employees to deliver mail or prescribe major or minor penalties for stealing mail. The Committee intends that such incidental powers be implied within the express grant of power. Another example--the Committee Proposal does not expressly grant the national government the power to establish jails and penitentaries for the confinement of criminals, though it does intend the national government to have this power. The reason is that the power to construct and operate jails is implied in a combination of at least two express powers--the power to appropriate money and the power to define and punish major crimes.

Another category of national power is the so-called "inherent" powers. These are powers which are intrinsically a part of some other provision of the Constitution. For example, legislatures inherently have the power to establish their own rules of procedure and to conduct investigations and punish those who refuse to cooperate in investigations. Likewise it is an inherent power of the chief executive to faithfully execute the laws of the nation and to be the chief administrator of the national public service system. These powers need not be expressed; they are inherent in the nature of the system being established.

The first two sections of the proposal set forth the general grant of powers to the state and national governments, and as such are of extreme importance and should be considered very carefully by all delegates. The first section provides that the state governments shall have all powers not delegated by the Constitution to the national government. The second grants the national government:

> "all powers expressly delegates to ...(it)", plus
> "all power necessary to deal with matters of such an indisputably national character as to be beyond the ability of a single state to control."

The reason for the grant of express powers to the national government is apparent. It establishes the basic division of responsibility between the national and state governments. The reason for the grant of "powers of an indisputably national character" may be less apparent. This provision refers to powers not expressly delegated to the national government by this Constitution. Your Committee intends that the national government be responsible for dealing with problems of a clearly national character. Ideally, all such problems should be foreseen by your Committee and this Convention so that the national government could be granted express powers to deal with them, alleviating the necessity of a general grant of power. However, the ideal is not possible. Your Committee has no crystal ball. With the rapidity of technological and social change, twenty-five years from now that which is not even dreamed of today may be commonplace. The Constitution must be capable of adaptation to change. The general grant of power then is designed to inject flexibility into the constitution, to make it an enduring document, and to remove the costly, difficult, time-consuming necessity of frequent amendment.

Included within the "indisputedly national" category are numerous powers, many of which are of minor significance, but which nevertheless collectively contribute to the ability of the national government to function. Determination as to whether a power falls within this category would lie initially with the national legislature and national chief executive, and if their conclusions were challenged, the final decision would rest with the Supreme Court. This power might be held to include such matters as the power to:

> Establish national symbols such as a national flag and anthem.
> Buy land.
> Establish national parks and recreation areas.
> Legislate regarding national elections.

Convene a future constitutional convention.
Set the time and place, etc. for a popular initiative regarding amendment of the Constitution.
Maintain statistical information regarding the nation.
Conduct censuses.
Establish a national communications network.
Establish and operate a national airline or shipping service if that were the only means to provide a transportation system.
Regulate interstate air transportation.
Regulate high seas pollution.
Establish a national weather service.
Regulate interstate radio traffic.
Establish a national police force.

Also included within this category is the power to deal with problems which may now be considered state in nature but which because of changing circumstances in the future, may become national in scope. Examples which come to mind include the regulation of labor unions. Right now union activity in Micronesia is of a strictly local nature and can readily be regulated by the state governments. But if Micronesia develops large industries in the future, national labor unions may be formed requiring national regulation if their activities are to be effectively controlled. Another example is housing. Today assistance to families provided through housing programs is largely a local matter. But perhaps tomorrow money for housing may become available to the national government from the United States or United Nations on the condition that a housing program be administered nationally. The Constitution should be flexible enough to permit the national government to accept such money and to establish a national housing program. A third example--the national government has no express power to establish public corporations under the proposal of your Committee. Under ordinary circumstances your Committee does not feel that the government ought to delve in the area of private enterprise and that when such necessity arises it ought to be the state government which is empowered to do so. However, your Committee recognizes that in the future there may be extraordinary circumstances which make formation of a public corporation by the national government desirable. For example, it is possible that the only way to efficiently and competitively exploit the tuna resource in Micronesia's waters is through the establishment of a government-owned corporation. If that is the case, the Constitution ought to be flexible enough to permit the national government to do so.

Some may argue a general grant of power is unnecessary because the amendment provision can be used to grant the national government additional express powers. Your Committee does not feel that this is practical. First of all, many of the powers which fall within the general grant of power are minor and extremely numerous, far too numerous to make the difficult process of amendment practical. Secondly, your Committee feels that the amendment process is designed and should be used for fundamental changes in the Constitution, not for relatively minor adjustments to changing circumstances. The amendment proposal which was adopted by this Convention requires approval by three-fourths of the votes cast in each of three-fourths of the states. If the future government of Micronesia is composed of six states, that means that 25 percent of the people in two states could defeat any attempt to amend the Constitution. Thus the amendment process will take years to complete and require an overwhelmingly favorable vote. For these reasons your Committee does not feel that it could be used to "fine tune" the division of responsibility between the national and state governments.

Your Committee feels that the general grant of power contained in the proposal will achieve the end desired by us all--namely permitting adjustment to changing circumstances while at the same time placing a constitutionally guaranteed restraint on the unwarranted expansion of the national government. The text contained in the proposal is quite limiting. Before the national government can assume a power not expressly granted in the constitution, the matter or problem which gave rise to the power must be

"indisputably national in character", and
"beyond the ability of a single state to control."

Your Committee feels that flexibility must be built into the Constitution if the system of government we are establishing is to succeed, and that the wise course is to rely on the discretion of the national legislature and national chief executive, tempered by the restraints of the Constitution and the Supreme Court, in deciding whether a power being exercised by the national government is truly national in character.

Before moving to a discussion of the specific grants of power, your Committee would like to comment briefly on its intent with respect to interpretation of this proposal. Your Committee intends that the basic division of authority between the State Governments and the Central Government be found in the express grants of power. We intend that the language of this article be strictly and narrowly construed. Your Committee contemplates that this language will be interpreted by the highest court of the national court system. Your Committee does not wish that court to distort the meaning of the language of this article by using it to excessively and unduly expand the power of the Central Government. Nor does your Committee intend that the general grant of power be ignored, with the effect of denying to the Central Government the power necessary to deal with problems which are national in scope. In situations where no express provision applies, the highest court of the land must interpret, and in doing so, must maintain a very delicate balance. Repeating what was said earlier, powers necessary to solve national problems requiring national solutions should be within the authority of the Central Government. Powers necessary to deal with local problems, admitting of local solutions, should be reserved to the State Governments. The basic outline of our conception and intention as to the distinction between problems of a national character and problems of a local character is contained in the division of express powers contained in the proposal. Beyond this we can say no more.

EXCLUSIVE POWERS OF THE NATIONAL LEGISLATURE.

1. National Defense. Page 2, line 1. The power and duty to provide for the national defense is exclusively granted to the national government. It is the feeling of your Committee that this power is of a national character, requiring national coordination and control, and therefore should be delegated to the national government.

2. Treaty Ratification. Page 2, line 1. Your Committee feels that all foreign affairs power should reside in the national government, that the national executive should be empowered to negotiate and conclude treaties, and that the national legislature should have the power to ratify ordinary treaties by a two-thirds vote of the entire membership or two-thirds of each house of a bicameral legislature. However, your Committee feels that a treaty which delegates major powers of the government of Micronesia to another sovereign government, should, in addition to the normal ratification by the national legislature, require the approval of not less than two-thirds of the state legislatures. Under this provision of the proposal, a treaty which defines Micronesia's future political status, or delegates defense or foreign affairs of Micronesia to another sovereign government will require the approval of not less than two-thirds of the state legislatures whereas a commercial treaty would only require the approval of the national legislature.

3. Immigration, Emigration, Citizenship, and Naturalization. Page 2, lines 6 and 7. Your Committee feels that the regulation of immigration, emigration, naturalization and citizenship is of an essentially national character and ought to be controlled by the national government.

4. Currency. Page 2, line 8. Your Committee feels that the currency of Micronesia should either be the currency of another government designated by the national government of Micronesia or a currency actually issued by the national government. However, your Committee does not feel that the power to regulate and issue currency should be broad enough for any level of government to interfere with the free use of traditional forms of money.

5. Banking Regulations. Page 2, line 8. Your Committee feels that the entire issue of banking and banking regulation is of a national character and requires uniformity and therefore should be exclusively within the scope of the national government. Usury limits on large loans should be established by the national government while the usury limit on small loans should be a matter for state control. Your Committee considered inserting a specific dollar amount distinction between "major" loans and small loans but rejected the idea in favor of a differentiation established, and from time to time amended, by the national legislature.

6. International and Interstate Commerce. Page 2, line 9. Your Committee feels that commerce within a particular state should be regulated locally, but that interstate and international commerce should be regulated by the national government. In international and interstate commerce, uniformity is important and any restriction on the free flow of goods among the states should be controlled by the national government.

7. Insurance. Page 2, line 9. The business of selling private insurance is a particular type of international or interstate commerce which deserves special mention in the Constitution because of the disreputable history of a portion of that industry and because of the potential for large-scale fraud inherent in the business. Your Committee feels that the insurance industry requires uniform national regulation in Micronesia, and has therefore so provided in its proposal.

8. Commercial Paper. Page 2, lines 9 and 10. Bills of exchange, promissory notes, bank checks and other negotiable instruments have the character of and are used similarly to currency. Since they are very commonly used in interstate and international commerce, uniformity of regulation is important. Your Committee therefore feels that the commercial paper ought to be regulated by the national government.

9. Bankruptcy. Page 2, line 10. The inability of an individual, business or association to pay its debts, and the means by which the law deals with such situations commonly involve creditors in more than one state and are therefore matters of national concern. Uniformity is important to enforce the bankruptcy laws and to create an atmosphere of confidence throughout Micronesia in that debts can be legally collected with minimum of difficulty. The draft proposal of your Committee has therefore empowered the national legislature to regulate bankruptcy.

10. Patents and Copyrights. Page 2, line 11. Patent, the exclusive right of an inventor to make, use and sell his invention, and copyright, the literary property right of an author, are matters demanding national uniformity and therefore regulation of patents and copyrights is vested by your Committee in the national government.

11. Regulation of Shipping. Page 2, line 11. The regulation of navigation and shipping increasingly is becoming the subject matter of international agreement. Your Committee feels that the level of government which controls foreign affairs and the negotiation and ratification of treaties must also regulate navigation and shipping, so that it has the power to enforce agreements made by it with other governments. Your Committee therefore feels that the national government should regulate shipping except within the lagoons and rivers of islands.

12. Postal System. Page 2, line 13. For convenience, efficiency, and reduction of administrative costs, your Committee feels that the national government should be empowered to establish the national postal system.

13. New Territory. Page 2, line 15. The power to acquire new territory should reside with the national government.

14. National Capital. Page 2, lines 15 and 16. An area sufficient in size for its purposes should be set aside for the capital of Micronesia by agreement between the national government and the government of the particular state in which the capital is to be located. This area should be governed in a manner established by the national legislature.

15. Offshore Natural Resources. Page 2, line 16. Your Committee carefully considered the questions related to the regulation of offshore living and mineral resources. Mindful of the fact that Micronesian custom generally recognizes family, clan or island ownership of fishery resources within lagoons and for several miles beyond reefs, your Committee concluded that the state governments ought to regulate the ownership and use of such resources. However, equally cognizant of the fact that the developing law of the sea is likely to recognize Micronesian resources jurisdiction up to 200 miles beyond the reefs and of the fact that exploitation of those resources will involve nationals of other countries and that a rational, organized plan of regulation of the offshore area requires consistency and uniformity among the states, your Committee has recommended vesting regulatory authority of offshore resources in the national government. Your Committee feels that regulatory authority over both mineral and fishery resources beyond 12 miles of an island ought to rest in the national government. The proposal contemplates that in compliance with its power and obligation to regulate offshore mineral resources, the national government will expend substantial sums of money in basic mineral survey work, in preparing areas for mineral exploitation and in policing and monitoring commercial and other activities in the areas. Your Committee intends that these costs be paid if possible from revenue derived from the exploitation of the offshore areas. The proposal therefore provides that the net revenue, meaning revenue derived after subtraction of survey and site preparation costs, be divided equally between the district and national governments.

16. Public Service System. Page 3, line 2. Under this proposal, the national legislature is empowered to establish and regulate a national public service system. Such a system shall provide, among other things, the procedure for the appointment of public officials requiring the advice and consent of the national legislature other than those covered by the provisions of the Constitution.

17. Impeachment. Page 3, line 3. Coupled with the responsibility of a government to provide services to its citizens is the responsibility to ensure that public officials are responsive to the need of government and people in the performance of public duties. Mindful of this, your Committee has included in this proposal a provision which would permit the removal of certain public officials when the public interest demands such action. Under this provision, the chief executive of the national government, members of the national legislature, and judges of the Supreme Court can be removed from office for treason, bribery, and conduct involving corruption in office. Removal will be through the impeachment procedure which is to be exercised by the national legislature by not less than two-thirds of the entire membership, or if the legislature is a bicameral one, by two-thirds of the entire membership of each house.

18. Criminal Law. Page 3, line 14. Your Committee feels that a rational clear-cut distinction between the authority of the national government and that of the state governments ought to be made in the area of criminal law and that the distinction ought to be based on the severity of the crime. Your Committee also feels that the national government ought to take local custom into consideration in legislating regarding crimes. Your Committee has therefore provided that the national government should have authority over major crimes, should be empowered to distinguish between "major" and "minor" crimes and that in enacting such legislation should take local custom into account.

19. Veto Override. Page 3, line 16. Your Committee feels that the national executive ought to be empowered to disapprove legislation of the national legislature, but that the national legislature ought to be empowered to override such veto by a vote of two-thirds of the entire membership, or if the national legislature is a bicameral one, by a two-thirds vote of the membership of each house.

POWERS OF NATIONAL LEGISLATURE TO BE EXERCISED CONCURRENTLY BY STATE.

20. Appropriation Power. Page 4, line 3. Your Committee feels that both the national and state legislatures should have the power of appropriation, and that the subject matter of appropriation should not be limited.

21. Borrow Money. Page 4, line 3. Your Committee feels that both major levels of government may from time to time wish to borrow money in order to finance major projects. The proposal of your Committee would therefore permit both the national and state governments to borrow money on the public credit through the issuance of government bonds or any other appropriate means. However, the state governments should not be obligated to pay the debts of the national government, nor should the national government be obligated to pay the debts of the state governments. Borrowing of money by a state government from a foreign government or international organization should be administered by the national government and subject to approval of the national government.

22. Education and Health. Page 4, line 5. Your Committee feels that the basic responsibility for providing health care and education should rest with the states. However, the national government should be empowered to promote education and health care, to appropriate funds for that purpose and to establish certain standards such as qualifications for nurses and doctors, standards of quality for hospital facilities, and for minimum patient care; qualifications for teachers, standards for certifying schools and for curricula and textbooks. In addition, the national government should have the primary responsibility to coordinate education in Micronesia and to conduct higher education.

23. Social Security and Public Welfare System. Page 4, line 8. The establishment of a social security system and a system of public welfare service is placed under the concurrent power category in recognition of the possibility that perhaps in the distant future a state might find the need to provide welfare assistance to its residents where such service is absolutely necessary. At the same time, the national government is expected to continue the present social security system and if future changing circumstances justify, it can exercise its concurrent power to provide for a public welfare system. In proposing this concurrent power, with respect to establishment and regulation of public welfare assistance, the Committee is mindful of the adverse effects of too much dependency on welfare assistance. It is hoped therefore that each level of government takes every precaution in the establishment of public welfare service in Micronesia.

24. National Defense and Foreign Affairs. Page 4, line 13. The conduct of external relations should be reserved exclusively to the national government. Accordingly, as a corollary to the national legislative powers to provide for the national defense and ratify treaties, the national executive, subject to appropriate provisions of the Constitution and national laws should be empowered to conduct national defense, negotiate treaties, recognize foreign governments and generally to conduct external relations.

25. Veto Power. Page 4, line 16. The national executive should have the power to veto national legislation subject to override by two-thirds of the membership of the national legislature or two-thirds of the membership of each house if the legislature is a bicameral one.

26. Pardons and Reprieves. Page 5, line 6. The national executive should be empowered to grant pardons and reprieves for persons convicted of crimes involving both state and national law.

27. Appointment Power. Page 5, lines 10 and 12. Under this provision the national chief executive is empowered to appoint ambassadors and the principal officer of each executive department of the national government, subject to the approval of not less than two-thirds of the entire membership of the national legislature, or not less than two-thirds of the entire membership of each house in the case of a bicameral legislature. It is the intent of your Committee that those executive officials whose appointments are provided for in the Constitution shall not be subject to the public service system, and that such officials can be removed from office by the chief executive without the approval of the national legislature.

28. Power of the Chief Executive. Page 4, line 16. The chief executive of a government is charged with the responsibility to ensure the public safety and security of the nation both during periods of normalcy as well as during emergencies. Your Committee strongly feels that the case is true here in Micronesia as in any part of the world, that the chief executive should be given the power to declare a state of emergency in the event of threat of war or insurrection, civil disturbance, natural disaster, or calamity of a momentous and catastrophic nature, and to take appropriate measures to cope with the emergency. Under the provision proposed by your Committee on emergency power, the chief executive is given the power not only to declare a state of emergency, but also to suspend the civil rights of citizens if such suspension is warranted. However, we feel that such an extraordinary power must not be unlimited but must be checked by the other two branches of the government as explained below.

29. Power of the National Legislature. Page 6, line 9. To provide safeguards against misuse of the emergency power by the chief executive, your Committee has included in the proposal the requirement (1) that any proclamation of emergency or emergency decree expires at the end of thirty days after issuance, unless extended by the legislature; and (2) that no emergency decree or proclamation shall be valid which impairs the powers of the national judiciary.

30. Power of the Judiciary. Page 6, line 7. Your Committee strongly feels that the public interest will be served if the judiciary continues to function even during a state of emergency. To ensure this, we have provided in the proposal that powers of the judiciary should not be impaired by any emergency decree issued by the chief executive and that the supreme court can pass on the question of constitutionality of emergency decree or proclamation.

Signed by 12 members of the Committee on Governmental Functions

SCREP. NO. 34 COMMITTEE ON GENERAL PROVISIONS OCTOBER 13, 1975

Re: Judicial Guidance (Comm. Pro. No. 22)

Your Committee on General Provisions to which were referred Delegate Proposals dealing with transition and the common law begs leave to report as follows:

Your Committee is of the opinion that the Constitution should provide future judges with guidelines for decision making. Generally the courts follow the logic and results which have been arrived at by the court when previously considering similar fact situations. However, in a period of transition from one judicial system to another, it is unclear what previous decisions and reasoning the judges should be following. The Committee Proposal states that the courts of Micronesia shall base their decisions on the Constitution, laws thereunder, Micronesian customs and traditions, and the total social and

physical configuration of Micronesian life. The intent and purpose of this provision is that future Micronesian courts base their decisions not on what has been done in the past but on a new basis which will allow the consideration of the pertinent aspects of Micronesian society and culture.

The failure to include such a provision in the Constitution may cause the courts to follow the decisions of past Trust Territory cases or various foreign decisions which have dealt with similar interpretive or legal questions. This may be undesirable since much of the reasoning utilized in these various courts may not be relevant here in Micronesia. Micronesia is an island nation scattered over a large expanse of ocean. Customary and traditional values are an important part of our society and lifestyle. It is important that this Constitution be interpreted in light of our customs and traditions. Without such assurance in the Constitution, the words we use may be interpreted to mean other than what we have intended.

The wording "total social and physical configuration of Micronesian life" means that the courts shall consider cases on the basis of pertinent aspects of Micronesian society and geography rather than considering those aspects of some outside and possibly quite different society.

The second sentence of the Committee Proposal states that decisions of the Trust Territory courts and the common law may be utilized as guidance but shall not be binding precedents. Generally, the common law means that body of law built up by the judgments and decrees of courts which recognize and affirm common usages and customs. However, in the past the courts in the Trust Territory have copied to a great extent English common law which the Committee feels is not always a relevant basis for decision here in Micronesia. Therefore, the provision guarantees that future Micronesian courts will not be bound to follow previous Trust Territory or common law decisions.

It should be noted here that the provision does not mean that past decisions of the courts are invalid. If a court has decided a case, its decision and the results therefrom are not affected. The provision simply provides that future judges in similar cases are not required to decide them in the same manner. If Micronesian customs and traditions dictate a different decision in the new case, the judge can so rule. He is not required to follow the past decision, possibly reached on the basis of U.S. or English interpretation of rights or duties.

The future interpretation of the Constitution will profoundly influence the effect that document will have on future generations of Micronesians. Your Committee urges that the Convention take action which will insure that Micronesian lifestyle, customs and traditions shall have paramount importance in such interpretations.

Therefore, your Committee on General Provisions strongly recommends the adoption of the Committee Proposal entitled "Judicial Guidance" as part of the Micronesian Constitution.

Signed by 9 members of the Committee on General Provisions

SCREP. NO. 35 COMMITTEE ON GENERAL PROVISIONS OCTOBER 13, 1975

Re: Transfer of Property to the New National Government
(Comm. Pro. No. 23)

Your Committee on General Provisions, to which was assigned the responsibility of dealing with transition issues, begs leave to report as follows:

The intent and purpose of the attached Committee Proposal is to transfer all property owned, used, held in trust, or otherwise in the possession, custody, and control of the Government of the Trust Territory of the Pacific Islands to the new national government of the Federated States of Micronesia. This would include all buildings, roads, bridges, real property, ships, vehicles,

equipment, etc. It is expected that provisions of this Constitution will assign certain functions, formerly within the domain of the Trust Territory Government, to the states. For example, public health and education may become responsibilities of the states. Accordingly, this proposal provides that property will be distributed to the states, based on the allocation of the functions of government under this Constitution. School buildings, hospitals, and equipment and property related to the performance of these functions would be distributed to the states. Likewise, if the responsibility for shipping and transportation is to be retained as a function of the national government, all vessels and related equipment will be retained by the national government.

As in other proposals relating to the area of transition, your Committee on General Provisions recommends that districts which fail to ratify the Constitution be excepted from the legal effects of the provision. Your Committee feels that districts which do not ratify this Constitution should retain property used primarily for their benefit.

Your Committee realizes that it would be impossible at this time to determine precisely the disposition of each item of property owned by the Government of the Trust Territory of the Pacific Islands. However, the Committee on General Provisions recommends adoption of the principles contained in this provision for the transfer, retention, and distribution of property. Good faith negotiation and action by the future national legislature may be required to effectuate an orderly transfer during the transition period.

Signed by 9 members of the Committee on General Provisions

SCREP. No. 36 COMMITTEE ON GOVERNMENTAL STRUCTURE OCTOBER 14, 1975

Re: A structure for the government of Micronesia
(Comm. Pro. No. 24)

Your Committee on Governmental Structure begs leave to report that it has completed action upon and is reporting out to the Convention a structure for the government of Micronesia. A copy of the Committee Proposal is attached hereto. This report contains twelve sections, broken down as follows:

I Summary
II General Approach
III The Council Form of Government - General Comments
IV A Section by Section Analysis of the Article Establishing a Council of Ministers
V National and Other Governments
VI Oath of Office
VII Role of Traditional Leaders - General Comments
VIII Role of Traditional Leaders - Section by Section Analysis
IX Congress of Micronesia - General Comments
X Congress of Micronesia - Section by Section Analysis
XI Judiciary - General Comments
XII Judiciary - Section by Section Analysis

In addition to this report, your Committee respectfully refers you to the following documents, all of which contain additional information and analysis of matters relating to the Governmental Structure:

(1) General Research Study No. 1, "Judiciary": Selection, Tenure, and Removal Provisions."

(2) General Research Study No. 2, "Centralization/Decentralization of Government."

(3) General Research Study No. 4, "Separation of Powers, Checks and Balances, and Legislators as Heads of Executive Departments."

(4) General Research Study No. 6, "Unicameral and Bicameral Legislatures."

(5) General Research Study No. 7, "Legal Systems: Modern and Traditional."

(6) General Research Study No. 10, relating to Civil Service Systems.

(7) General Research Study No. 24, relating to Constitutional Provisions for Chief Executives.

(8) General Research Study No. 14, Traditional Leaders in Pacific Area Governments.

(9) General Research Study No. 25, recognition of Traditional Leaders in Other Governments.

(10) Internal Research Study, R & D No. 51, concerning Democracy.

I. SUMMARY

A. THE EXECUTIVE BRANCH

Your Committee is recommending a plural executive for Micronesia, with one member from each state of Micronesia. The executive authority for the National Government would rest in the Council of Ministers, who would elect one of their number as Prime Minister. In addition to his duties on the Council, the Prime Minister would be the ceremonial head of state and each minister would supervise one or more executive departments.

Traditional leaders would play a role at the national level in a Chamber of Chiefs, and at the state level as determined by each state's constitution.

Each state would be required to establish state and local governments pursuant to state constitution.

B. THE CONGRESS OF MICRONESIA

Your Committee is recommending retention of a bicameral legislative body very similar to the existing Congress of Micronesia. The attached Committee Proposal creates a Senate composed of two senators from every state, and a House of Representatives apportioned among states by population. The Proposal requires reapportionment of the House every ten years. The rest of the Committee's proposed article on the legislature deals largely with routine matters of procedure.

C. THE JUDICIARY

Your Committee is recommending a unified judicial system providing for courts on all levels of government. The one exception is a land claims court in every state. Your Committee's Proposal requires creation of such a court in every state, but leaves the composition, organization, and procedures of the land courts to be provided for by each state legislature. As to the remainder of the judicial system, your Committee has retained the present scheme of a national high court, state or district-level courts, and municipal courts. The major difference from the present system is that the original jurisdiction of the state or district-level courts is potentially much broader than is true now.

II. GENERAL APPROACH

In drafting a proposed structure for the government of the Federated States of Micronesia (referred to hereafter as Micronesia), your Committee was guided by several principles:

(1) that the Constitution should be as simple as possible;

(2) that the Constitution should be as flexible as possible, while still protecting the fundamental rights of the citizens of Micronesia and detailing a basic outline (skeleton) of the new government. Your Committee feels that the Constitution should outline the new government, with many of the details later established by law to allow flexibility for changes brought by the future.

(3) that the Constitution should reflect the unique cultural heritage of the Micronesian people.

Your Committee took great pains to consider every relevant delegate proposal and every relevant idea of each Committee member in arriving at the attached Committee Proposal. Every attempt was made to combine the better ideas into the Proposal whenever possible. As to those ideas and those proposals which were diametrically opposed to each other and which could not be reconciled, your Committee attempted to select those ideas which seemed most suited to Micronesia after careful consideration of all relevant materials before the Committee.

To facilitate drafting in the various areas covered by the Committee Proposal, your Committee selected one proposal in each subject matter area to use as a working guide. That working guide was then modified and rewritten to express the views of the Committee.

The Committee has no objection to the Convention or the Style Committee changing any nomenclature used in the attached Proposal. In this Report and the Committee Proposal, masculine pronouns also refer to the feminine gender.

III. COUNCIL OF MINISTERS - General Comments

Your Committee spent a great deal of time considering the best form of executive government for Micronesia. A presidential system was considered, but not adopted. The Committee feels that due to the unique cultural, linguistic, and geographic diversities to be found in Micronesia, it will be difficult, if not impossible, for all Micronesians to unite behind one individual leader. The Committee feels that the presidential system would be a good system for a compact country with a more or less homogenous population; however, such a system did not seem suited to a population as widely dispersed and as richly diverse as Micronesia's. The principal advantage seen by your Committee in an American style presidential system was an efficient and rapid process for making executive decisions by one individual who is responsible for the executive branch, whether his authority is delegated or not. The principal disadvantage of a presidential system for our country is that normally there are no individuals in Micronesia who have the experience and knowledge necessary to effectively lead all of the numerous cultural groups to be found in our new nation.

Having ruled out a single, presidential style executive, your Committee decided that a collective executive would be the most appropriate for Micronesia because of the diversity of our peoples, the variety of our culture, and that special, undefined quality found here in our islands that is sometimes referred to as "the Micronesian way." Traditionally, in Micronesia, important decisions are made collectively--be it in the family, in the clan, or elsewhere. Therefore, the Committee decided to recommend a plural executive.

The Committee felt that the plural executive should have certain qualifications and characteristics. It was felt that it should represent a cross section of all of the districts, that it should be small enough to be workable and economical, that the executive should be separate from the other two branches of government so as to realize the advantages of "separation of powers," and that it should be elected by the people in a democratic manner. The Committee considered the parliamentary system of government, but rejected this system

since the members of the cabinet in a parliamentary system are normally selected by the legislature on the basis of tested legislative ability, while the Committee feels that Micronesia needs a collective executive chosen not only on the basis of administrative and legislative ability, but on the basis of cultural background. It is felt that a parliamentary system would not necessarily reflect the geographic and cultural differences of Micronesia. The Committee also felt strongly that the executive should be elected by the people and should not be indebted in any way to the legislature for its position. Your Committee is of the position that the three branches of government should be as separate and distinct as possible to prevent governmental abuses. The Committee was also influenced by the fact that not one delegate proposal suggested a parliamentary system. For the above reasons, your Committee is recommending that the Convention adopt a plural executive consisting of a Council of Ministers made up of one minister elected by and from each state, with the Council selecting a chairman from its membership who will be called Prime Minister. The proposed Council would be collectively responsible for the operation of the executive branch, with much of the executive power delegated to the Prime Minister and the ministers on the Council. Each minister will also supervise one or more executive departments. In carrying out their duties, they must comply with all directives of the Council; thus, the Council could assume all of the decision-making functions of the government by issuing appropriately worded directives.

The Committee feels that the Council form of government recommended is uniquely suited to Micronesia. Being made up of one minister from each state, it should reflect most of the major cultural groups in Micronesia. The members of the Council would be elected in a democratic manner, and should thus be representative of the peoples of Micronesia. As a collegial body, all important decisions would be made collectively, after discussion and an exchange of viewpoints. The Council will be small enough to be workable. The elected ministers will not only sit on the Council, which will probably meet only periodically and at such other times as may be necessary, but will also act as supervisors for each executive department, thus performing not one but two distinct executive functions. In supervising his department each minister will be assisted by an appointed department head with technical or administrative expertise. Since each of the ministers will be working full time, carrying out necessary tasks of government, the system will not be significantly more costly than a presidential system with a cabinet of appointed department heads. Your Committee feels that the Council of Ministers is the best form of the executive branch for Micronesia.

Worldwide, the collegial or council form of government is somewhat unique in national governments. Today, in the free world, Switzerland is the only democratic country having a plural executive of the type proposed. The Swiss system has a Federal Council of seven members, elected simultaneously for four-year terms by the two houses of the federal legislature. By custom, it reflects both geographic concentration of power in the federation and the strength of political parties. Not more than one person from the same canton is eligible for office, and customarily the Councillors serve for more than one term. The members of the Council may, but need not, be members of the legislature at the time of their election; if they are members, they must resign their legislative posts. The federal legislature elects the President and Vice President of the Federal Council. The Swiss President serves for one year and may not succeed himself, although he may be reelected at another time.

While in some ways seemingly similar, there are several fundamental differences between the Swiss system and the proposed Council of Ministers for Micronesia. Some of these differences include:

(1) Under the Swiss system, the Councillors are not chosen by popular election but are selected by the federal legislature for fixed four-year terms. Thus, unlike the Micronesian proposal, the Councillors receive their mandate from the legislature and not from the people, and may be unresponsive to the will of the electorate. The proposed Micronesian Council of Ministers would be elected by the people of each state with each state electing one member of the Council. Thus, while the Micronesian selection process is perhaps more democratic, it runs the risk that such a system may not encourage

a feeling of national unity among the ministers, since each one of them has a mandate not from all of the people of Micronesia nor from a body representing all of the people, but only from his own state. However, as pointed out earlier, your Committee feels that any such "disadvantages" are more than offset by having democratically elected ministers from each state, each of whom truly represents his own island culture and his people. The Committee feels that the ministers will have no problems putting aside regional differences to work together for the unity of Micronesia while each member continues to retain his identity and the unique viewpoint of his state's culture.

(2) Under the Swiss system, the Federal Legislature elects the President and Vice President of the Swiss Council--not the Council itself, as is proposed by your Committee.

(3) Under the Swiss system, since there are 22 Swiss cantons (districts) but only seven councillors, many cantons are not represented on the Council. The makeup of the Council is determined by custom, with various geographic areas traditionally supplying one Council member.

(4) Over the years, both customs as to the administration of government and a unity and feeling of loyalty to Switzerland have developed to mold and control the Swiss system. Comparable customs and sense of identity with the new system proposed for Micronesia must take root and develop, but since the proposed Council of Ministers seems so compatible with "The Micronesian Way," your Committee is confident this will occur.

IV. ANALYSIS OF PROPOSED ARTICLE - Establishing a Council of Ministers

SECTION 1. COUNCIL OF MINISTERS

> "There shall be a Council of Ministers of the Federated States of Micronesia in which is vested all executive powers of the Federated States of Micronesia. The Council of Ministers shall be collectively responsible for administering all of the laws of the Federated States of Micronesia. The Prime Minister and the Ministers of the Federated States of Micronesia shall exercise these powers on behalf of the Council of Ministers, except as provided by this Constitution."

The wording of this Section is fairly self-explanatory. It is anticipated that while the executive powers of the government are in the Council of Ministers, many of these powers will be exercised on a day-to-day basis by the Prime Minister and his ministers. The Section states: "The Prime Minister and the Ministers of the Federated States of Micronesia shall exercise these powers on behalf of the Ministers, except as provided by this Constitution." The Committee Proposal provides elsewhere that the Prime Minister and the ministers must act in accordance with the directives of the Council of Ministers (see Sections 7 and 14). Thus, they can act in their discretion if such actions do not conflict with any Council directive. This gives them considerable flexibility to act in an emergency situation, and it also permits the Council to delegate routine powers to the Prime Minister and individual ministers. They would be able to take any action permitted by law and not prohibited by the Constitution so long as it did not conflict with any Council directive. However, if the Council so desired, it could require consultation with the Council on all administrative decisions, thus controlling the Prime Minister and the ministers completely.

This Section also makes the Council of Ministers collectively responsible for administering all of the laws of the States of Micronesia, with the ultimate executive authority lying in the Council. This, along with the provisions above, means that the Council of Ministers has both the responsibility and the power to enforce the laws of the Federated States of Micronesia and to perform the executive function.

SECTION 2. MINISTERS.

"Each State, by State-wide election, as provided by national law, shall elect one Minister to sit in the Council of Ministers. In addition to such other qualifications and disqualifications as may be provided by law, no person shall serve as a Minister who is not:

a. a bona fide citizen of the Federated States of Micronesia and a bona fide resident of the State from which he is elected for at least seven years prior to the date of election.

b. at least thirty-five years of age when he takes his oath of office."

Each state will elect one minister to sit on the Council of Ministers. There are several points in the Section which should be expanded upon.

(1) Elections shall "be as provided by National law," thus taking control of the election process for the Council from the states. This wording was included in this Section because the Committee feels that the national government must have the ultimate authority over the steps necessary to constitute the government and to insure its continued exercise and power to act. It is the position of the Committee that in order to be truly sovereign, the government of Micronesia must not be dependent upon the several states and without authority of its own in respect to an essential part of the machinery necessary to its continued existence. In addition to these reasons, the Committee feels that it would be more efficient and would insure orderly, fair elections if the national government has the power to standardize and supervise national elections, as to time, rules of election, election laws, etc.

(2) "Other qualifications and disqualifications" may be established according to law. Your Committee included this language in the Section to allow flexibility for the future. It is envisioned that the legislature may, if it wishes, prohibit felons or other criminals from sitting on the Council and establish such other criteria for the Council as it may see fit. The Committee discussed fluency in English as a requirement for membership on the Council, but rejected making this a constitutional qualification. Your Committee feels that this is a Micronesian Constitution for Micronesians, and that fluency in a foreign tongue should not be required for public office in our country. The Committee realizes that if there are members on the Council who are not fluent in English, it will possibly slow down the work of the Council due to the necessity for translation. However, the Committee is of the opinion that any such disadvantages are more than offset by making membership on the Council open to all citizens who are otherwise qualified, regardless of their English-speaking abilities. At some later date, if serious problems develop, language qualifications can be prescribed by law.

(3) The expression "bona fide" is used to describe citizens and residents in subsection a) of Section 2, which establishes qualifications for membership on the Council. The Committee arrived at the use of this term after considerable debate and after considering many possible situations which might arise. The original wording by the subcommittee on Executive Structure required that a person be a "natural born" citizen of Micronesia; however, this concept was rejected by the subcommittee and by the Committee. It was the feeling of the Committee that "bona fide" was more appropriate as a standard for both citizenship and residency, since any close cases could be decided fairly by the courts. This was considered a good alternative to the establishment of hard and fast rules which, if followed fastidiously, might result in unfair or even ridiculous applications of the Constitution.

(4) The Section requires that a minister must be over thirty-five years of age when he takes the oath of office. Your Committee agreed upon an age requirement of thirty-five years only after careful deliberation and discussion. Some members of the Committee originally felt that ministers should be older, to insure greater maturity and experience, but later agreed upon thirty-five as an appropriate minimum age. The Committee felt that due to

the importance of the Council, its membership should be elected from as wide a cross section of the population as possible. The Committee is of the opinion that by setting the age requirement at thirty-five years, Council members can be selected from among the most qualified individuals in the nation while assuring that all members of the Council will have the benefit of the experience and maturity that only the years can bring. The Committee feels that the government must be free to draw upon and utilize Micronesia's limited human resources with as few restrictions as possible.

The Committee also discussed setting a maximum age limit upon the members of the Council, but decided that such a requirement, if appropriate, would be better prescribed by law. The Committee is not sure that this will be a problem, since the voters in their wisdom will most likely not elect anyone to the Council who is senile. The Committee felt that an upper age limit would simply mean that Micronesia would be unable to draw upon the leadership skills and experience of its more mature citizens. If it later becomes necessary to place an upper age limit on Council members, appropriate laws can be passed.

SECTION 3. TERMS OF MINISTERS

> "Except for the Ministers first elected, all Ministers shall serve for terms of four (4) years commencing on the first day in (Month), unless a different date be designated by law. The eligibility of a Minister for re-election shall be determined by National law."

Your Committee proposes a four-year term for the Council members because it is felt that this length of term gives the ministers sufficient time to put into effect and carry out their programs and ideas while still assuring their responsiveness to the electorate. The Committee feels that a term of less than four years would result in too much turnover on the Council, be insufficient time for the members to carry out their mandate from the people, and result in undue time and money being spent campaigning for reelection. More than four years was felt to be too long a time between elections, if the Council is to truly reflect the thoughts, attitudes, add beliefs of the Micronesian people. Your Committee also feels that the terms of ministers must be somewhat consistent with the terms of the houses of the national legislature, so that all elections can be coordinated. Numerous, uncoordinated elections could result in great and needless extra expense. Ideally, there should be a need for national elections not more than once every two years.

The Section states that the Ministers shall have fixed terms of four (4) years, except for the Ministers first elected. The underlined language is included because Section 4 provides for staggering of the terms of ministers; thus some of the first ministers will serve a short term.

This Section must be coordinated with the provisions in the Constitution which provide for an orderly transition of power on the effective date of the Constitution. A month must be inserted in the blank space above in accordance with the transitional provisions. The Committee recommends that, in the transition provisions of the Constitution, the legislature be given the power to make such minor adjustments in the length of the first term of the ministers (and other elected officials), to insure orderly elections with all terms ending in such a way as to facilitate one national election every year, every two years, or every four years,as the case may be.

The Section states: "The eligibility of a Minister for reelection shall be determined by national law." The Committee feels that as many of the details of the organization of government as possible should be left up to the national legislature to provide for by statute, which can be easily modified if warranted by changing conditions. It is felt that this gives the Constitution greater flexibility and is in keeping with the philosophy of the Committee that the Constitution is simply a skeleton of government with the details to be filled in by law.

SECTION 4. STAGGERING OF TERMS

> "When the Ministers first meet, they shall draw lots so that half of the first Ministers, or if there is an uneven number of Ministers in the Council, then a majority shall serve for four (4) year terms, and the balance shall serve for two (2) year terms. Thereafter, the terms of all Ministers shall be for four (4) years."

This Section provides that the terms of ministers will be staggered in the same manner as the terms of senators in the Congress of Micronesia are presently staggered. This Section was included by your Committee to insure continuity on the Council of Ministers. Thus, at every election after the first election, there will always be some holdovers on the Council who are fully informed and aware of the current problems and duties confronting the Council. The Committee believes that staggering the terms of the ministers will insure an orderly transition of power from one Council to the next after each election. It is felt that this advantage of continuity more than offsets any possible disadvantage which might result from the electorate not even being able to vote the entire executive out of power at one time.

SECTION 5. REMOVAL OF MINISTERS

> "A Minister may be removed from office for cause in the manner provided for by this Constitution or by national law."

This Section permits ministers to be removed for cause in a manner provided by the Constitution or by national law.

(1) "For cause" means that a minister cannot be removed for purely political reasons, caprice, or because his ideas and actions are unorthodox or unpopular. Rather he can be removed only for conduct which is contrary to law or the Constitution or for failing to perform his duties as required by law or by this Constitution. Incompetence by itself probably would not be sufficient to justify the removal of a minister "for cause."

(2) Your Committee on Governmental Structure has not detailed the manner in which a wayward Council member may be removed from office, other than as generally stated in Section 5 of the attached Proposal. In the event that this matter is fully treated elsewhere in the Constitution, the last four words of Section 5 as proposed above, "or by national law," could be struck as superfluous. In the event that the Constitution does not elsewhere treat the question of removal, the Section permits removal procedures to be established by law.

(3) Your Committee considered leaving the manner of removal of ministers up to the states concerned, to be established by state law. This idea was rejected; it was felt by the Committee that there must be some uniformity of the rules and laws of removal from the Council. The Committee is of the opinion that the power to remove officials of the government is an important characteristic of sovereignty that should be controlled by the national government and should not be left to the various states.

SECTION 6. VACANCIES.

> "Vacancies on the Council of Ministers shall be filled by special election as provided by national law; PROVIDED, that vacancies for terms of less than one year may be filled by appointment by the Chief Executive of the State concerned with the advice and consent of the State's legislature. Any Minister chosen to fill a vacancy, including the term of a Minister removed from office, shall serve only for the balance of the unfinished term, and shall thereafter be eligible for re-election as provided by national law."

This Section is fairly self-explanatory. As originally drafted, all vacancies would have to be filled by election and not by appointment. Your Committee changed this Section to permit vacancies of less than one year to be filled by appointment to prevent the necessity of having a special election to fill a very short term on the Council. The Section also provides that a special election to fill a vacancy on the Council shall be conducted according to national law. This is consistent with the other Sections of the Proposal which provide that elections shall be regulated by statute and not by the Constitution. Likewise, national law determines the eligibility for reelection of a minister serving a short term as the result of a vacancy.

SECTION 7. DUTIES OF MINISTERS

> "Each Minister shall participate in the deliberations of the Council and have an equal vote in its collective decisions; PROVIDED, that any tie or deadlocked vote shall be considered as a negative vote on the issue being considered. Each Minister shall be the head of and responsible for the supervision of one or more executive departments, as may be determined by the Council of Ministers, and shall annually report to the Council of Ministers and the National Legislature on the activities of each such department. The Ministers shall have such other duties as may be established by law. In their supervision of their respective departments and in carrying out their other duties, the Ministers shall act in accordance with the directives of the Council of Ministers. Each Minister shall receive and forward to the respective houses of the National Legislature of Micronesia the credentials of all senators and representatives elected from his State."

The language of this Section along with Section 1 makes the Council of Ministers collectively responsible for the administration of the government. The wording of this Section and of Section 13 (Duties of Prime Minister) requires that the Prime Minister and the other ministers act in accordance with any directives of the Council of Ministers. In the absence of any directives, they may act in their discretion within the limits of this Constitution and statutory law. The Committee feels that this wording gives the members of the Council great flexibility in their day-to-day operation of the government, while allowing the Council as a whole to remain responsible for the operation of the executive branch of government with ultimate responsibility for, and power to make, any decisions necessary.

This Section requires that all ministers participate in the deliberations of the Council with an equal vote in its collective decisions. It is not anticipated that this language will require all members to be present at any given meeting, but it is required that ministers generally participate in the deliberations of the Council. In the event that a minister were to consistently refuse to participate in the activities of the Council, it is felt that this would be "good cause" for his removal.

The Section has a provision covering tie votes or deadlocks. In the event of a tie vote or deadlock, such action will be considered as a negative vote on the issue being considered. This provision, combined with the wording which allows the Prime Minister and the ministers to act in their discretion in the absence of Council directives to the contrary, should insure that the government could continue to function even with a badly split Council which was deadlocked on many issues.

In addition to their duties as members of the Council, it is proposed that each member will supervise one or more executive departments of the government and perform other duties assigned to him by law. In supervising their departments and carrying out their other duties, the ministers may use their discretion so long as they comply with all directives of the Council of Ministers. It is anticipated by the Committee that each department will also have an appointed department head selected from career Public Service employees or from among other persons with outstanding administrative abilities or other expertise. As envisioned by your Committee, the appointed

department head would be responsible for making most routine decisions and the day-to-day operation of the department. The minister would be expected to participate in making only important or politically sensitive decisions and would be responsible for the overall operation of his department or departments.

In addition to his other duties, each minister would report to the legislature each year on the activities of his department or departments and forward to the legislature the credentials of all legislators elected from his State.

SECTION 8. ORGANIZATION OF COUNCIL

> "The Council of Ministers shall be the sole judge of elections, returns, appointments and qualifications of its members, and shall adopt its own rules of procedure. A quorum shall be a majority of the members of the Council, except when selecting a Prime Minister which shall require a quorum of all members. The Council, including less than a quorum, shall be empowered to compel the attendance of absent members. No member of the Council shall be held to answer before any tribunal other than the Council of Ministers for any speech, debate, or statement in any meeting of the Council."

This Section is fairly self-explanatory, giving the Council power to regulate its own affairs and insuring a minimum of outside interference in its operation. Your Committee felt that a majority of the members of the Council is a reasonable quorum, except when electing a Prime Minister. Your Committee feels that all states should be represented in the selection process of a Prime Minister, due to its importance for the entire nation.

SECTION 9. PRIME MINISTER

> "At the first meeting of the Council of Ministers, and every four (4) years thereafter, the Ministers shall elect one of their number as Prime Minister, in accordance with procedures established by law. The Prime Minister shall thereupon become chairman of the Council of Ministers, with full participatory rights."

This Section is self-explanatory. It should be noted that the Section requires the Prime Minister's election by the Council every four years. Your Committee originally considered selecting the Prime Minister by lot on a rotating basis for a term of one year. This manner of selection was finally rejected by the Committee, since it was felt that any advantages which might be gained by "passing around" the office of Prime Minister would be more than offset by the disadvantage of not being able to select the most competent and qualified member of the Council as Prime Minister. The Committee also felt that one year was too short a term for Prime Minister, as discussed below. The Committee realizes that having a Prime Minister elected by the Council for a four-year term dilutes the collective leadership of the Council; however, the Committee feels that it is very important for the Council to have the opportunity to elect the best qualified Council member as Prime Minister. It is felt that any system which blindly selects a Prime Minister by lot or by a fixed rotation formula would not serve the best interests of the country in all cases.

The Committee selected a four-year term for the Prime Minister because it felt that a lesser term would not be sufficient to allow the Prime Minister to carry out his programs while giving effective leadership to the Council and to the nation. By the same token, the Committee was of the opinion that the term should not be unreasonably long. Therefore, your Committee agreed upon four years as being long enough for a Prime Minister to carry out his mandate from the Council, but not so long as to ossify the government under his leadership.

With a four-year term, there is a possibility that a Prime Minister's term on the Council will end before his term as Prime Minister ends; in this case, he would cease to serve as Prime Minister, as discussed in the analysis of Section 11.

SECTION 10. TRANSITIONAL PROVISIONS FOR PRIME MINISTER

> "Until procedures are established by law for the selection of the Prime Minister, the Prime Minister shall be chosen by a majority vote of the Council of Ministers. If no Minister receives a majority vote, and there are more than two nominees, the one receiving the lowest vote shall be eliminated, and another poll shall be taken. If two or more Ministers are tied for the lowest vote, one shall be eliminated by lot. Thereafter the process shall continue until either one Minister receives a majority or two Ministers are tied, and in the latter event one of them shall be designated Prime Minister by lot."

This Section is self-explanatory, providing a method of election of the Prime Minister by the Council in the absence of any statutory law for his selection, as discussed in Section 8. The provisions essentially require the election of a Prime Minister by majority vote of the Council, unless other procedures are established by law.

SECTION 11. TERM OF PRIME MINISTER

> "The Prime Minister shall serve for a term of four (4) years, if not sooner removed for cause as provided by law; PROVIDED, that the position of Prime Minister shall be vacant if at any time the Prime Minister ceases to represent his State or is replaced as his State's representative on the Council of Ministers. No Prime Minister shall serve for more than two full consecutive terms. No Minister or Ministers from the same State shall serve as Prime Minister for more than two full consecutive terms."

This Section is fairly self-explanatory. No minister may serve for more than two terms. Likewise, no minister or ministers from the same state shall serve as Prime Minister for more than two full consecutive terms. Thus, if Minister "A" from Yap serves a full term as Prime Minister, and is replaced on the Council at the end of his term by Minister "B" from Yap, who is immediately elected Prime Minister, then at the end of the term of Prime Minister "B", the Minister from Yap, whoever he might be ("A," "B," or a third person), would be ineligible to serve as the subsequent Prime Minister.

A provision is included which creates a vacancy in the office of the Prime Minister if he resigns or no longer holds his underlying post of minister from one of the states. With a staggered membership on the Council, a Prime Minister might complete his term on the Council and not be reelected before his term as Prime Minister was completed. Of course, if he was reelected to his underlying Council seat, he could complete his term as Prime Minister.

SECTION 12. ABSENCE OR ILLNESS OF THE PRIME MINISTER

> "In the event of the illness or temporary absence of the Prime Minister, the Council of Ministers shall select an Acting Prime Minister who shall perform all of the functions of the Prime Minister until the Prime Minister has returned to his post and is able to carry out his duties."

This Section is fairly self-explanatory. Many constitutions have similar provisions to prevent a power vacuum if the chief executive is traveling, ill, or otherwise unable to carry out his duties. It is anticipated that this provision will cover all situations which might arise involving the temporary unavailability of the Prime Minister, including travel. This Section is not applicable to any permanent vacancy in the office of the Prime Minister.

SECTION 13. VACANCY IN THE OFFICE OF THE PRIME MINISTER

> "In the event of a vacancy in the office of the Prime Minister, a successor shall be elected by the Council of Ministers from among its members to serve for the unfilled term. If there are any vacant seats on the Council of Ministers, no election for Prime Minister shall be held until such vacancies have been filled. In the interim, the Council shall immediately elect from among its members an Acting Prime Minister to serve until a Prime Minister is elected."

This Section is reasonably self-explanatory. Two important points should be noted:

(1) that any vacancy is filled only for the unfilled portion of the former Prime Minister's term, and

(2) that a new Prime Minister is not elected by the Council until all States are represented on the Council.

Thus, if a Prime Minister resigns as Prime Minister but retains his Council seat, and if all states are represented on the Council, a new Prime Minister could be elected immediately. If his seat, or any seat on the Council was vacant, then an Acting Prime Minister would be selected by the Council until all seats were once more filled, at which time a new Prime Minister would be elected. In this manner, no Prime Minister will be elected to fill a vacancy except by the entire membership of the Council at the time of his election. Every state will always have a vote in the selection of a Prime Minister.

SECTION 14. PRIME MINISTER TO ACT IN ACCORDANCE WITH COUNCIL DIRECTIVES.

> "The Prime Minister shall carry out his duties in accordance with the directives of the Council of Ministers."

This Section is fairly self-explanatory. It should be noted that except as restricted by the Constitution or law, the Prime Minister (as well as each minister) may act in his discretion in accordance with the directives of the Council of Ministers. This gives the Prime Minister flexibility to act in the absence of any directives from the Council of Ministers. Your Committee feels that this is important. As written, the Constitution allows the Prime Minister to exercise most of the executive powers of the government subject to whatever restrictions the Council of Ministers wishes to impose. The Council can allow the Prime Minister almost complete discretion in the decisions he makes and the actions he takes, or, at the other extreme, the Council can require that the Prime Minister consult with the Council before making any decisions or taking any actions. It is hoped that the Council and the Prime Minister will agree upon a happy middle ground with the Council participating in important decisions and shaping policy, while the Prime Minister and the individual ministers supervising departments carry out the day-to-day operation of the government in accordance with the policies established by the Council, but without direct Council participation. Your Committee feels that this is in keeping with its basic philosophy of maximum flexibility in the new government.

SECTION 15. DUTIES OF THE PRIME MINISTER

> "The Prime Minister shall have the following duties:
>
> a) be the head of state of the Federated States of Micronesia;
> b) receive all foreign ambassadors;
> c) make recommendations to the National Legislature from time to time as deemed necessary, and make an annual report to the national legislature on the state of the Federated States;

d) approve or veto all bills enacted by the National Legislature;

e) appoint, subject to the concurrence of two-thirds of the Council of Ministers, and with the advice and consent of the Senate:

(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."

This Section, too, is quite self-explanatory. This Section lists a few of the proposed duties of the chief executive. It should be noted that high level appointments would be made by the Prime Minister with the required concurrence of two-thirds of the Council of Ministers plus the advice and consent of the Senate.

SECTION 16. EXECUTIVE DEPARTMENTS

"There shall be executive departments in the national government as may be established by law."

This provision allows the establishment of executive departments according to law. It is felt that conditions change and that the requirements for departments in the government of Micronesia will change in the future. Therefore, your Committee respectfully recommends that the various departments of the government and the executive organization of the government below the Council level be established by statute and not by the Constitution. This will allow the government flexibility to meet the changes that the future will bring.

V. 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."

This Section requires that the states each organize a state-level government. Your Committee feels that it is important that each have a government able to insure order and provide governmental services for the people at the state level and to insure that there is in fact an organized government in each state to deal with the national government. Your Committee feels that responsible, organized government at the state level is an integral part of the proposed Constitution of Micronesia and is necessary to insure a free, democratic government for our nation.

The Section also requires the establishment of district or local governments in Micronesia. This language ("District or other local governments") was used because the Committee wanted to give the states the widest leeway possible in the establishment of governmental subdivisions. It is felt that by using the broadest possible terminology, the states will be free to establish whatever form of district or local government is best suited to conditions within the state. The Committee felt that the use of "District government" by itself might be too restrictive on the various states since, in at least some states, this word appears to have a fairly specific meaning. Each state could have whatever form of local government might be most appropriate, with no other constitutional restrictions. This is in keeping with your Committee's idea that the Constitution should be kept as simple and flexible as possible.

Nothing in the Section would require the establishment of new local governments or districts in those states not having such subdivisions. Those states already having municipal/district governments on the effective date of the new Constitution would be required to continue these governmental subdivisions, thus protecting them.

SECTION 2. STATE CONSTITUTIONS

"Each State shall have a democratic constitution."

This Section requires all states to have a Constitution. Other than requiring a democratic constitution, the Proposal does not specify the type of government to be established, leaving this up to the various states. Each state would be free to adopt that type of government which most suited its own culture, traditions and needs. Thus, a state could have a unicameral or bicameral legislature and it could have a Presidential (Governor), Parliamentary, or Council form of chief executive. It would be required to include traditional leaders in its government as provided for by the proposed article on Traditional Leaders. Each state would be required to establish a democratic government. This requirement would also extend to any subentities (municipalities or local governments) established by the states.

Your Committee feels that the word "democratic" is very important in this Section, even though it is a word of inexact meaning. The descriptive "democratic" is a word which is not easily defined, having many meanings for many people. To some people democracy has a very narrow definition, meaning a political system with full participation in the decision-making process by all citizens. Other people assign democracy a broad meaning, equating democracy not only with a free and open political system which allows freedom of expression, but also equating democracy with personal liberty, justice, equality, and even capitalism.

As used in the Committee's proposed article on state governments, your Committee feels that a definition somewhat between the two extremes is appropriate. In using the word "democratic" in the proposed article, the Committee envisions a republican form of government representing the electorate of the various states. The citizens would exercise effective popular control of policymakers through the election process. There would be political equality within the system with certain basic political freedoms enjoyed by all. There would be majority rule with appropriate safeguards to protect the minorities. In addition, it is expected that each state will, like our national government, guarantee to its citizens the basic freedoms which all men everywhere have a right to enjoy.

SECTION 3. SOVEREIGN IMMUNITY

"There shall be no sovereign immunity at any level of government in Micronesia."

Sovereign immunity is a legal doctrine which states that the government cannot be used in court for any act performed by the government or its agents in carrying out governmental functions. This doctrine applies even to governmental functions carried out in a negligent manner. It serves to protect and shield the government and its agents from the consequences of the government's own wrongdoing. It originates from European and American law, and is based upon the idea that the King (sovereign) can do no wrong. Your Committee feels that this foreign doctrine is outmoded and has no place in a modern Micronesian governmental system. Therefore, your Committee proposes that the doctrine be abolished in Micronesia and that the government, its officers and agents, accept their responsibility for any negligence or misdeeds.

VI. OATH OF OFFICE

> "Upon assuming office, all judges, elected officials, and Department Directors of Micronesia shall take an oath to uphold, promote, and support the laws and the constitution of the nation."

This article with a single section is self-explanatory. Your Committee felt that an oath of office should be required as an integral part of any governmental structure.

VII. ROLE OF TRADITIONAL LEADERS - General Comments

Your Committee on Executive considered many proposals and ideas on the role that traditional leaders should play in the government of Micronesia. After a great deal of discussion, it was decided to propose that the Chiefs should have a formal role both in the National Government and at the state level pursuant to the Constitution. Reasons supporting this action include:

(a) The desire to preserve and encourage the importance of Micronesian traditions and customs. It is felt that the National Government should give formal recognition to the role of traditional leaders in maintaining our Micronesian culture and heritage.

(b) The desire to utilize fully the wisdom, expertise and leadership abilities of our traditional leaders both at the National level and at the state level.

(c) The necessity of an advisory body in the government which is aware of and knowledgeable in the traditions and customs of each of the various states, to be used as a resource by all branches of the National Government in the decision-making process.

(d) It is felt that traditional leaders can be a powerful force in unifying Micronesia, if given a role in the National Government.

(e) It is felt that traditional leaders must be given a role at the state level to preserve our local customs and traditions as Micronesia becomes modern and self-governing.

At the National level, your Committee on Governmental Structure has proposed a role for the traditional leaders in the executive branch of government. The Committee feels that the traditional leaders could be given a meaningful role in any one of the three branches of government.

However, after considering possible placement in all three branches, the Committee has concluded that a role in the executive branch would be most appropriate, since the executive branch of government is the branch of government which is most directly in contact with the people. The Chiefs represent the people, the traditions, and the customs of Micronesia. It is appropriate and fitting that they have a role in that branch of the National Government most directly affecting the people of Micronesia in their day-to-day lives.

Among the ideas considered were a Chamber of Chiefs and the assignment of traditional leaders to the various executive departments as advisors. It was decided that the Chiefs should have an important role in government, and that it would not be appropriate to assign them to government departments under a director who might be a commoner or otherwise have less status than the traditional leaders. Therefore, the Committee has decided to recommend that the traditional leaders sit as an advisory council (the Chamber of Chiefs) in the executive branch of government, with limited veto powers over legislative bills relating to traditional matters and customs. The Chamber of Chiefs would also be involved with preserving the traditions, customs, and languages of Micronesia; mediating disputes; recommending mercy as to persons

sentenced to death; and performing other duties as might be assigned to them by law. In addition, each member of the Chamber of Chiefs would be the representative of the chiefs of his state with duties established by state law.

Your Committee has also recommended giving the traditional leaders an active, functioning role in the governments of their respective states. The particular role to be played was left intentionally vague, so that each state can place its Chiefs in whatever role is best suited for that state, based upon its needs, customs, and traditions.

On October 10, 1975, the traditional leaders at the Micronesian Constitutional Convention met to discuss the portion of the attached Committee Proposal relating to traditional leaders. Your Committee is pleased to report that after the meeting, the traditional leaders indicated to the Chairman of the Committee that they are essentially in agreement with the attached Committee Proposal so far as it pertains to the role of traditional leaders in a Chamber of Chiefs and at the state level.

VIII. ROLE OF TRADITIONAL LEADERS - Analysis of Sections

SECTION 1. CHAMBER OF CHIEFS

> "There shall be a Chamber of Chiefs in the Executive Branch at the National level composed of one representative of the traditional chiefs of each State to be selected in the manner provided by the laws of the respective State. The terms of office and qualifications to serve shall be as provided by the laws of the respective State. Any State having no traditional Chiefs shall select one representative pursuant to State Law."

This Section establishes the Chamber of Chiefs, and prescribes the manner of selection. The Chamber shall be composed of one member from each state. The proposal does not indicate the qualifications, manner of selection, or length of term of each individual member; rather this is left up to the various states to decide, due to the rich diversity of cultures, customs, and traditions in Micronesia.

In those states having no recognized traditional leaders, it is provided that the state shall devise a method of selecting a representative to the Chamber.

Each state would be entitled to only one member in the Chamber due to the expense of maintaining a collegia body of this type. At least during the early years, it is not expected that the duties of the members will require their full-time services, full-time pay, or a large staff. Rather, it is expected that the Chamber will be a part-time position, meeting a few times a year at regular intervals, as well as when convened for any special purpose.

SECTION 2. ORGANIZATION

> "The Chamber of Chiefs shall be organized according to National law. Salaries shall be established by law for members of the Chamber. Each member shall have one vote and may participate in all deliberations of the Chamber."

Your Committee recommends that the internal organization of the Chamber of Chiefs and the details thereof be established by law rather than by the Constitution, in keeping with the philosophy that the Constitution should be kept simple and undetailed for future flexibility.

SECTION 3. DUTIES AND FUNCTIONS

> "The Chamber of Chiefs shall have the following duties and functions:

(a) Each member shall also be the representative of the traditional Chiefs of his State, with such duties as shall be established by the laws of each State.

(b) All bills of the National legislature relating to all matters pertinent to traditions and customs, after being adopted by both houses and before referral to the Prime Minister, shall be submitted to the Chamber of Chiefs. The Chamber of Chiefs, by unanimous vote, may disapprove all or any items of any such bill, whereupon it shall be vetoed by the Prime Minister. Such disapproval by the Chamber of Chiefs shall be made within fifteen days of the receipt of a bill if received by the Chamber while Congress is in session and more than fifteen days from the end of such session; in all other cases, the Chamber of Chiefs shall have thirty days to disapprove any bill it receives. If not disapproved, or only item vetoed, the bill shall be sent to the Prime Minister as provided for all other bills; PROVIDED, that only the Chamber of Chiefs shall have standing to challenge any National law or National legislation on the ground that it was not submitted to the Chamber of Chiefs or on the ground that it was disapproved by the Chamber. Any such challenge by the Chamber of Chiefs must be made in the High Court within sixty days of the time that any such law or legislation is signed by the Prime Minister or otherwise becomes law.

(c) The Chamber of Chiefs shall be entrusted with insuring the teaching, preservation and continuity of the various languages and the better traditions of Micronesia, with a goal of sharing our common national heritage.

(d) The Chamber shall, whenever possible, mediate disputes between the various States of Micronesia.

(e) The Chamber of Chiefs may, by unanimous vote, recommend mercy for any person who is sentenced to death. (eliminate this provision if there is a provision outlawing capital punishment.)

(f) The Chamber of Chiefs may advise the various branches of government as may be requested.

(g) The Chamber of Chiefs shall perform such other duties as may be provided by National law."

The duties and functions of the Chamber of Chiefs shall include:

(a) Heads of States. To insure that the traditional leaders have a formal role in the affairs of each state, the Committee recommends in Subsection (a) that the members of the Chamber of Chiefs be made the representatives of the traditional Chiefs of their respective states, with duties established by law. It is felt that this will insure that the members of the Chamber of Chiefs will be respected in their home states while having meaningful roles at the National level as members of the Chamber. It will also preserve the institution of traditional leaders at the state level. The traditional leaders can perform many important ceremonial functions, and may be assigned an even greater role by state constitution or law.

(b) Subsection (b) provides that all bills relating to traditional matters and customs must be submitted to the Chamber of Chiefs. The Chamber may, by unanimous vote, disapprove any such bill, whereupon it shall be vetoed by the Prime Minister. Such a veto would be mandatory by the Prime Minister, and neither he nor a directive from his Council of Ministers could affect his duty to so veto. It is important to note that such a bill is only vetoed, which means that it is then treated like any other vetoed measure. Any procedures for overriding an executive veto by the legislature would apply. The section also discusses a possible item veto based upon a partial disapproval of the Chamber of Chiefs. This is very important for two reasons:

1) it gives the Chiefs a right to disapprove and have vetoed only part of a bill, and 2) it implies that the Prime Minister may have a power to item veto all bills. The section also provides that only the Chamber of Chiefs can, within 60 days, challenge the validity of any bill which becomes law on the grounds that it was not submitted to them or that it was disapproved by the Chamber. This provision was added to provide certainty to the laws passed by the National Legislature. Once 60 days have passed, any questionable statute which perhaps should have been sent to the Chamber no longer can be attacked. Without a provision of this type, your Committee foresees a danger of possible uncertainty as to the validity of some laws. This provision precludes the possibility that the courts might one day be clogged with cases attacking the validity of statutes by claiming that procedures were not followed when the bill was passed years before. If a challenge is brought within 60 days, such challenge will be simpler for the courts to decide while the matter is still fresh and witnesses are available.

(c) Subsection (c) entrusts the Chamber of Chiefs with "...insuring the teaching, preservation, and continuity of the various languages and the better traditions of Micronesia, with a goal of sharing our common national heritage." Your Committee feels that the traditional leaders of Micronesia can play a very significant role in our society in the role of custodians of our national heritage. It is envisioned that the Chamber of Chiefs could, by law, be given responsibility for the organization and promotion of cultural events, traditional celebrations, and the collection and preservation of legends, music, and traditional ways of Micronesia. The Chamber of Chiefs and their representatives could take a very active role in the teaching of our young people, handing down traditional lore to new generations, and insuring that our heritage is not forever lost and destroyed by our modern world.

(d) Subsection (d) gives the Chiefs an obligation to try to mediate disputes between the various states of Micronesia. This, too, is an important function. The Chamber is in an ideal position to mediate, in that there will usually be several Chiefs from other states who are more or less impartial in any dispute. Because of their training, high status, prestige, and many years of experience mediating for their peoples, the Chamber of Chiefs would seem to be an ideal arbitrator to settle disputes.

(e) Subsection (e) allows the Chiefs to recommend mercy for any person sentenced to death. It is expected that the Council would make such recommendation to whatever officer or body in the government which would normally have the power to grant pardons and reprieves. The Chamber itself would not have the power to actually commute or change any sentence of death. This provision should be eliminated if the Constitution outlaws capital punishment.

(f) Subsection (f) allows the Chamber of Chiefs to advise the various branches of government as requested. Your Committee feels that the Chamber of Chiefs will represent a valuable repository of knowledge and ability for the new nation and should be available for all branches of the government to draw upon as needed.

(g) Subsection (g) allows the Chamber to be assigned such other tasks by law as may be appropriate. It is expected that the future will bring many changes to Micronesia, and this subsection gives the government great flexibility in the leadership role which the Chamber of Chiefs will assume in the future.

SECTION 4. TRADITIONAL LEADERS AT STATE LEVEL

> "In each State having traditional leaders, the State constitution shall make provision for an active, functioning role for the traditional leaders of that State."

Your Committee is in agreement that the traditional leaders should not only play a role in the National Government, but also at the state level. Your Committee feels that due to their unique position in their states and their communities, the traditional leaders of Micronesia can have an important and beneficial impact in government below the National level. As pointed out earlier, the traditional leaders are representatives and leaders of the people of Micronesia. They are the spiritual custodians of our Micronesian heritage and our Micronesian way. It is altogether fitting and proper that they have a role in all levels of government in Micronesia. Our traditional leaders are a valuable resource for Micronesia, much too precious not to be recognized by our Constitution and utilized in building our new nation.

Your Committee's proposal does not indicate where the traditional leaders should participate in the states' governments. Rather, your Committee feels that this is better determined by each state, based upon its traditions, customs, and local conditions. Due to the cultural diversity in Micronesia, the Committee feels that it would be inappropriate for the Constitution to define the Chiefs' role in the governments of the states.

It should be noted that the traditional leaders must be given a role in the state governments pursuant to provisions in the Constitution of each state. A role prescribed by each state's Constitution is recommended because your Committee feels that the role of traditional leaders in state-level government should not be easily changed or eliminated. Due to the important role of our traditional leaders in Micronesia, it is felt that their roles in government should be constitutionally protected.

SECTION 5. TRADITIONAL LEADERS ELIGIBLE TO VOTE AND HOLD PUBLIC OFFICE

> "Nothing in this article shall be construed as disenfranchising any traditional leader. Traditional leaders may vote, run for election, and hold any public office the same as any other citizens of Micronesia."

This section is self-explanatory. Your Committee included it to preclude any possible interpretation of the National Constitution as disenfranchising our traditional leaders. The Committee does not in any way propose to limit the civil liberties of any traditional leader. It is hoped by the Committee that our traditional leaders will continue to take an active interest in the affairs of Micronesia as they have in the past, and that many of our traditional leaders will continue to serve their country with distinction as public officials and in Congress.

IX. CONGRESS OF MICRONESIA - General Comments

Your Committee is recommending a bicameral legislature for Micronesia similar to the existing Congress of Micronesia. The upper house, or Senate, is to be composed of two elected senators from each state. The lower house, or House of Representatives, is to be composed of elected representatives from each state apportioned by population, except that each state is guaranteed a minimum of one representative.

Your Committee is aware that delegates are sharply divided as to whether the national legislature should be unicameral or bicameral, and whether representation should be equal among states or apportioned by population. Your Committee has had before it and has carefully considered two draft subcommittee proposals representing these two viewpoints. The Committee decision to retain what is essentially the existing system represents a policy decision that the bicameral legislative model, with one house apportioned by population, is the best compromise solution for Micronesia. The principle of equal representation of states is incorporated into one of the two houses--the Senate. States with smaller populations are thus given equal dignity with larger states in one of the two houses of the legislature. At the same time, the provision for a house apportioned by population assures that all segments of the Micronesian peoples and all island groups have an effective voice in

the national legislature. In addition to the above concerns and to other arguments in favor of a bicameral legislative body, your Committee took into consideration the fact that Micronesia has operated under and is familiar with a bicameral legislative body having a lower house apportioned by population. This system has generally worked well in Micronesia.

Your Committee has retained the name "Congress of Micronesia" in its proposal, as well as the names "Senate" and "House of Representatives." The Committee has used these names because they are familiar to Micronesians, but has no objection to the Convention or the Style Committee changing them. "State" is used in place of what is now known as districts in Micronesia.

X. CONGRESS OF MICRONESIA - Analysis of Sections

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'."

This section simply declares the name of the national legislature, the fact that it is to be a bicameral body, and the names of the two chambers or houses. It also provides that the two houses shall sit separately. The name "Congress of Micronesia" is used here for ease in understanding, and does not reflect the Committee's choice of any particular name.

SECTION 2. THE SENATE

> "The Senate shall be composed of two senators elected at large from each State, each such senator having one vote. Of the two senators from each State first elected pursuant to this Constitution, one shall be designated to serve a two-year term and the other to serve a four-year term, as determined by lot at the first meeting of the Senate. Thereafter all senators shall serve for a term of four years."

This section should be self-explanatory. Two senators from every state are elected at large to serve four-year terms of office. This section also contains a transition provision to allow for staggered terms of office. The first duly elected Senate will draw lots so that one senator from each state will serve a two-year term only in the first Senate. Thereafter, all senators serve four-year terms, but one-half of the entire Senate will be elected every two years. The use of staggered terms of office in the Senate has worked well in Micronesia in the past and guarantees a group of experienced senators in every new congress.

SECTION 3. THE HOUSE OF REPRESENTATIVES

> "The House of Representatives shall be composed of representatives apportioned among the States in accordance with their respective populations, except that each State shall be entitled to at least one representative. Each representative shall be elected for a term of two years. For purposes only of the first election of the House of Representatives under this Constitution subsequent to its ratification, the single-member electoral districts for election to the House of Representatives of the Congress of Micronesia in existence on the day before this Constitution becomes effective shall remain in effect, except that Kusaie District shall also elect one representative at large to sit in such first Congress. Within two years subsequent to such first congressional election, the duly elected first Congress shall reapportion itself into single-member electoral districts. Thereafter, Congress shall be reapportioned after each decennial census. Each such electoral district shall be as nearly equal in population as practicable, due regard being given to language, cultural, and

geographical differences within each electoral district and the need to minimize the same."

This section spells out the composition of the House of Representatives. All representatives are elected for two-year terms. Two-year terms for representatives have worked well in the existing Congress of Micronesia, and your Committee saw no reason to change this practice.

This section also provides for the transition from the existing Congress of Micronesia to the new Congress. The effect of this provision is that each district will elect the same number of representatives from the same geographical area as they do now for the first Congress under the new Constitution. This means that the following districts (states) will elect the following number of representatives:

Marianas	3
Marshalls	4
Palau	3
Ponape	4
Truk	5
Yap	2

In addition, Kusaie is guaranteed one representative in the first new Congress. Although Kusaie does not presently elect a representative separately from Ponape, the guarantee of a separate representative under this provision is in line with present plans to make Kusaie a separate administrative district or state.

The use of existing election districts for the first new Congress under the Constitution does not necessarily mean that the Committee believes that the current districting is ideal or should be retained. Indeed, the 1974 census figures already indicate a need for reapportionment. But use of the existing election framework is by far the easiest means of transition into a new Congress, which can then reapportion itself.

This section requires such reapportionment within the first two years after the first congressional election under the new Constitution. It also requires reapportionment every ten years thereafter. Virtually every delegate proposal creating a bicameral legislature with a lower house representative of populations requires reapportionment every ten years. (Delegate Proposals No. 31, No. 62 and No. 120; Delegate Proposal No. 29 is silent on reapportionment.) The reason for including in the Constitution itself a requirement to reapportion immediately, as well as a requirement for a periodic reapportionment thereafter, is that legislatures are notorious for delaying or simply not reapportioning themselves unless required to do so by constitutional mandate.

Your Committee considered various standards for reapportionment which might be specified in the Constitution itself. Some of the American states and other nations tie reapportionment to a designated population group. For example, language might be used to the effect that each electoral district shall not exceed one representative for every 5,000 persons. This type of standard would be consistent with the existing Congress where one representative represents somewhere in the range of 4,000 to 6,000 persons. Another type of standard, sometimes found in the constitutions of American states, would state that the smallest electoral district could not be more than a specified percentage from the largest district. These types of standards attempt to provide a fixed formula for reapportionment to prevent one electoral district from getting too much larger than another.

After consideration of such types of formulas, your Committee decided to leave the language of reapportionment intentionally less precise. Such formulas may be suitable for American states, but are not always suitable to scattered island configurations. It might be, for example, that grouping Uman Island with Tol Island in the Truk Lagoon would satisfy a precise mathematical formula for reapportionment. But such a solution may be politically and culturally unsuitable. Instead, your Committee has stated

some general criteria for reapportionment which it believes are relevant to Micronesia--language, culture, and geographical island groups. Your Committee has also stated as a standard the principle of equal population per electoral district, but in the context of these other criteria. We believe this solution is more appropriate for Micronesia, and has the added advantage of flexibility.

SECTION 4. GENERAL ELECTIONS

> "General elections shall be held biennially in each even-numbered year on the first _____ in _____ in accordance with such procedures as this Constitution and subsequent laws may prescribe. All members of Congress shall be chosen by secret ballot of the qualified voters."

This section is self-evident, merely stating that general elections for both houses shall be held every two years. The day and month of the year have been left blank to coordinate with the transition provisions of the Constitution to be reported out by the Committee on General Provisions.

SECTION 5. QUALIFICATION OF MEMBERS

> "No person shall be eligible for election to the Senate unless such person shall have attained the age of thirty years, nor to the House of Representatives unless such person shall have attained the age of twenty-five years. No person shall be eligible for election to either the Senate or the House of Representatives unless he shall have been a citizen of Micronesia for at least fifteen years, and shall have been 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 any court of Micronesia shall be elected to Congress. Congress may prescribe further qualifications."

This section reflects several basic policy decisions made by your Committee. The Committee has accepted the minimum age requirements as they presently exist in Micronesia--twenty-five years of age for eligibility for election to the House, and thirty years of age for eligibility for election to the Senate. Your Committee feels that senators have a greater reponsibility than do representatives, since senators represent the entire state while representatives represent smaller electoral districts. The Senate has traditionally also had a higher status than has the House of Representatives. For these reasons, your Committee has retained the higher age requirement for senators.

The Committee has also provided that no person can be elected or appointed to the Congress unless he has been a Micronesian citizen for fifteen years and a resident of his state for five years. These are comparatively strict criteria when one looks at constitutional eligibility requirements of other nations. The Committee feels strongly, however, that the citizenship and residency criteria should be very strict. One thing the Committee particularly wishes to avoid is eventual domination of Congress by foreigners who have become naturalized citizens. Guam was cited as an example, during Committee meetings, of a legislature with many members, not originally born or raised as Guamanians. A fifteen-year citizenship requirement assures that only persons born as Micronesians or naturalized citizens who have lived in Micronesia a substantial period of time can become members of Congress.

The five-year state residency requirement assures that persons elected from a state are familiar with the problems and conditions of that state. The Committee felt that five years was a sufficient time to assure such familiarity with state problems and conditions.

This section also prohibits any person convicted of a felony by any court in Micronesia from election or appointment to the Congress, but allows room for the Congress by law to change this absolute prohibition. The Committee considered first the type of provision normally found in American state constitutions which prohibits felons from becoming members of Congress, but also allows them to become legislators if they receive an executive pardon. The Committee was wary of the executive pardon power, feeling that it might be abused by the executive branch for political reasons.

The Committee therefore decided to eliminate the normal pardon power language from this section prohibiting felons from becoming legislators. At the same time, the Committee did not wish to forever prohibit a man or woman from becoming a legislator because he or she had made a minor mistake early in life, if that person had later become an honest and law-abiding citizen. Some felonies are more serious than others. If a person has committed a felony which is not considered by the community to be highly offensive, and the person has long since become a law-abiding and respected member of the community, perhaps he or she should be eligible to become a member of the Congress.

Because it is not now known what crimes will be felonies under the new government, and because community values and morals may change from time to time, the Committee felt that it should be left to the Congress itself in the future to define circumstances under which a convicted felon might be eligible to become a member of Congress. The Committee has therefore decided to make convicted felons ineligible for the time being, but to allow flexibility for Congress by law to provide future exceptions to such ineligibility.

SECTION 6. 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."

This section should be self-explanatory. The decision to leave procedures for filling a vacancy to the legislature to provide at a subsequent time allows maximum flexibility and avoids unnecessary detail in the Constitution itself. At the same time, the Constitution provides for filling of a vacancy should the legislature fail to enact such legislation.

SECTION 7. 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."

The Committee felt that some attempt should be made in the Constitution itself to provide for conflict of interest situations. The Committee did not wish to simply say nothing in the Constitution, because legislators are notorious for not enacting legislation to prohibit conflicts of interest among themselves. If the entire subject were left to the legislature to provide for at a later date, the Committee feared that the legislature would never act, or would enact very weak legislation which could not be enforced.

At the same time, the Committee did not wish to provide a detailed code of ethics in the Constitution itself. Not only would such a code make the Constitution far more lengthy than it should be, but it would also make it far more difficult to change the standards and restrictions as conditions changed. The Committee therefore decided to prohibit certain conflict of interest situations which it felt were serious enough to be specifically mentioned in the Constitution itself, and to leave other areas to the legislature for later enactment. Although the legislature may be reluctant to enact such legislation and thereby police itself, the Committee also feels that it will have to do so if public opinion is strong enough to demand such legislation.

The two specific areas given attention in the Constitution itself are holding other public office while a legislator, and holding public office created by a Congress of which the person was a member within the first three years after ceasing to be a congressman. Other conflict of interest situations are left to the legislature itself to prohibit by later legislative enactment.

SECTION 8. 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."

This is a standard provision found in most constitutions. Some nations or American states have attempted to specify an actual salary amount in the constitution itself. This creates problems, however, in that it requires a constitutional amendment to increase or decrease the salary to make it more consistent with a changing economy. The prohibition against members of a Congress receiving an increase if they were part of the Congress enacting the increase is a safeguard against Congressmen raising their own salaries beyond what is reasonable, given existing economic conditions.

SECTION 9. IMMUNITY

> "Senators and representatives 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."

This is a traditional constitutional protection to legislators. Immunity against arrest, except for specified crimes, and the privilege against suit for statements made in Congress are both meant to encourage a legislator to act without fear of outside pressure or punishment while Congress is in session.

SECTION 10. SESSIONS

> "The Congress shall be a continuous body during the term for which its members are selected. The Congress shall meet in regular and public session as provided by law. It may be convened at other times by the Prime Minister or, at the written request of two-thirds of the members of each house, it shall be convened by the presiding officers of both houses."

This provision is meant to allow maximum flexibility. It allows Congress to set its own schedule as to regular sessions. The chief executive is also given power to call a special session, as are the leaders of Congress, upon demand of two-thirds of all members of Congress.

SECTION 11. ORGANIZATION AND PROCEDURE

"Each house shall be the sole judge of elections, returns, and qualifications of its own members. Each house shall choose its presiding officer from among its members and shall determine its rules of procedure. Each house 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, and it shall have power to compel the attendance and testimony of witnesses and the production of documents and things either before such house of the Congress as a whole or before any committee thereof."

This provision is consistent with the existing power of the Congress of Micronesia to be the final judge of the selection and qualifications of its own members, and is consistent with precedent in many other countries. The final decision of whether or not to seat a member of Congress is felt to be a political one and thus inappropriate for the judicial branch of government.

The rest of this section is standard constitutional language giving Congress power over its own procedures and organization, as well as control over discipline and expulsion of its own members. Again, discipline and expulsion of its own members is felt to be a political decision and thus also inappropriate for the judicial branch. At the same time, a two-thirds vote is required to suspend or expel a member. The special vote requirement is designed to protect against hasty and unwise action of a majority of congressmen who are affected by a political "mood of the day."

SECTION 12. TRANSACTION OF BUSINESS

"A majority of all the members of each house 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. Each house shall keep a journal of its proceedings which shall be published from day to day. Each house 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."

This section should be fairly self-explanatory. It guarantees that a journal will be kept so that opportunity for public scrutiny of the legislature is always available. It also guarantees a record vote if one-fifth of the legislators so demand. These requirements are standard in many constitutions.

SECTION 13. PASSAGE OF BILLS

"Every bill when passed by the house in which it originated, or in which amendments thereto shall have originated, shall immediately be certified by the presiding officer and sent to the other house for consideration. A bill to become a law shall pass two readings in each house, on separate days, the final passage of which in each house shall be by a majority vote of all the members to which such house is entitled, which vote shall be entered upon the journal."

This, too, is a standard constitutional provision. A bill must go to both houses, and must also pass two readings in each house. The two readings in both houses must occur on separate days. All these provisions are designed to prevent hasty passage of bills.

SECTION 14. 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. Bills may originate in either house and may be amended or altered or rejected by the other. 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 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."

The most important of provisions in this section is the "one-subject rule." This avoids what is called "logrolling" in the United States, which is the attachment of special riders or amendments to bills on an entirely different subject. The result is that in order to get the benefits of the main bill, the executive branch and the people must also accept an unpopular or undesirable attachment.

SECTION 15. 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."

This section should be self-explanatory. The peculiar problems of Micronesia require that there be a common language, but at the same time that lack of knowledge of the common language be accommodated by use of interpreters.

XI. JUDICIARY, GENERAL COMMENTS

Your Committee is recommending a unified judicial system for Micronesia, with all courts on the national and local levels of government under the administrative supervision of the highest national court. The only exception to the unified nature of this proposed judicial system are the Land Claims Courts. Although the Committee Proposal requires establishment of such courts in every state, the details of such courts, including their composition and procedures, are left to the states to provide for by law. The Land Claims Courts are treated differently from other courts in the Committee Proposal due to an apparent consensus that land matters should be dealt with wholly on the district level.

Your Committee agrees in principle with what appears to be another general consensus of the Convention--that the Constitution should not be a lengthy document containing a lot of detail which could be left to the legislature. At the same time, your Committee feels that the judiciary should receive more detailed treatment than may ordinarily be the rule, for several reasons. First, it is important that all provisions assuring the independence of the judiciary from the other two branches of government be given constitutional status rather than be left to the legislature for later provision. If the legislature by regular enactment can later change how judges are selected or removed, for example, then independence from the legislative branch is undermined. Second, once the new government is established and begins to function, matters important to the judiciary may be given low priority. This tendency to give lower priority to legislation relating to the judiciary has been documented in the United States, and is not surprising when one remembers that legislators have limited time in which to act on a large number of other matters which are often of greater immediate importance to their constituents. It is for this reason that the Committee recommends giving the High Court both administrative responsibility and broad rule-making power rather than leaving such matters to the legislature. These provisions do, however, require additional language and detail in the Constitution.

Your Committee is also mindful of the continuing debate in this Convention over centralized versus decentralized power in the national level of government. To this Committee's knowledge, that issue has yet to be resolved by vote on the Convention floor. Without such express direction from the Convention as a whole, your Committee has proceeded to devise a governmental structure with as much flexibility as possible, but which of necessity makes certain assumptions as to where and how governmental power should be placed.

In so providing, your Committee has elsewhere proposed constitutional provisions requiring establishment of democratic local governments in each state, without specifying the details of each such local government as regards the local executive and legislative branches. Your Committee has, however, used a different approach for the judicial branch of government. The attached Committee Proposal not only requires establishment of local courts, but also specifically establishes such courts and provides for their composition, organization, procedures, and jurisdiction. The only exception to this approach, as noted earlier, are the Land Claims Courts. Again, there are several reasons for your Committee adopting this approach.

First, your Committee is guided by the principle of "equal justice for all." Your Committee feels that the best way to achieve such a goal is to provide for a unified judicial system throughout Micronesia, the cost of which is largely paid by the national government. Without such a structure, your Committee fears that a poorer state will be at a decided disadvantage and may be unable to provide a court system which guarantees real justice to all its inhabitants. Second, your Committee feels that the best way to assure equal justice is to guarantee that the judicial branch of government is truly independent from the other two branches of government on all levels. For this reason also, your Committee has provided details such as appointment, tenure, removal, and protection of salary for all levels of courts. And, finally, except in the case of land issues, your Committee has provided for appeals from the local level of courts to the national level of courts in order to assure that litigants have the benefit of the decisions of the highest level of courts in Micronesia.

Your Committee would like to make clear that the names used in its proposal were selected in a somewhat arbitrary fashion, since the Convention has not yet decided upon names for the various branches of government. The Committee has no objection to the Convention or the Style Committee changing any of the nomenclature used in this report. In this report and the Committee Proposal, masculine pronouns also refer to the feminine gender. "State" is used in place of what is now known of as districts in Micronesia.

XII. JUDICIARY - Section by Section Analysis

SECTION 1. JUDICIAL POWER

> "The judicial power of Micronesia shall be vested in a High Court, a State Court in each of the states, a Municipal Court in each municipality or other local governmental unit which is established by state law, a Land Claims Court in each of the states, and in such other inferior courts of limited jurisdiction as may be established by law. All courts except the Appellate Division of the High Court may be divided into geographical and functional divisions as provided by law or by judicial rules not inconsistent with law."

This section declares what courts are to be a part of the national judiciary, as well as which courts are created or authorized by the Constitution itself: A High Court on the national level, State Courts and Land Courts in each of the states, and Municipal Courts in areas where a state establishes municipal or local governments. Since your Committee has proposed elsewhere that states need not establish municipal or local governments where none presently exist, this section is written so as to only create Municipal Courts in those areas where municipalities or other local governmental units presently

exist, or will be created in the future. Municipal Courts are intended to parallel the existing community courts, but your Committee felt a change of name to "Municipal Court" was more appropriate.

The language of this section guarantees at least one Land Claims Court and one court of general jurisdiction in each state, and one municipal court per municipality. It would be impossible, therefore, for the legislature to abolish a municipal court in any municipality. Your Committee feels that a constitutional guarantee to each municipality of its own court is essential to the fair administration of justice. This is because Micronesians in many of the states live on islands or in areas which are remote from the state's center, where the State Court is likely to be. Unless they have access to a court in their own municipality, they may therefore be effectively deprived of their right to take a dispute to court.

In addition to the four sets of courts specifically mentioned, this section also empowers the legislature to create other "inferior courts of limited jurisdiction" in the future. Your Committee sees no need at the present time for creation of more levels or types of courts than those which are already specifically mentioned in this section. At the same time, your Committee recognizes that a Constitution should be flexible enough to allow for growth and change of a nation, as well as for new conditions creating demands which cannot now be expected or predicted by the drafters. The provision empowering the legislature to create additional courts is intended to provide such flexibility. It is restricted, however, to creation of additional "inferior" courts of "limited" jurisdiction. This language retains the supremacy of the High Court as the highest court of the nation. The requirement that such additional courts have "limited" jurisdiction prevents the legislature from supplanting this constitutional set of courts having general jurisdiction to hear all types of cases with another set of courts more to the legislature's liking at that particular moment. The legislature can create new courts to deal specifically with special or new problems, but cannot replace the courts of general jurisdiction created specifically by the Constitution with other courts having general jurisdiction.

Finally, this section allows division of all courts except the appellate division of the High Court into geographical or functional divisions. As the name implies, a geographical division is merely a part of the court located physically away from other parts of the same court. For example, in Truk the State Court might have a geographical division in the Mortlocks, another in the Westerns, and a third in the Truk Lagoon. A functional division means that the court is divided by types of cases. For example, a State Court might also be divided into a civil and criminal division with different judges assigned to each. If the problems of juvenile delinquency became severe enough and there are enough cases to justify it, the State Court might create another division to handle juvenile cases. Each division would have its own docket and judges. One of the advantages of functional court divisions is to develop expertise in the judge assigned to each division.

This section provides for division of courts by law, or by "judicial rules not inconsistent with law." As a normal rule, the High Court will probably create such divisions pursuant to its rule-making power under Section 8, since it is doubtful the legislature will take an active interest in such matters. But if the legislature does not agree with actions taken by the High Court in establishing court subdivisions, it can enact legislation to cure the defects it perceives.

The power of the High Court to make rules dividing courts into geographical and functional divisions should also be read in conjunction with Section 5, which gives the chief justice of the High Court power to assign judges from one geographical or functional division of a court to another division of the same court. This allows flexibility to allow for heavier dockets in one division than in another, temporary absences of a judge, and similar situations calling for temporary shifting of personnel. At the same time, the chief justice cannot assign between levels of courts. He cannot, for example, assign a State Court judge to sit as a High Court judge.

SECTION 2. COMPOSITION OF COURTS

"(a) High Court. The High Court shall be a court of record and shall be the highest court of the nation. It shall consist of a chief justice and three associate judges or such greater number as may be provided by law. The High Court shall consist of a Trial Division and an Appellate Division. The Trial Division shall consist of the chief justice and the associate judges, except that sessions of the Trial Division may be held by any one judge alone. The Appellate Division shall consist of the chief justice and associate judges of the High Court, except that the chief justice or an associate judge may not sit as a member of the Appellate Division in a case which he has heard as a judge of the Trial Division. The concurrence of a majority of the judges of the Appellate Division shall be necessary to any final determination of the Appellate Division.

(b) State Courts. The State Courts shall be courts of record and shall be the highest courts of each state. Each State Court shall consist of a presiding judge and such greater number of state court judges as may be provided by law; PROVIDED, That the number of state court judges in each state shall not be reduced below the number of district court judges in the corresponding district existing on the day before the day this Constitution becomes effective.

(c) Municipal Courts. The Municipal Courts, where established, shall consist of at least one municipal court judge and such greater number as may be provided by law. Congress may enact laws requiring that Municipal Courts be courts of record.

(d) Land Claims Courts. The Land Claims Court in each state shall have such composition, organization, and procedures as are provided by state law."

This section is fairly self-evident and needs little explanation. Your Committee has accepted the recommendation of High Court Associate Judge Heftner, who testified before the Subcommittee on Judiciary, to leave the number of High Court judges at a chief justice and three associates for the present time. It is not anticipated that a smaller number of judges will be sufficient, but room has been left for the legislature to increase the number of High Court judges if the need arises in the future. Similarly, each State Court is guaranteed that number of judicial offices which presently exists, with room left for expansion by the legislature as the need for additional judges arises. Since the State Courts' jurisdiction is that of a court of general jurisdiction, as opposed to the more limited jurisdiction of the presently existing District Courts, your Committee feels that at least the number of present district court judges should be retained in the State Courts of the future judicial system under this proposal.

Unlike the State and High Courts, there is no language requiring that the Municipal Courts be courts of record. The difficulty and expense of providing for court reporters or tape-recording equipment in every municipality would be prohibitive at the present time. At the same time, recognizing that the jurisdiction and responsibilities of the Municipal Courts may expand as time goes on, and that it may be desirous that such courts become courts of record at some future date, language has been inserted to allow the national legislature to so provide.

Although this proposal requires creation of a Land Claims Court in every state, subsection 2(d) makes it clear that the states are left free to provide by law for the composition, organization, and procedures of such courts. This allows maximum flexibility to each state to incorporate traditional dispute-settlement procedures and techniques into such courts, or a division

thereof. The state may also require that some or all judges of the Land Claims Courts be experts in customary law. It may therefore wish to establish different qualifications for judicial office, as well as different procedures for selection and removal of judges.

Your Committee has noted the strong feeling among delegates to this Convention that land is a local matter, and has therefore provided accordingly in the judicial system. This subsection should also be read in conjunction with subsections 4(c and d), dealing with jurisdiction of the Land Claims Courts, and Section 8, which excepts the Land Claims Courts from the rules of procedure of other courts within the national judicial system.

SECTION 3(a). APPOINTMENT

> "The Prime Minister of Micronesia, with the concurrence of two-thirds of the national Council of Ministers and with the advice and consent of a majority of all members of the Congress of Micronesia, shall appoint the chief justice and associate judges of the High Court. The chief executive of each state, with the advice and consent of a majority of all members of the state's legislature, shall appoint the presiding judge of the State Court and all other judges of the State Courts. The chief executive of the state in which the Municipal Court is located, with the advice and consent of a majority of all members of the municipal or local legislative body, shall appoint the judges of the Municipal Courts."

Your Committee takes note of the fact that every delegate proposal providing for selection of judiciary uses the executive appointment with legislative consent model, or a very similar concept. It is also your Committee's opinion that the legislative advice and consent role has worked well in Micronesia and has both the understanding of, and acceptance by, the Micronesian people. Other modern trends, such as use of an independent board of commission, are not familiar to the Micronesian people and require additional personnel and expense. For these reasons, the executive-appointment/legislative-advice-and-consent model has been recommended by your Committee.

Your Committee has adopted the view that the executive and legislative branches at each level of courts should be the ones making the judicial selections. For example, a judge for the Ponape State Court should be appointed by that state-level executive, with the advice and consent of the Ponape state legislature. The national executive and legislature should select High Court judges. In the case of Municipal Courts, the situation is a little different. In most municipalities, the executive (magistrate) is also a member of the municipal council. The state-level executive should therefore do the appointing, with the municipal council, of which the magistrate is a part, giving its advice and consent.

SECTION 3(b). TENURE: RETIREMENT

> "Judges of the High Court shall hold their offices for a term of seven years. Judges of the State Courts shall hold their offices for a term of five years. Judges of the Municipal Courts shall hold their offices for a term of three years. All judges may be reappointed, and shall be retired upon attaining the age of sixty-five years. A judge whose term of office has expired shall, however, continue to hold office until his successor is sworn into office. The chief justice of the High Court may from time to time appoint retired judges to such special assignments as may be provided by the rules of the High Court."

Your Committee spent considerable time debating the merits of a lifetime or very lengthy term of office for judges, as opposed to shorter, fixed terms

of office. The former assures more judicial independence, but means less opportunity to review a judge's performance and get rid of poor judges who are not bad enough for forcible removal. The latter does provide such opportunity for periodic review, but may mean some sacrifice to independence of the judiciary. The delegate proposals introduced to date are divided on this question.

Your Committee feels that a competent judiciary should receive high priority. We therefore recommend fixed, periodic terms of office. This will provide an opportunity for periodic review of a judge's performance and, if found lacking, the chief executive can simply appoint someone else for the job. Your Committee does not believe that a fixed, periodic term of office is of sufficient threat to the concept of an independent judiciary so as to outweigh the advantages of such periodic review.

Your Subcommittee also recommends mandatory retirement for all judges at all levels. The present retirement age of sixty-five has been retained. At the same time, this section gives the chief justice authority to appoint retired judges to special assignments of a temporary nature as may be provided by rules of court. This allows the judiciary to retain the services of a good judge who has reached the retirement age, but is still in full command of his faculties.

SECTION 3(c). REMOVAL

> "Judges of the High Court may be removed only for cause by the Prime Minister of Micronesia with the concurrence of two-thirds of the Council of Ministers and with the concurreuce of two-thirds of all members of the Congress of Micronesia. Judges of the State Courts may be removed only for cause by the chief executive of the state with the concurrence of two-thirds of all members of the state legislature. Judges of the Municipal Courts may be removed only for cause by the chief executive of the state in which the Municipal Court is located with the concurrence of two-thirds of all members of the municipal or local legislative body."

Your Committee takes note of the fact that every delegate proposal introduced to date involves the legislature in the removal process. Your Committee therefore recommends that removal of judges be in the hands of the executive branch, but requires a two-thirds concurrence of the legislature. The high vote requirement assures careful scrutiny of the merits of any case of proposed removal. It also assures that judges will not be removed simply because that is the wish of the dominating party or political coalition of the day.

Your Committee has not recommended a formal two-step impeachment provision, but instead requires a two-thirds concurrence vote. First, impeachment is normally a form of removal found only in bicameral legislative bodies. Even if this Convention creates a bicameral legislative body on the national level, it is likely that many of the states and municipalities will have unicameral legislative bodies. Second, impeachment has proved to be a cumbersome and seldom used procedure in other countries. Your Committee feels that a two-thirds concurrence requirement is a simpler procedure, while still protecting a judge against a rash or hasty removal.

Like the appointing provisions of Section 3(a), the executive and legislative branches on the level of government corresponding with the same level of judiciary are responsible for removal. The term "cause" provides the requirement that there must be a valid reason for removal, and not just because the executive and legislature don't like the particular judge or disagree with his decisions.

SECTION 3(d). COMPENSATION OF JUDGES

> "All judges shall receive such salaries as may be provided by law, which shall not be diminished during their term of office, unless as part of a reduction of salaries applied proportionately to all persons whose salaries are determined by law."

This section is intended to protect the independence of the judiciary. The prohibition against lowering a judge's salary while he is still in office is a fairly standard provision found in constitutions of nations which do attempt to assure judicial independence.

This section does allow reduction of a judge's salary, but only in the case of a general reduction applied across the board to all government employees whose salaries are determined by legislative enactment. It is similar to a provision found in many Pacific Island constitutions. Your Committee recognizes that Micronesia's economic future is uncertain and that there may be times where general decreases in governmental expense become essential. In such cases, where applied to everyone, judges should also be subject to such reductions in salary. There is no threat to the judge's independence since the reduction is a general one, and not directed against a particular judge for the decisions he renders.

SECTION 3(e). QUALIFICATIONS

> "Congress shall provide for qualification of all judges except judges of the Land Claims Courts."

Your Committee, after considerable debate, has decided to leave the entire issue of judicial qualifications for office to the legislature. At the present time, Micronesia suffers from a lack of persons educated and well-trained in the legal profession. Any provision for qualifications of judges written now would have to reflect that fact, as well as allow for non-Micronesian judges, at least on the higher court levels. Twenty or thirty years from now the situation will hopefully be much improved, and a different set of qualifications may be appropriate. Because Micronesia is in a state of flux with a growing, but still small, body of legal talent, your Committee feels that the matter of judicial qualifications for office should be left entirely to the legislature. This should allow for continual upgrading of Micronesia's judiciary as more and more Micronesians become trained in legal skills and the legislature can upgrade judicial qualifications to reflect this change.

In line with other provisions leaving similar matters to state choice, an exception is made in the case of the Land Claims Courts so that each state legislature, and not the national legislature, may set the qualifications for judges of such courts. A state could, for example, require that judges of one or more divisions of the Land Claims Court be experts in customary law.

SECTION 3(f). RESTRICTIONS OF OFFICE

> "No judge of the High Court or the State Courts shall hold any other paid office or employment. Any judge of any court who willingly becomes a candidate for an elective public office shall thereby forfeit his judicial office. Congress may enact laws to prohibit judges from engaging in activities or having interests which conflict with the proper discharge of their duties and responsibilities."

Although sometimes put in the same category as judicial qualifications, restrictions of office really deal with conflict of interest situations once a judge is in office. To take other paid employment or to run for election while still a judge not only undermines the public's confidence in a judge's independence, but also creates a danger of him spending less time on his

judicial duties. Your Committee feels that these two activities are the most serious conflict situations and should therefore be prohibited by the Constitution itself, at least in the case of all full-time salaried judges.

At the same time, your Committee did not want to prohibit the Municipal Court judges from other public office or employment for the near forenceable future. Municipal Court judges are presently paid a small amount for every case they hear. They are not paid a full-time salary like judges of the High Court and District Courts. Until such time as Municipal Court business becomes great enough to justify full-time salaried judges, the Municipal Court judges will very likely continue to receive little pay. To prohibit them from other employment entirely seems unduly restrictive. Should their court duties increase to the point where they become full-time salaried judges, the legislature can enact legislation to prohibit their holding other offices or employment, similar to the prohibition in this section which is now made only applicable to High Court and State Court judges.

All judges, including Municipal Court judges, forfeit their judicial office if they willingly run for an elective public office. The Committee feels this situation creates a clear conflict of interest and should be prohibited in all cases. Your Committee also recommends giving the legislature power to enact legislation to deal with other conflict of interest situations as the need for such legislation arises in the future.

SECTION 4(a). JURISDICTION. APPELLATE DIVISION OF THE HIGH COURT

> "Appellate Division of the High Court shall have jurisdiction to review on appeal all final decisions of the Trial Division of the High Court, including all decisions of the Trial Division heard on appeal from other courts. The Appellate Division of the High Court shall have such other jurisdiction as may be provided for by law."

The Appellate Division of the High Court will be the highest level of court in the nation. As this section is written, it will have appellate jurisdiction over all cases heard and decided by the Trial Division of the High Court, including all cases heard on appeal by the Trial Division from other courts. It thus potentially has final appellate jurisdiction over any case, except land cases, since the State Courts have appellate jurisdiction over Municipal Court cases (Section 4(c)), and the Trial Division of the High Court has appellate jurisdiction over State Court cases (Section 4(b)). Thus, an unsuccessful litigant who begins his case in the Municipal Court can appeal to the State Court, and from there to the Trial Division of the High Court, and from there to the Appellate Division of the High Court.

The only exception to this pattern of appeals is land cases, since the Land Claims Courts are given exclusive and original jurisdiction over cases involving ownership of land or any interest therein (Section 4(e)), with final appeal to the State Courts (Section 4(c)).

The Appellate Division of the High Court can be given additional appellate jurisdiction over decisions of other courts "as may be provided by law." As was pointed out earlier, under Section 1, the legislature has freedom to create inferior courts of limited jurisdiction beyond those specifically created by the Constitution itself. If the legislature does choose to do so in the future, the kind of general empowering language used in this section would allow the legislature to provide for appeals to the Appellate Division of the High Court from such courts.

In addition, although the Trial Division has appellate jurisdiction over "final" State Court decisions (Section 4(b)), and the State Courts have appellate jurisdiction over "final" Municipal Court decisions (Section 4(c)), the legislature could provide for interlocutory appeals to the Appellate Division of the High Court from the municipal and state level courts.

(Interlocutory appeals are appeals taken in the middle of a trial, before a "final" decision, and usually challenge a particular ruling in the trial made by the lower court judge. They are not normally permitted, but statutes may allow such appeals when important rights or questions of law are involved.)

SECTION 4(b). JURISDICTION. TRIAL DIVISION OF THE HIGH COURT

> "The Trial Division of the High Court shall have original and exclusive jurisdiction in all cases affecting ambassadors, other public ministers and consuls, in all disputes between the states of Micronesia, in all civil cases to which the national government is a party except where the ownership of land or any interest therein is at issue, and in all civil cases arising under this constitution and the laws and treaties of the nation. The Trial Division shall have such additional civil and criminal jurisdiction as may be provided by law. The Trial Division of the High Court shall have appellate jurisdiction over all final decisions of the State Courts except as otherwise provided herein, and shall have such other appellate jurisdiction as may be provided by law."

The most important jurisdiction exercised by the Trial Division of the High Court is its original and exclusive jurisdiction over four categories of cases. These are:

a. Cases affecting ambassadors, other public ministers and consuls. A nation normally gives its highest court jurisdiction over these types of cases to avoid embarrassment to other nations whose representatives may be involved. Assuming that the highest national court judges are also the best legal talent of the nation, there is less chance of a poorly or tactlessly decided case.

b. Disputes between the states of Micronesia. If two state governments clash, neither State Court is going to want to decide who is right or wrong. Some entity more neutral or at least not so closely involved should decide the dispute. The national court, representing neither state is normally given this role.

c. Civil cases to which the national government is one of the parties, except where land title is involved.

d. Civil cases arising under the constitution and the laws and treaties of the nation. This would include all cases involving interpretation of the constitution and national laws, cases involving inconsistencies between the constitution, national laws, and local laws, and cases of a similar nature.

The jurisdiction of the Trial Division over these four types of cases is original and exclusive, meaning that all such cases must be initiated in the Trial Division of the High Court and not in any other court. The legislature can confer other original civil or criminal jurisdiction on the Trial Division, but it need not necessarily be exclusive.

Finally, the Trial Division of the High Court also serves as the first appeals court from final decisions of the State Courts. And, as with the Appellate Division, the legislature is given general power to expand the Trial Division's appellate jurisdiction to other types of cases than those specifically mentioned in this section.

SECTION 4(c). JURISDICTION. STATE COURTS

> "The State Courts shall have original jurisdiction over all cases and controversies, civil and criminal, except those within the original and exclusive jurisdictions of the Trial Division of the High Court and of the Land Claims Courts.

> The State Courts shall have appellate jurisdiction over all final decisions of the Land Claims Courts, and such decisions on appeal shall be final, except to the extent otherwise provided herein for certification to the Trial Division of the High Court of substantial questions of law as to the interpretation or effect of any provision of this constitution. When hearing an appeal from the Land Claims Court, the State Court shall sit as a three-judge panel with the concurrence of two judges necessary for any final determination of the State Court. Whenever necessary to constitute a three-judge panel, the chief justice of the High Court shall appoint one or more persons from the state, who would be qualified for appointment to the State Court, to act as special judges of the State Court. The State Courts shall have such other appellate jurisdiction as may be provided by law.

The State Court is a court of general and unlimited jurisdiction, having original jurisdiction to hear all types of cases except those within the original and exclusive jurisdictions of the Trial Division of the High Court and the Land Claims Courts. The State Court also serves as a court of appeals from Municipal Court decisions, and can be granted additional appellate jurisdiction should the legislature establish other inferior courts, pursuant to Section 1, and wish to provide appeals from such courts to the State Courts.

The State Court is also a special appellate court of last resort from decisions of the Land Claims Courts. Except for certification of constitutional issues to the High Court, there are no further appeals beyond the State Court level from Land Claims Court cases. Because of the importance of land to Micronesians, and because in such cases the State Courts are courts of last appeal, your Committee felt that at least three judges should decide such appeals. In those states not having three permanent judges staffing the State Court, a provision is added for appointment of special judges to hear such appeals.

SECTION 4(d). JURISDICTION. MUNICIPAL COURTS

> "Municipal Courts shall have such original jurisdiction as may be provided by law."

Unlike all other levels of courts specifically created by this proposal, the Municipal Courts have no appellate jurisdiction, nor is there general language giving the legislature power to confer appellate jurisdiction on them. Your Committee feels that every community should have a local court to which there is ready access for cases involving small amounts of money, less serious crimes, and other types of cases which occur with some repetition in every community. Because of the small size of the various communities and budgetary restraints, such courts cannot function as both trial and appellate courts, nor should they. They should be courts with original jurisdiction to hear and decide the types of disputes which occur repeatedly in any small community.

Your Committee has not attempted to spell out in detail the jurisdiction of these Municipal Courts, but rather has left these decisions to the legislature. The legislature may, for example, wish to state a monetary limit above which a case must be brought in the State Court. But later it may wish to adjust that monetary amount upwards or downwards. It may wish to make similar jurisdictional distinctions between major and minor crimes. It is your Committee's belief that the legislature should have maximum flexibility to make these kinds of adjustments in future years according to the changing needs of the various communities.

SECTION 4(e). JURISDICTION. LAND CLAIMS COURTS

> "The Land Claims Court in each state shall have exclusive and original jurisdiction over all cases involving ownership of, or any interest in, land and submerged reef areas

situated within the territorial jurisdiction of that state. The Land Claims Courts shall have such additional jurisdiction over matters governed by traditional laws and customs, not otherwise inconsistent with this constitution and national laws, as may be provided by state law."

Land has received considerable attention at this Convention. Your Committee is aware of the importance of land to all Micronesians and the need to give separate attention to land issues. (Land, as used in this subsection and by your Committee, includes submerged reef areas.) Traditional laws and customs still govern the ownership of land in all but a small number of cases. Land disputes are thus different from many other types of disputes which have been resolved by importation of foreign laws and concepts. Our original laws are still with us to a large degree in the area of land. Your Committee believes there is a consensus at this convention in favor of preserving the viability of such traditional laws and customs--particularly in land cases.

At the same time, it is also clear to your Committee that the laws and customs in each state differ. There is no one "Micronesian land tenure law" which can easily be applied by a court to any case involving a land ownership dispute. For this reason, it is your Committee's belief that land issues must be resolved by the judicial system on the state level. Your Committee has therefore provided for a separate court in each state, with final appeal under Section 4(c) to a three-judge panel of the State Court.

Since land and reef ownership cases in many of the states will often involve application of customary laws to resolve disputes, at least some judges of the Land Claims Courts are likely to be knowledgeable in customary law. It seems logical therefore to allow each state the option of conferring additional jurisdiction on Land Claims Courts to hear other types of cases governed by customary laws. Your Committee has therefore included langugage permitting each state this option, but at the same time has provided that the exercise of such option shall not be inconsistent with the constitution or national laws.

This subsection should also be read in conjunction with Section 8, which exempts the Land Claims Courts from regular court rules. This allows the courts to use different procedures and dispute-settlement techniques in resolving land cases. For example, if conciliation was traditionally a means of settling land disputes, the court can use such a procedures even though it may not otherwise be permitted in other courts by normal court rules.

SECTION 4(f). CERTIFICATION OF CONSTITUTIONAL ISSUES

"Whenever a case, not otherwise within the original and exclusive jurisdiction of the Trial Division of the High Court, involves a substantial question of law as to the interpretation or effect of any provision of the Constitution, upon application of any party or upon its own motion, the court hearing such case shall certify the question to the Trial Division of the High Court. Upon such certification, the Trial Division of the High Court may determine the question so certified, and upon such determination shall either dispose of the case or remit it to the court which certified the case to be disposed of in accordance with the determination."

Certification is a process by which certain issues can be referred up to a higher court faster than would normally be the case. Certification can also be restricted to certain issues, without having to refer an entire case up to a higher level of court. This subsection provides for certification of constitutional issues to the Trial Division of the High Court from any lower court.

A case involving only constitutional issues would normally be initiated in the Trial Division of the High Court, since that court has original and exclusive jurisdiction over cases arising under the constitution. It is possible, however, for a constitutional issue to be raised in a case after the case is initiated in another court having jurisdiction over it. For example, a woman might sue for divorce in her local Municipal Court, assuming that the Municipal Court has jurisdiction over divorce cases. The husband may then raise a constitutional issue as part of his defense to the divorce action. The Municipal Court has jurisdiction over the case, but the constitutional issue raised may be an important one which will likely be asserted on appeal all the way up to the High Court. A lot of time can be saved by asking the High Court to decide the issue right away rather than have to wait for its resolution after lengthy appeals. In addition, the High Court is normally the final arbiter of constitutional law issues and is therefore a more appropriate court to decide the issue.

As this subsection is currently written, the Municipal Court on its own motion, or any party to the action, can certify the question immediately to the High Court. The High Court is then given discretion as to whether or not to accept certification and decide the issue. Discretion in the higher court is normally felt to be necessary to allow the High Court the option of refusing to decide a certified issue which does not really involve a constitutional issue and which is clearly meant to be a delay tactic or frivolous gesture. If the decision of the High Court effectively disposes of the whole case, there is no need for the Municipal Court to take further action. If, however, the High Court decision does not fully dispose of the entire case, it will normally "remit" the case back to the Municipal Court.

SECTION 5. ADMINISTRATION

> "The chief justice of the High Court shall be the administrative head of the entire judicial system. He may assign judges from one geographical or functional division of a court to another division of that same court. The chief justice shall appoint an administrative director to serve at his pleasure and to supervise the administrative operation of the judicial system."

This section is designed to guarantee efficient administration of the entire judicial system. The chief justice, as highest judicial officer of the court system, is given ultimate responsibility in all administrative matters. At the same time, an administrative officer is provided for so that most administrative matters, such as preparation of the budget and hiring of non-judicial personnel, can be delegated by the chief justice to the administrative officer. This will allow the chief justice the time and attention to carry a full judicial load while still being ultimately responsible for all administrative matters.

The chief justice is also given the power to assign judges back and forth among functional and geographical divisions of a court. This allows the chief justice to assign judges to serve where the need is greatest. If, for example, the criminal docket becomes overly crowded in a particular State Court, the chief justice might assign a state court judge who normally hears civil cases to temporarily sit as judge in the criminal division. The chief justice must, however, make such assignments within the same court level. He cannot, for example, temporarily assign a Municipal Court judge to sit on the Land Court or the High Court.

SECTION 6. ACTING CHIEF JUSTICE

> "Whenever the chief justice is unable to perform the duties of his office, whether by absence from the country or otherwise, he shall designate an associate judge of the High Court to act in his stead until he is able to resume the duties of his office. In the event of a vacancy or whenever the chief justice fails to or is unable to so designate an acting chief justice, the Prime Minister shall designate an associate judge

of the High Court to act as chief justice until the vacancy is filled or the chief justice is able to resume the duties of his office."

This section is self-explanatory. Because the chief justice has duties and responsibilities of an administrative nature, and may also be given ceremonial duties in other parts of the constitution, some mechanism is necessary to provide for an acting chief justice in the event of an unexpected or expected vacancy or absence. Normally, the chief justice himself will want to designate an acting chief justice. But if the office is vacant or the chief justice is for any reason unable to so designate, the chief executive of the nation is given power to appoint an acting chief justice from among the other High Court associate judges.

SECTION 7. ASSESSORS

"Whenever traditional laws and customs of a state are at issue in any case, including on appeal, and no judge of the court is well-versed in such laws and customs by birth or by training and experience, the presiding judge shall select one or more persons as assessors who are well-versed in such laws and customs by birth or by training and experience. Assessors shall sit with the court to advise it in regard to such laws and customs at issue. The court shall consult with such assessors before a determination is reached in the case."

One of the most persistent complaints of the High Court has been that American judges frequently must apply the "customary law" of a district when such judges know little or nothing of Micronesia's culture and values. Yet even if the High Court were composed entirely of Micronesian judges, the same complaint would no doubt be heard since the laws and customs vary from district to district. A Yapese High Court judge may have as much difficulty applying Marshallese divorce law as would an American judge.

One way of dealing with such a problem is by use of assessors. Assessors are experts in a certain field who sit with a judge to hear a case, and act as advisors to the judge on matters within their field of expertise. The High Court judges currently have power to appoint assessors to advise them on customary law. (5 T.T.C. Section 353). Various High Court judges have used assessors with varying degrees of success. As the law is presently written, however, the High Court judge is not required to appoint an assessor in any type of case, nor is he required to consult with an assessor before making a decision.

This section also provides for assessors, but greatly strengthens their role from what it has been in the past. This section basically requires any judge not well versed in local laws and customs to appoint one or more assessors whenever local laws and customs are at issue, and requires that the judge consult with the assessors before reaching a decision of the case. As written, this section requires such use of assessors in any case in any court, whether on appeal or at trial.

SECTION 8. RULES

"The High Court shall make and promulgate rules governing all courts except the Land Claims Courts, including rules for the administration of courts, practice and procedure in civil and criminal cases, rules of evidence, and rules governing discipline of persons practicing before such courts. These rules may be changed by a two-thirds vote of all the members of the Congress of Micronesia."

This section gives the High Court broad rule-making power, but always subject to a legislative override by a two-thirds vote. This gives the judiciary the opportunity to take the initiative in setting up its own administrative,

procedural, and disciplinary structure. When rule-making power has been left in the hands of the legislature in the United States, the experience has often been that the rules become outmoded, but the legislature is not sufficiently interested or affected to take curative action. The judiciary, on the other hand, will be alert to needed changes, and will act swiftly to cure defects in existing rules. In order to protect against unrestricted judicial rule-making, however, the legislature is given power to change the judicially-promulgated rules by special vote. As noted earlier, Land Claims Courts are exempted from this section to allow flexibility to adapt the Land Claims Courts to traditional dispute-settlement techniques if a state so desires.

SECTION 9. FINANCING

> "The chief justice shall submit to the Congress of Micronesia an annual budget for the entire judicial system and the total cost of the system shall be paid by the national treasury, PROVIDED, that in the case of the Land Claims Court the Congress of Micronesia shall provide by law for the national government to bear the reasonable cost of all or a portion of such courts in each state, but may require each state to bear the remainder of costs of such courts in their respective states."

Your Committee has taken the position that the nation's judicial system should be financed by the national government. This section merely expresses that position. The special treatment of the Land Claims Court provides a check on the states to prevent them from providing for elaborate and unnecessarily expensive Land Claims Courts which then must be entirely financed by the national government. Since Section 2(d) gives each state the right to create such courts without restriction as to number of judges, court divisions, and similar matters, your Committee felt that some control must be placed on the states to prevent them from "bankrupting" the national treasury. As presently written, this section requires the national legislature to pay the reasonable costs of the Land Claims Courts, but at the same time allows the national legislature to require states to pay the balance if they wish to have more judges or a more elaborate court system than the national legislature feels is reasonable.

Signed by 11 members of the Committee on Governmental Structure

SCREP. NO. 37
MAJORITY REPORT COMMITTEE ON GENERAL PROVISIONS OCTOBER 15, 1975

Re: Location of future capital of Micronesia and jurisdiction and control over all property of the national government (Comm. Pro. No. 25)

Your Committee on General Provisions, to which were referred Delegate Proposals relating to location of the future capital of Micronesia and jurisdiction and control over all property of the national government, begs leave to report as follows:

Your Committee on General Provisions is of the opinion that the location of the future capital of Micronesia is a matter which should be determined by law, not by the delegates to this Constitutional Convention. It is in the best interests of this Convention and the future government of the Federated States of Micronesia to allow the decision on the location of the capital to be determined by either the present Congress of Micronesia or the future national legislature. The following reasons are submitted for consideration:

1. The location of the capital of Micronesia may have to be determined prior to the ratification and effective date of this Constitution. It may be imperative politically and for planning purposes to determine the location of the Micronesian capital soon. Action by the U.S. Congress on the Marianas Covenant and expected appropriation of funds for relocation of Trust Territory headquarters are factors which may require immediate determination of the location.

2. The location of the capital of Micronesia does not have to be specified in the Constitution. Such a determination requires surveys, engineering studies, determination of land availability, cost analysis, and other technical considerations.

3. The location of the capital of Micronesia should not be specified in this Constitution. The matter has become a political question. Inclusion in the Constitution of an Article which specifies in which state the new capital shall be located may serve as a reason for disapproval of the document by one or several districts. Accordingly, the document should be silent on this matter.

4. It is not known which districts will ratify this Constitution. If the location is specified in this document and that district fails to approve the Constitution, the provision will have no effect and the Constitution will be in need of amendment even before it becomes effective.

For these reasons, your Committee on General Provisions submits the attached Committee Proposal which provides that the location of the capital of the Federated States of Micronesia be determined by law. It is the intent of the proposal that either the present Congress of Micronesia or the future national legislature enact the necessary legislation. Your Committee feels that such flexibility is necessary. The proposal also requires that a determination be made no later than one year after the effective date of the Constitution. This phrase establishes a deadline so that the question is finally determined by law by the new government if it has not already been decided by the Congress of Micronesia.

The second sentence of the Committee Proposal provides that all property of the national government shall be under the exclusive jurisdiction and control of the national government. It is the intent of this section to limit a state's police power, legal jurisdiction, and taxing power over the capital area and any other property of the national government regardless of its location.

Your Committee on General Provisions recommends adoption of the attached proposal as part of the Micronesian Constitution.

Signed by 11 members of the Committee on General Provisions, two of whom did not concur

SCREP. NO. 37(A)
MINORITY REPORT COMMITTEE ON GENERAL PROVISIONS OCTOBER 15, 1975

Re: Location of the Capital of the Federated States of Micronesia

Your Committee on General Provisions has submitted to this Convention a Committee Proposal relating to the Capital of Micronesia and jurisdiction and control over property of the national government. This proposal provided that the location of the future capital of Micronesia be determined by law.

The Palau Delegation stands firmly on the position earlier enunciated at this Convention and advanced in the Committee on General Provisions that Palau District be selected as the location of the future national capital. We do not concur with that portion of the Committee Proposal dealing with the location of the national capital and, accordingly, we submit this minority report.

We have yet to hear any substantive arguments from any Delegate or Delegation negating the generous offer of the Palau Delegation to have Palau District host the new capital. A suitable location, free land, and other benefits would be made available by the government of the State of Palau. Our offer is made in good faith. Its apparent rejection by the Committee on General Provisions without adequate explanation and without justification is unsatisfactory.

As was stated earlier by the Chairman of the Palau Delegation and other Delegates, location of the capital in Palau will place the seat of the future government in the doorway to Asia and other nations in the Pacific. Micronesia is located in the western Pacific Ocean on the edge of Asia. We must look to our Asian and Pacific neighbors for closer social and economic relations. Development of our economic resources and future trading patterns will involve closer relationships with these neighbors. Accordingly, location of the capital in Palau District makes sense politically and economically.

The argument is often advanced that the future capital should be centrally located. History shows that the Japanese Administration moved is headquarters west from Truk to Palau and that the American Administration moved from Honolulu, west to Guam and then to Saipan. The present Trust Territory headquarters is not located in the geographical center of Micronesia. In an age of rapid air transportation and modern communications, the argument that a capital must be located in the geographical center of the country has little foundation.

Some districts in Micronesia have expressed an interest that the capital be located in their district while at the same time opposing the inclusion in our Constitution of a provision providing for exercise of the power of eminent domain. Without such power these districts will be unable to furnish the land necessary for our future capital.

The offer to locate the capital in Palau is a serious proposal. It is made in good faith and it should receive serious consideration by this Convention.

Signed by two members of the Committee on General Provisions

SCREP. NO. 38 — COMMITTEE ON PUBLIC FINANCE AND TAXATION — OCTOBER 16, 1975

Re: Taxation (Comm. Pro. No. 26)

Your Committee on Public Finance and Taxation, to which were referred Delegate Proposals dealing with the taxing power, begs leave to report as follows:

The attached Committee Proposal, adopted by your Committee only after thorough study and exhaustive discussion, represents our honest and considered response to what must be acknowledged as one of the most controversial questions placed before this Convention. "Of all federal problems, the financial relations between the Centre and the units are the most difficult." (Santhanam, K., Union-State Relations in India, p. 29)

Recognizing the varying interests expressed both by the District Delegations, as well as by individual Delegates to the Convention, your Committee approached the question of how to allocate the taxing power with two basic concerns in mind: the constitutional tax proposal which the Convention finally adopts must be 1) both practical and efficient to implement, and 2) politically palatable. It should also be noted that no member of the Committee presumed that any resultant proposal could possibly satisfy every interest grouping. Rather, our efforts were directed at producing a proposal which effectively dealt with and adjusted conflicting interests into the most reasonable proposal achievable.

Your Committee's Proposal adopts an intentionally clear division of taxing powers allocated between the central and state governments. R. L. Watts, in his study of financial powers in New Federations (1966), states:

> "In order to avoid the conflicts and tangles of overlapping tax jurisdiction, the duplication of collection agencies, and clashes of fiscal policy, the concurrent right of taxation has been widely avoided, and tax sources have nearly always been assigned exclusively to one level of government or the other."

Your Committee also adopted the proposition that the state governments should be guaranteed a high degree of fiscal autonomy. In the Proposal, this guarantee has taken the form of a "not less than 50%" return of all central income and import tax revenues back to the state in which such revenues were collected. This intergovernmental financial transfer shall be wholly unconditional--with no discretion left to the National Legislature, except for the discretion to increase the proportional return above the 50% figure. All other taxing powers are reserved expressly to the states.

At the same time, your Committee was acutely aware of the future national government's extensive functional role as detailed in the Governmental Functions Committee's Working Paper (Misc. Comm. No. 14). A memorandum prepared by the staff of the Committee on Governmental Functions, for that Committee and the Committee on Public Finance and Taxation, reproduced "a very rough estimate of the cost of performing those functions", as estimated by the Budget Officer of the Congress of Micronesia. That estimate totaled approximately seventeen and a half million dollars. Among its more costly functions, the national government was assigned the responsibility over foreign affairs and national defense, shipping, communications and interstate commerce, immigration and legal affairs, and the "public welfare".

The Committee also noted the proposed allocation of concurrent and exclusive reserved powers and functions of the state governments detailed in Miscellaneous Communication No. 14. The attached Proposal is, therefore, an informed approach to the problem of allocating taxing powers with necessary regard for the functional distinctions proposed for the new nation's governmental units.

The section by section analysis which follows further reflects the Committee's decisions on taxation:

> "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."

As noted earlier in this report, your Committee believes that the taxing powers allocated between the national and state governments of Micronesia should be exclusive and distinct. While the functions performed by different levels of government ought to be shared, the logic in such a system does not apply to the taxing power in a Micronesian federation. The reasons why your Committee arrived at this conclusion should be clear:

> (1) Elimination of vertical multiple taxation
>
> Also referred to as tax overlapping, multiple taxation is a situation in which the same "tax base" is taxed more than once. "Vertical multiple taxation" refers to overlapping taxation by two levels of government. Although vertical multiple taxation is not always undesirable, if it were to be practiced in Micronesia without concern for its total effect on the private and public sectors, there could be no adherence to a consistent fiscal policy for Micronesia.
>
> (2) Reduction in administrative overhead
>
> The costs involved in implementing the taxing powers cannot be overlooked or ignored in Micronesia. Any system which allocates concurrent national and state taxing powers would have to be warranted by some positive value achieved by such a system. The Committee on Public Finance and Taxation felt that the substantial costs of administering and enforcing tax laws in a nation as widely dispersed as Micronesia, outweigh

any arguments for the concurrent powers to tax the same tax base by separate levels of government.

(3) Avoiding overlapping tax jurisdictions

A further reason for assigning separate taxing powers to separate levels of government involves the intent to avoid future legal disputes between national and state governments over the "reach" of their respective taxing authorities. To the greatest extent possible, a constitution must anticipate and avoid disputes, not create them.* This includes attempting to reduce intergovernmental fiscal conflicts.

Your Committee's Proposal allocates the income and import taxing powers exclusively to the National Legislature of the central government. In exercising that power, however, the National Legislature is restricted in two important ways. First, tax legislation must be uniform in its application throughout the nation. This requirement in no way prohibits the Legislature from defining reasonable classes and establishing appropriate rate structures for each class subject to the tax. For instance, the uniformity requirement would not prohibit the Legislature from imposing a graduated income tax which establishes reasonable classifications and varying rates. The requirement, however, does mean that all tax laws enacted by the National Legislature must be implemented and enforced equally, consistently and uniformly in every part of the nation. The second restriction on the National Legislature's taxing power is the formula for unconditional revenue sharing. By adopting this formula, your Committee strongly emphasizes its intent to guarantee to the states the means by which each will benefit from central government taxation. While the National Legislature shall be a representative body--making decisions in the interests of all Micronesians--the protection of state fiscal guarantees was seen as too important an issue to be left to the absolute political discretion of the National Legislature. That political discretion may, however, be exercised to increase the minimum 50% sharing formula in the future, as circumstances require.

"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."

The decision to allocate taxes in the manner reflected by this and the preceding section, is your Committee's commitment to state fiscal autonomy and strength. The income taxing power was given to the central government primarily (1) to reduce the costs of administering that major tax, (2) to ensure adequate revenue expectations to both levels of government to meet their respective functional responsibilities. The import taxing power assignment was made, on the other hand, for the additional purpose of preventing interstate trade inequities.

The same reasoning required the inclusion of excepting language which will effectively prevent the state and local governments from using their extensive reserved taxing powers in ways which would prevent or unreasonably

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*"In Rhodesia and Nyasaland,...in the interest of territorial financial autonomy and further flexibility, the territorial governments were given power together with the central government to levy income taxes, but for the sake of simplicity of administration this took the form of a territorial surcharge on the central income tax, limited to a maximum of one-fifth of the central rate of tax. Even then, although this system enabled a more economic administration than the separate collection of income taxes by both levels of government, in practice it gave rise to technical problems of assessment in determining the sources of private and corporate income, and placed limitations upon central fiscal policy." (R. L. Watts, New Federations, (1966) pages 201, 202)

impede the free flow of goods and services in interstate commerce. The extent of the phrase "which restricts interstate commerce" is necessarily a judicial question which cannot be adequately defined prospectively in this report.

> "SECTION _____. No export tax, duty or tariff shall be imposed or collected by any level of government of the nation."

The last section of the Public Finance Committee Proposal deals with exports. Your Committee has determined that to prohibit such levies would be in line with the goals of economic development, as well as sound fiscal planning. Taxes on items produced for export tend to have the effect of decreasing production of those items. In a setting quite different from Micronesia, the framers of the United States' Constitution banned taxes on exports due to pressure from agricultural interests in the southern states, which at that time already had a substantial volume of export business to protect.

In contrast, Micronesia currently has no large export sector. However, since a major strategy of development is to increase exports, a ban on export taxes is not an unreasonable approach to that goal. In fact, as recently as ten years ago, at least ten countries--Jamaica, the Philippines, Israel, the United Arab Republics, Nationalist China, Chile, Lebanon, Greece, Turkey and South Korea--imposed no taxes on exports.

Your Committee feels that the case against taxation of exports is especially strong in Micronesia, since Micronesia's present and potential export products face the competition of synthetic or other substitutes. For example, the international trend to substitute other products for copra, the largest current Micronesian export, requires that no further burden be placed on that commodity's production. Also, the domestic market is relatively small compared to the foreign market which the nation is capable of serving. These factors combine to require no tax on exports if an export sector of the Micronesian economy is to survive in today's competitive world markets.

The argument for export taxes based on their ease of application is out of place in the Micronesian context, since it is based on the notion that such a levy taxes smaller producers who keep no accounts. Micronesian cooperative associations already keep books, and small farmers cannot hope to trade individually on the foreign market. These realities more than negate any potential savings in tax administration.

In summary, your Committee has concluded that in order to foster a climate favorable to economic development, a constitutional ban on taxation of exports is in the best interest of Micronesia. This conclusion is supported by experience, for the Congress of Micronesia has repealed--rather than added new--export tax laws. Today only scrap metal is taxed as an export leaving Micronesia. That tax nets the Trust Territory a mere $4,000 annually.

Your Committee on Public Finance and Taxation respectfully submits this report and recommends that the attached Committee Proposal be adopted by the Convention for inclusion in the Constitution.

Signed by 10 members of the Committee on Public Finance and Taxation, three of whom did not concur.

SCREP. NO. 39 COMMITTEE ON STYLE AND ARRANGEMENT OCTOBER 17, 1975

Re: General and Special Funds (Comm. Pro. No. 15), Existing Laws, Rights, and Proceedings (Comm. Pro. No. 16), and Suffrage (Comm. Pro. No. 19)

Your Committee on Style and Arrangement hereby submits its report on Committee Proposals No. 15 - General and Special Funds; No. 16 - Existing Laws, Rights, and Proceedings; and No. 19 - Suffrage.

Committee Proposal No. 15 - General and Special Funds

1. P. 1, lines 4 and 5: The phrase "except as otherwise prohibited by this Constitution or by law" was deleted as unnecessary in the light of the two Sections immediately following.

2. Line 3: As a matter of style, the plural "all public monies" was replaced by the singular "public money".

3. Line 5: As a matter of style, the phrase "No money shall be withdrawn..." was changed to "Money may not be withdrawn...".

4. Line 6: The words "pursuant to" were replaced by the simple word "by".

5. Since the Committee on Finance and Taxation intended that money received by the National Government be deposited either in the General Fund or in the special funds provided in the following two Sections, the words "or special funds" were inserted.

6. Your Committee then rearranged the provision as a matter of style to read as follows:

> 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.

7. Line 7: The words "There shall be such..." were deleted as surplusage.

8. Lines 8 and 9: The words "No money shall be..." were changed to "Money may not be...", and "pursuant to law" was changed to "by law".

9. The provision then reads:

> Special Funds within the National Treasury may be established by law. Money may not be withdrawn from a Special Fund except by law.

10. The word "special" was deleted as unnecessary.

11. Line 12: For consistency, the word "aid" was replaced by "assistance" because the latter word is used throughout the rest of the provision.

12. A period was inserted after "Fund" in line 12 as a matter of style.

13. The rest of the provision was then rearranged without a change in meaning to read as follows:

> Foreign financial assistance received by the National Government shall be deposited in a Foreign Assistance Fund. The Legislature (Congress) shall provide for equitable distribution from this fund except where a particular distribution is required by the terms or special nature of the assistance.

The word "Congress" was inserted in parentheses to indicate that the correct term will be inserted after the Convention decides this matter.

Committee Proposal No. 16 - Existing Laws, Rights, and Proceedings.

1. As a matter of style, your Committee prefers the use of singular terms in all cases except where the plural is clearly required by the context. Accordingly, the list of writs, actions, suits, etc. were all changed to the singular. The term "laws" on line 2 was replaced by "statute" in the interest of precision.

2. Line 4: The word "shall" was deleted because your Committee believes this term should be reserved for a command. The use of "shall" in line 4 is not a command, but a simple declaration. The word "force" was replaced with "effect".

3. Line 4: The term "expires" was deleted as unnecessary. A law that expires by its own terms is no different in principle from any other law.

4. The provision was then drafted as follows:

> 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, 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.

Committee Proposal No. 19 - Suffrage.

1. Line 2: Your Committee prefers the use of the singular expression "a citizen", "a law", etc. instead of "Every citizen", "All laws", etc.

2. Line 3: The phrase "shall not be denied the right to vote" was replaced by the simple and short phrase "may vote".

3. Line 4: The capitalized word "HOWEVER" is archaic and unnecessary.

4. Lines 6 and 7: The word "sentence" includes every form of restraint of freedom including imprisonment, probation, and parole. Accordingly, your Committee deleted "probation" and "Parole".

5. The provision was then redrafted as follows:

> 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 while under sentence of a Micronesian court for conviction of crime, and disqualification for mental incompetence or insanity.

Signed by 9 members of the Committee on Style and Arrangement

SCREP. NO. 40 COMMITTEE ON GENERAL PROVISIONS OCTOBER 20, 1975

Re: Secession and Admission of New States
(Comm. Pro. No. 27)

Your Committee on General Provisions to which were referred Delegate Proposals dealing with secession and the admission of new States begs leave to report as follows:

Your Committee considered all delegate proposals relating to secession from the union. These proposals stated various optional approaches including unilateral secession, secession with the approval of the other States or central government, and no secession under any circumstances. The opinion of the Committee is that secession should not be allowed.

The Committee Proposal is based on the assumption that a State, by sending Delegates to the Convention and by ratifying the final document, has made a firm commitment to join the Federated States of Micronesia. The Proposal does not allow a later reassessment of this commitment which may be motivated by a change in the economic or political conditions within a State. To allow a State to secede makes it uncertain whether that State is making a full effort

to meet its responsibilities to the new nation or only biding time until the conditions are ripe for secession. It may be difficult for the central government to operate efficiently when faced with such uncertainties.

This is especially true when dealing with international affairs. The central government lacks credibility when it attempts to negotiate as the representative of all States if secession is allowed. Any foreign government which is aware of the situation is free to deal with the individual States and play them off against each other and the central government. This will quite possibly result in a loss of overall Micronesian bargaining power.

The purpose of forming a union is so that all States might work together for the betterment of all. It is not desirable to allow a State, which may in the future receive additional revenues, to withdraw from the union rather than to share for the good of the union. The same logic which would allow a rich State to withdraw would allow the expulsion of a poor State. Such thinking goes against the whole concept of the establishment of national unity for the benefit of all Micronesians.

Your Committee is of the opinion that unity is necessary if the Federated States of Micronesia is to become a strong and respected member of the international community. Therefore, we urge that the Micronesian Constitution not allow secession.

Your Committee feels that the Constitution should include a provision dealing wtih the formation and addition of new States. The Committee Proposal states that new States shall be formed and admitted by law. Due to the wide ranging ramifications which may accompany the formation and addition of a new States, the National Legislature is the appropriate body to admit new States.

When existing State boundaries are affected, the concerned State will have a voice in the matter. It is not necessary to include such a provision here since the State Boundary Section, which has been approved by the Convention, requires the approval of the State Legislature if a State's boundaries are to be changed.

The Proposal also states that new States shall be subject to all rights, duties, and obligations provided for in the Constitution. The intent and purpose of this langugage is to guarantee that new States will be admitted on an equal basis with the original States. Without the inclusion of this phrase, it is conceivable that the National Legislature might admit a State under discriminatory terms, such as inferior representation in Congress or an exceptional tax burden. Such discriminatory treatment is not acceptable to the Committee.

Your Committee on General Provisions submits herewith a Proposal entitled "Secession and Admission of New States" and recommends its adoption as part of the Micronesian Constitution.

Signed by 13 members of the Committee on General Provisions, two of whom did not concur

COMMITTEE ON

SCREP. NO. 41 STYLE AND ARRANGEMENT OCTOBER 22, 1975

Re: Suffrage (Comm. Pro. No. 19)

Your Committee on Style and Arrangement reports as follows:

On October 20, 1975 the Convention recommitted to the Committee on Style and Arrangement Proposal No. 19 (SD1, CD1), a proposal relating to suffrage. This action was taken because the provision had been amended on the Convention floor after it was first reported to the Convention by the Committee on Style and Arrangement.

Your Committee on Style and Arrangement has now examined the amendment and is happy to report that no further change is needed.

Accordingly, your Committee on Style and Arrangement now reports this provision back to the Convention.

Signed by 10 members of the Committee on Style and Arrangement

SCREP. NO. 42 COMMITTEE ON GENERAL PROVISIONS OCTOBER 22, 1975

Re: Ownership of Land (Comm. Pro. No. 28)

Your Committee on General Provisions to which were referred Delegate Proposals relating to the ownership of land begs leave to report as follows:

Due to the limited amount of land in Micronesia and the importance of our marine resources, it is the opinion of your Committee that ownership of lands, their appurtenances, and waters be limited to citizens and corporations wholly owned by citizens. Unless our Constitution includes such a provision it is conceivable that in the future we will find our lands and water under the control of noncitizens. Such a situation would be destructive of our society and traditions. It would also deprive citizens of many of the benefits from our national resources. By limiting ownership to citizens, the Committee Proposal guarantees that control over and the benefits from these important resources will remain in the hands of the Federated States.

The Proposal states that only citizens and corporations wholly owned by citizens shall have the right to acquire title to lands, their appurtenances, and waters. An appurtenance is an article adapted to the use of property to which it is connected and is intended to be a permanent part of the property. Examples of appurtenances would be buildings, docks, or groves of trees.

The use of the word "acquire" in the Proposal is extremely important. It will allow current Trust Territory citizens, who do not become citizens of the Federated States, to retain title to property in the Federated States. Persons from the Northern Marianas or from districts which fail to ratify this Constitution will be included in this category. They will be allowed to hold title, since the provision only deals with acquisition, but may only convey to citizens or corporations wholly owned by citizens. 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. This means that the amount of property in the Federated States which is owned by noncitizens will never increase. Within approximately one lifetime all property held by individuals will be citizen owned. However, since corporations may exist perpetually, there may be some property retained by corporations not wholly owned by citizens. Some corporations which are currently wholly owned by Trust Territory citizens, and consequently may hold title to land under Trust Territory law, will not be wholly owned by Federated States citizens after the effective date of this Constitution. This will come about if stockholders become United States citizens under the Covenant or should remain Trust Territory citizens by failing to ratify the Constitution. Your Committee feels that it would be unfair to citizen stockholders as well as an undesirable impediment to economic development to require these companies to give up their property in the Federated States. Also, this provision would make it impossible for noncitizens to purchase shares or otherwise become owners of corporations which own land in the Federated States of Micronesia.

Your Committee feels strongly that Micronesia should be for Micronesians. The Committee Proposal insures that the ownership of our lands and waters will remain with our citizens. Therefore, your Committee recommends that the Committee Proposal entitled "Ownership of Land" be agreed upon as part of the Micronesian Constitution.

Signed by 10 members of the Committee on General Provisions

Re: Effective Date of the Constitution
(Comm. Pro. No. 29)

Your Committee on General Provisions to which were referred Delegate Proposals dealing with the effective date of the Constitution begs leave to report as follows:

The Committee Proposal provides for a rapid assumption of primary governmental functions and a smooth and orderly transition to the new structure of government specified in the Constitution. It proposes that the Micronesia Constitution take effect within one year of its ratification by the people of Micronesia. The proposal allows adequate time for a transition period during which functions of the Government of the Trust Territory of the Pacific Islands can be transferred to the successor government established under the Constitution. Also, it allows time for necessary changes in structure to be accomplished or measures undertaken to assure their orderly implementation. The Congress of Micronesia, by joint resolution, may specify the precise time for application of the Constitution or such implementation may be undertaken in steps or on a progressive timetable. Your Committee feels that Congress is best qualified to specify the effective date since it will be involved in the transition process and will have the necessary knowledge and expertise to make such a determination. However, to prevent unreasonable delay, the Constitution shall take effect not later than one year after its ratification by the people.

The Committee recognizes that the United States, as administering authority, still retains rights and responsibilities under the Trusteeship Agreement. The Committee Proposal does not attempt to extinguish or diminish these rights and responsibilities. Those provisions in our Constitution which are found to be in fundamental conflict with the United Nations Charter or the Trusteeship Agreement will not go into effect until after the termination of the Trusteeship. The rest of the Constitution will go into effect within one year of ratification. The term "fundamental conflict" means areas where provisions of this Constitution are violative of the spirit of the Trusteeship Agreement or in conflict with its primary principles.

Thus, Micronesia can proceed toward self-government under the status quo arrangement, sheltered by the United Nations Trusteeship Agreement. Such an arrangement may be mutually beneficial to the United States and to the new government of Micronesia. The United States will still have its rights with respect to strategic military interests in Micronesia. But also, the United States will still have its obligations to promote the social and economic advancement of the inhabitants as specified in the Trusteeship Agreement.

Article 6(1) of the Trusteeship Agreement states that the administering authority shall "foster the development of such political institutions as are suited to the trust territory and shall promote 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 to this end shall give to the inhabitants of the trust territory a progressively increasing share in the administrative services in the territory; shall develop their participation in government; and give due recognition to the customs of the inhabitants in providing a system of law for the territory; and shall take other appropriate measures toward these ends;".

Your Committee feels that the taking effect of Constitutional provisions not in conflict with the United Nations Charter or the Trusteeship Agreement is an important step toward self-government which can be taken within the confines of the Trusteeship. Therefore, your Committee strongly recommends that the Committee Proposal, entitled "Effective Date of the Constitution", be agreed upon as part of the Micronesian Constitution.

Signed by 13 members of the Committee on General Provisions

Re: Bill of Rights (Comm. Pro. Nos. 1, 2, 4 and 14)

Your Committee on Style and Arrangement herewith submits its report on Committee Proposals Nos. 1, 2, 4 and 14 which together comprise the "Bill of Rights."

Your Committee on Style and Arrangement invited the Chairman and staff attorney from the Committee on Civil Liberties to assist in its deliberations and to determine with the Style Committee that the changes made were changes of style and not of substance.

In general, your Committee on Style and Arrangement has tried to put these provisions into concise, modern English. In some instances the wording of the Proposals was rearranged to accomplish this.

You will note that in many instances the word "shall" has been replaced with the word "may". ("Shall not", has been replaced with "may not".) This is because your Committee believes that "may" and "may not" should be used where the intention of the Constitution is to grant power or restrain power. "Shall" should be used only where a command is intended.

Your Committee has also adopted the general style of using singular rather than plural forms of expression.

For convenience of presentation, the Committee has assigned section numbers to the provisions, however the numbers are tentative only and the Committee may wish to rearrange and renumber the provisions when the final Constitution is assembled.

Committee Proposal No. 1 (CWD 1) - Freedom of Expression, and
Committee Proposal No. 2 - Freedom of Assembly, Association, and Petition

Your Committee believes that these two provisions should be combined into a single provision as follows:

> SECTION 1 - Freedom of Expression, Assembly, etc.
> No law may deny or impair freedom of expression, peaceable assembly, association, or petition.

Each of the original provisions began with the words "No law shall deprive any person of or abridge his right to enjoy..." By eliminating the reference to "any person", the Committee was able to simplify the provision. Since the word "deprive" takes "any person" as its object, the Committee used the word "deny" instead. "Abridge" is not a word in common use, so the Committee selected "impair".

Committee Proposal No. 14 (CWD 1) - Bill of Rights

Style Committee Draft:

> 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.

Your Committee deleted the words "...or interception of communication by any means..." on the grounds that this is necessarily included within the meaning of the right to privacy.

> SECTION _____ (Right to own private property)

Your Committee deleted this section on the ground that it is necessarily included in the next section which says that a person may not be deprived of

property without due process of law. One cannot be deprived of property unless one first has a right to own it, and this is the implication of the next section.

> 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.

"Shall" was changed to "may"; "nor" was changed to "or".

> 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.

"No person" was changed to "A person". "Nor" was changed to "or".

> 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.

The phrase "The privilege of the writ of habeas corpus shall not be suspended, unless, when in cases of rebellion or invasion..." has been simplified.

> SECTION 6 - Freedom to Travel. A Micronesian citizen may travel and migrate within Micronesia.

The word "movement" was replaced by "travel" on the ground that the latter is a more accurate expression of the intention of the Committee on Civil Liberties.

> 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.

The provision was rearranged and shortened without change in meaning.

> SECTION 9 - Capital Punishment. Capital punishment is prohibited.

> SECTION 10 - Slavery. Slavery and involuntary servitude are prohibited except to punish crime.

> 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.

Plurals were changed to singular. "PROVIDED that" was eliminated as old-fashioned and unnecessary.

Committee Proposal No. 4 (CWD 1) - Protection of Tradition

> 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.

The original reference to the "essentiality of the Micronesian tradition" was unclear to the Committee. The Committee believes that the same meaning is expressed by saying simply, "Micronesian tradition". The original words "...protected by legislation and administrative action taken pursuant thereto..." were replaced by the single word "legislation". This is because administrative action taken pursuant to legislation is warranted because of underlying legislation creating the administrative agency and giving it powers. Thus, "legislation" covers the entire meaning. "Shall" is retained in this instance since the meaning appears to be that the courts are commanded to take custom and tradition into account.

Signed by 10 members of the Committee on Style and Arrangement

COMMITTEE ON
SCREP. NO. 45 STYLE AND ARRANGEMENT OCTOBER 22, 1975

Re: Assumptions of Rights and Obligations
(Comm. Pro. No. 18)

Your Committee on Style and Arrangement herewith submits its report on Committee Proposal No. 18 - Assumptions of Rights and Obligations. The Committee invited Chairman Petrus Tun of the Committee on General Provisions, and Dana Smith of the staff to deliberate with the Style Committee and assist in determining the intention of the provision.

Consistent with its established style, your Committee changed plural forms to singular throughout the provision. Your Committee also rearranged the provision and shortened it by using a single sentence for the entire provision.

Your Committee believes that the draft language reported here is a more concise expression of the intention of this provision than that originally reported to the Convention. However, the members of the Style Committee wish to record their concern that no debt of an individual, public corporation, or other entity be discharged as a result of the transition to the new government. The members wish to make it clear that in recommending this provision for adoption by the Convention it is their intention that no such debt be forgiven.

Signed by 10 members of the Committee on Style and Arrangement

COMMITTEE ON
SCREP. NO. 46 STYLE AND ARRANGEMENT OCTOBER 25, 1975

Re: Local Government (Comm. Pro. No. 17)

Your Committee on Style and Arrangement submits its report on Committee Proposal No. 17 - Local Government. Your Committee invited Chairman Tun of the General Provisions Committee, and Dana Smith of the Committee staff to deliberate with the Style Committee when this provision was considered. During the deliberations it was determined that the language proposed in Committee Proposal No. 17 was in conflict with the intentions of the Committee on General Provisions.

It was agreed by all that a floor amendment would be required to make the needed changes, since they would be changes of substance and would therefore be beyond the jurisdiction of the Style Committee.

Accordingly, your Committee on Style and Arrangement reports this provision back to the Convention for appropriate action. We call your attention to the fact that the attached draft language is satisfactory to the Style Committee. It is the understnading of the Committee that an appropriate floor amendment has been prepared, incorporating the attached language and also adding a time limit provision.

Signed by 10 members of the Committee on Style and Arrangement

SCREP. NO. 47 — COMMITTEE ON STYLE AND ARRANGEMENT — OCTOBER 25, 1975

Re: Renegotiation of certain land leases (Comm. Pro. No. 20)

Your Committee on Style and Arrangement submits its report on Committee Proposal No. 20 - Renegotiation of certain land leases.

By use of the term "void", the Committee on General Provisions intended both to prohibit the creation of new land leases for an indefinite term and to require the termination of all such existing leases. To make both of these meanings clear, the Style Committee recommends that two separate sentences be used, as follows:

> A land lease agreement for an indefinite term is prohibited. An existing agreement becomes void 5 years after the effective date of this Constitution.

Your Committee believes that the requirement that the parties "renegotiate, in good faith, and conclude a new agreement" is not different, in legal meaning, from the shorter phrase, "a new agreement shall be concluded between the parties". The words "in good faith" cannot be effectively enforced. No change is recommended for the second section.

Your Committee on Style and Arrangement respectfully submits this report and recommends that the attached Proposal be adopted by the Convention for inclusion in the Constitution.

Signed by 10 members of the Committee on Style and Arrangement

SCREP. NO. 48 — COMMITTEE ON STYLE AND ARRANGEMENT — OCTOBER 25, 1975

Re: Judicial Guidance (Comm. Pro. No. 22) and Transfer of Property (Comm. Pro. No. 23)

Your Committee on Style and Arrangement submits its report on Committee Proposal No. 22 - Judicial Guidance, and Committee Proposal No. 23 (CWD1, CWD2) - Transfer of Property.

Your Committee has applied its style of using singular forms of expression rather than plural throughout these provisions. It has deleted words and phrases found to be superfluous, and attempted to remove ambiguities.

On Line 4 of Committee Proposal No. 22, your Style Committee deleted the word "total" as unnecessary in the context. On line 4 the word "physical" was changed to "geographical" because it was felt that the word "physical" includes many meanings such as chemical properties and geology that were not intended. On line 5 the word "life" was deleted on the ground that it was unnecessary given the context. On Line 7 your Committee added the words "of other nations" after the words "common law". This was done because it was felt that, as written, the original proposal might possibly be interpreted to prevent the development of a common law of Micronesia.

With respect to Committee Proposal No. 23, your Committee deleted the reference on lines 3 and 4 to all the various kinds of property ownership and replaced them with the phrase "An interest in property..." Your Committee believes that this general term embraces all the particular instances enumerated in the original proposal. On line 8 your Committee changed the phrase "...according to the functions provided for in this Constitution..." to the shorter phrase "...in accordance with this Constitution."

Your Committee on Style and Arrangement recommends that the attached Proposals be adopted by the Convention for inclusion in the Constitution.

Signed by 10 members of the Committee on Style and Arrangement

Re: Judiciary (Comm. Pro. No. 30)

Your Committee on Governmental Functions to which were referred Delegate Proposals dealing with functions and structure of the judicial branch of the government of Micronesia begs leave to report as follows:

The Committee Proposal submitted by your Committee today is the result of extensive deliberation and careful consideration within your Committee. During its work on this Committee Proposal, your Committee held several meetings with the Committee on Governmental Structure in an effort to arrive at a consensus as to the structure and functions of a judicial system.

Consistent with the stated position of your Committee that the Constitution establishes a union of autonomous states with state rule constitutionally guaranteed, in which the collective government of all the states is responsible for external affairs and for the solution of national problems, and the individual state governments are responsible for all other affairs of government, the court system proposed by your Committee in the attached Committee Proposal deals with the national court system only, reserving the question of a state judicial system to each state constitution. Here, as in previous proposals of your Committee, efficiency in government and accessability of government services to citizens are the overriding considerations. We strongly believe, having been convinced by experience, that excessive centralization of powers and functions of government hinders the efficient operation of government. More importantly, your Committee knows that decisions of court become the law of society and it is only logical that those who are more familiar with local conditions and who are directly affected by the decision of the court should be the ones to decide how local disputes are to be dealt with and how those who commit wrongs against society are to be punished, if punishment is called for. Accordingly, it is the considered opinion of your Committee that justice and public interest will be served if this Constitution deals only with the establishment of a national court system. To do otherwise would be contrary to the stated position of your Committee and would result in denying the states the opportunity to devise a court system that can be responsive to local condition. The judicial system proposed by your Committee for the national government is quite similar to the present system with very few major differences. The major differences relate to jurisdiction, appointment and removal of justices and the relationship with state courts. It proposes vesting the judicial power of the Government of Micronesia in a Supreme Court of Micronesia which shall consist of two divisions: the Trial Division with original jurisdiction over matters of national concern, and the Appellate Division with appellate jurisdiction only. The proposal provides for the appointment of justices as well as compensation, but still leaves a number of important matters to be provided later by national legislation. A specific and detailed explanation of each section of the Proposal is provided in this Committee Report.

Before turning to the specific provision of the proposal, your Committee wishes to make a statement regarding the detailed nature of the proposal. There appears to be a general consensus in the Convention that this Constitution should establish a bare skeleton of government with detail to be supplied by national legislation. In principle, your Committee agrees with this approach. However, with respect to establishment of one of the three branches of the government, the judicial branch, your Committee feels that greater detail is necessary to safeguard separation of powers and the independence of the judiciary.

The independence of the judicial branch should not be undermined by allowing such important matters as jurisdiction, appointment of judges, their removal, rule-making power and administrative control of the judiciary to be decided by the legislature. For this reason, your Committee has included in the proposal those matters relating to the judiciary which we believe should be included in the Constitution in order not only to maintain the independence of the judiciary, but also to prevent as much as possible the tendency experienced to date to give lower priority to matters relating to the judiciary.

1. Section 1. Judicial Power. Under this proposal, the judicial power of the Federated States of Micronesia is vested in a Supreme Court and such other lower national courts as may be established by law. It establishes the Supreme Court as the highest court of the nation and makes allowance for future changes by permitting the establishment of lower national courts. The phrase "lower national courts" is used herein to make clear the intent of the Committee that the legislature cannot establish any court in the future and make it superior to the Supreme Court. This provision permits all National Courts except the Appellate Division of the Supreme Court to be divided into geographical and functional divisions if such action is determined to be in the public interest.

2. Section 2. Composition of Court. This section requires that the Supreme Court be a court of record. The number of judges is set at six including the chief justice. This is an increase of two judges over the present number. Your Committee feels this increase in the number of judges is justified because of the backlog of cases in the present high court and to meet the argument that the present number of judges is too few to perform the ever-increasing workload of the judiciary. Your Committee has carefully considered permitting the national legislature to increase or reduce the number of Supreme Court justices to accommodate changing circumstances such as an increase or decrease in the workload. We have concluded, after careful consideration of the advantages of such an arrangement, that permitting increase or reduction in the number of Supreme Court justices by legislation would give rise to possible "court packing" to accomplish one's personal and political ambition to the detriment of independence of the judiciary. It is also our conclusion that problems occasioned by an increase in the workload of the Supreme Court can be solved by the creation of lower national courts authorized under this Proposal.

Under this Proposal, the Supreme Court is divided into two divisions--the Trial Division with original jurisdiction in certain limited categories of cases and the Appellate Division with jurisdiction to hear cases on review. It authorizes trial to be presided over by a single judge while contemplating that hearings at the appellate level be conducted before more than one judge. Judges of the Trial Division can sit as judges of the Appellate Division. Likewise, judges of the Appellate Division can also sit as judges of the Trial Division. Justices who have heard a case at the trial level are prohibited from hearing the same case on appeal. This arrangement is similar to present practice. Ideally, your Committee would prefer that the Appellate Division have its own judges. However, consideration of cost and efficiency dictates otherwise.

Your Committee intends that sessions of the Appellate Division would normally be held by five justices if practicable, and that the concurrence of a majority of those hearing the case would be required for the final determination of a case. Recognizing, however, that one or more justices may be disqualified by reason of having presided over the case at the trial level, or by reason of absence from the country, we do not deem it practical to require participation of all five justices at a session of the Appellate Division. On the other hand, your Committee does not feel that final determination of a case on appeal should be made by a single justice. We have, therefore, required in this proposal that sessions of the Appellate Division may not be held by less than three justices. The chief justice is charged with the responsibility to make certain that at least three justices are available to hear cases on appeal.

3. Section 3. Appointment of Judges. Although there are other modern ways for the appointment and removal of public officials, including judges, your Committee is mindful of the fact that many of the proposals before this Convention propose using the concept of appointment by the chief executive with approval of the legislature. This model has been in practice in Micronesia for a number of years and your Committee feels that it is gaining acceptance by the Micronesians. It is for this reason that your Committee is recommending that justices of the Supreme Court be appointed by the chief executive with the advice and consent of the national legislature. The proposal of your Committee charges the Supreme Court with the all important responsibility to interpret

the supreme law of the nation--the Constitution. This Constitution can stand or fall depending on the judicial decision of the Supreme Court. The rights of citizens provided under this Constitution will be affected by decision of the Supreme Court. It is for these reasons that your Committee proposes requiring a two-thirds majority of the legislature for the appointment of Supreme Court justices instead of the normal standard of simple majority.

4. Section 4. Tenure and Special Assignment. To assure independence of the judiciary, your Committee is recommending that judges serve for life. While periodic review is made possible only when judges serve for a fixed term, your Committee does not wish to sacrifice the independence of the judiciary by subjecting judges to a reappointment procedure and constant political pressure. Your Committee feels that the procedure provided under Committee Proposal No. 21 for the removal of Supreme Court justices and other public officials by impeachment will be sufficient to remove judges performing improperly. In the case of judges of lower national courts, we intend that the legislation establishing such courts must also provide for the removal of judges of those courts.

Your Committee also considered including a mandatory retirement provision in this proposal. However, we feel that it is not wise to set a specific age at which a judge or any individual ceases to perform efficiently. We have, therefore, decided against requiring mandatory retirement for judges, but provide that the Supreme Court in its rule-making authority may institute a system of retirement of judges and other court officials.

5. Section 5. Compensation. Again, to maintain the independence of the judiciary, your Committee is recommending that the compensation of judges, once fixed by the national legislature, must not be diminished. The only exception is in the case of a general reduction of salary of those officials whose compensation is established by law. We believe that there will be no threat to the independence of the judiciary when reduction of salary is applied to other public officials and not directed against a single judge.

6. Section 6. Qualification. Considering the fact that Micronesia is still suffering from insufficient manpower resources, your Committee has decided not to prescribe any qualifications for judges at this time. We do this quite reluctantly because of our belief in the concept of an independent judiciary. However, we are mindful of the fact that what may seem appropriate at the present time will become inappropriate in the future. Accordingly, we have decided to leave the entire question of the qualification of judges and other court officials to the national legislature. We feel this is a very sound approach considering the fact that there is limited legal talent available at the present time. Because of the great importance of this subject, your Committee considers it is duty-bound to make its intent and desire known to the new national legislature: that in permitting the legislature to establish qualifications of justices of the Supreme Court, your Committee intends that the legislature shall impose restrictions to prevent justices from engaging in activities or having interests which conflict with the proper discharge of their duties and responsibilities.

7. Section 7. Jurisdiction of Courts. Section 7 of the proposal provides for the jurisdiction of the courts. In keeping with the strictly federal nature of the system of government proposed by your Committee, the proposal includes very carefully defined limits on the jurisdiction of the national courts, leaving all other judicial jurisdiction to the state and local courts. In general, the national courts have trial court jurisdiction under this proposal in cases involving national law or the national constitution, and in certain other specific categories of cases, either interstate or international in character, and therefore beyond the competence of the state courts. The Appellate Court jurisdiction of the national courts is limited to review of cases heard at the trial level in national courts and cases which originated in state courts but which involve either constitutional questions or questions concerning the interpretation of national law.

The term "arising under" is used frequently in the proposal and deserves some explanation. The Committee proposes that national court jurisdiction extend to cases "arising under" the constitution, laws and treaties of the nation. By this we mean cases involving the enforcement of a right protected or created by the national constitution, national law or a treaty and cases involving the construction or interpretation of the national constitution, national law or a treaty.

Section 7 (a) of the Proposal sets forth the Appellate jurisdiction of the National Court system. It states that the Appellate Division of the Supreme Court "shall have jurisdiction and may review" cases originally tried in national courts and state cases involving constitutional issues or questions concerning national law or treaties. The term "may review" is used by your Committee to indicate that the Supreme Court has complete discretion as to whether to accept a case on review. Your Committee does not intend to preclude appeal as a matter of right by this language, but believes that the categories of cases entitled to review as a matter of right can best be determined by judicial rule or national law.

Your Committee intends that cases involving primarily national issues be brought in national courts and conversely, that cases involving primarily state issues be brought in state courts. Your Committee anticipates that there will be many cases originated in state courts but which involve constitutional questions or the interpretation of national law as an incidental or secondary matter. The proposal of your Committee permits appeal of these cases directly to the Appellate Division of the Supreme Court for final determination of the constitutional or national law issues.

Appellate Courts normally limit themselves to review of matters of law, accepting without question determinations of the trial court regarding fact. By use of the term "judicial determinations" your Committee intends the Appellate Division of the Supreme Court to follow this practice in reviewing decisions of state courts. However, your Committee does not intend to preclude the Appellate Division from reviewing glaring errors in the conclusions of fact of a trial court in reaching a decision, nor does it intend to preclude the Appellate Division from examing the trial record to determine whether the findings are sustained by the evidence and whether the facts of the case support the judgement.

Section 7 (b) sets forth the trial level jurisdiction of the national court system. Initially it is expected that the Trial Division of the Supreme Court will exercise the trial level jurisdiction of the national court system. Later other national trial level courts may be established to assume some of the burden. Trial level jurisdiction of the national courts is divided into two categories, original and exclusive jurisdiction and concurrent jurisdiction. The grant of exclusive jurisdiction means exclusive as to the states but not as to other national courts. The original and exclusive jurisdiction of the national courts includes cases involving ambassadors and other officials of foreign governments, disputes between the states, disputes where the national government is a party, and admiralty and maritime cases. Under the Proposal of your Committee, the state courts would not be permitted to handle any of these types of cases.

In addition to its exclusive jurisdiction, the Trial Courts of the national court system would also have jurisdiction concurrent with state courts in cases involving constitutional issues or questions concerning national law or treaties, and in cases between citizens of different states or cases involving Micronesian citizens and foreign nations or citizens. It is the feeling of your Committee that some of these cases could best be handled by state courts and some by the national courts, and that the national legislature would be in the best position to establish, and from time to time adjust, criteria for apportioning such cases between the state and national court system.

Section 7 (c) provides a means by which cases being handled in state courts but which involve national issues can be efficiently handled. Without such a provision, such cases would have to be concluded on the state level and then appealed into the Appellate Division of the Supreme Court for a determination

of the national issues. This subsection permits certification of issues to the Appellate Division for determination while a case in in progress. Following a decision on the national issues by the Appellate Division, the case can then be concluded, alleviating the necessity of appeal and possible reversal requiring a new trial.

8. Section 8. Administration. This section authorizes the chief justice to exercise administrative control and responsibility over the national judicial system. It permits him to assign judges from one geographical or functional division of a court to another division if he deems justice requires. In addition, he can appoint an administrative director to whom he can delegate many of the administrative matters so that the chief justice can devote most of his time to judicial duties.

9. Section 9. Acting Chief Justice. The need for this provision should be self-evident. It is necessary to provide a procedure for the designation of an acting chief justice in order to assure continuity and avoid disruption in the operation of the judiciary. We expect that the chief justice would normally be the one to designate an acting chief justice. But we also feel that it is important to provide a procedure for designating an acting chief justice in case of an unexpected absence of the chief justice or in case for some reason the chief justice is unable to designate an acting chief justice, in which case the chief executive must designate an acting chief justice.

10. Section 10. Judicial Rules. We do not deem it wise to leave the rule-making responsibility entirely to the Legislature. We feel that the judiciary should be given the authority to prescribe administrative procedure, rules covering the admission and discipline of persons practicing before such courts, rules of evidence, and rules of procedure covering civil and criminal cases. However, in order to prevent abuse of this rule-making authority, the proposal provides that the rules issued by the Supreme Court can be amended by the national legislature.

One final point should be made to clarify the intent of your Committee with regard to the rule-making power of the chief justice authorized under this section. It is intended that the chief justice can make and promulgate the rules authorized under this section. These rules can be amended by the chief justice as long as such rules have not been enacted into law by the legislature. In other words, the chief justice may not promulgate rules inconsistent with laws.

Your Committee on Governmental Functions respectfully submits this report and recommends that the attached Committee Proposal be adopted by the Convention for inclusion in the Constitution.

Signed by 7 members of the Committee on Governmental Functions

SCREP. NO. 50 — COMMITTEE ON STYLE AND ARRANGEMENT — OCTOBER 29, 1975

Re: Taxation (Comm. Pro. No. 26)

Your Committee on Style and Arrangement submits its report on Committee Proposal No. 26 - Taxation.

With respect to the overall style of this provision, your Committee wishes to advise you that it is studying Committee Proposal No. 21 on the functions of government and has made tentative style decisions with respect to that proposal. It has tentatively decided that the present proposal on Taxation should be integrated into the functions proposal. For this reason, we have phrased the taxation proposal in a manner that will assist us in our future work.

The original tax proposal contains two "provisos", one on line 5, and one on line 10. Your Committee has stated these separately as Section 3 and Section 4. On lines 4 and 5 of the original proposal the phrase "uniformly

throughout the nation..." was shortened to "uniformly". On line 7 the phrase "pursuant to this section" was deleted as unnecessary. On line 11 the phrase "...nor the government of any political subdivision..." was replaced by "or local government". Your Committee has adopted the general style of using "local government" as a general term for all forms of government below the state or district level.

The final provision, prohibiting the imposition of export taxes by "any level of government" was simplified by saying that such taxes are "prohibited" without reference to levels of government.

Signed by 8 members of the Committee on Style and Arrangement

SCREP. NO. 51 COMMITTEE ON STYLE AND ARRANGEMENT OCTOBER 29, 1975

Re: Freedom of Religion (Comm. Pro. No. 9)

Your Committee on Style and Arrangement submits its report on Committee Proposal No. 9 - Freedom of Religion.

Your Committee suggests only minor changes in the language of this provision. The original proposal was as follows:

> Section _____. Freedom of Religion. No law shall be enacted respecting an establishment of religion, or prohibiting the free exercise thereof.

Your Committee changed the word "enacted" to "passed" on the ground that the latter is a more common expression used for the passage of legislation. The word "prohibiting" was changed to "impairing". This is because your Committee has used the word "impair" in several other Bill of Rights provisions, and because "impairing" more accurately represents the intention of the Civil Liberties Committee. The word "thereof" was replaced with a repetition of the word "religion" on the ground that "thereof" is an unnecessarily legalistic usage.

Your Committee on Style and Arrangement recommends that the attached proposal be adopted by the Convention for inclusion in the Constitution.

Signed by 9 members of the Committee on Style and Arrangement

SCREP. NO. 52 COMMITTEE ON CIVIL LIBERTIES OCTOBER 29, 1975

Re: Medical care, legal services and education
(Comm. Pro. No. 31)

Your Committee on Civil Liberties has held numerous meetings and extensive public hearings to consider the numerous suggestions for inclusion in the Bill of Rights. In the course of our discussions covering the wide range of possible provisions, your Committee has confirmed its early feelings regarding the necessity of providing certain services for the Micronesian people.

The societies within Micronesia have undergone great changes since contact was first made with outside cultures. Some outside values have been absorbed and others rejected. The district centers have felt the greatest changes, as they have been swept up in the money economy which seems certain to shape the future of most, of not all, of our new nation.

The changes in lifestyle which the money economy brings make it unrealistic to expect the same level of self-sufficiency which was so necessary for

survival in traditional Micronesia. In the past, the people were self-reliant within their island groups. If a family needed a house, they concentrated their efforts and built one. They raised their own crops and caught their own fish. Disputes were resolved through traditional legal system. Medical services were apparently adequate. Education largely rested on each family or clan.

Micronesia has been thrust into a world-wide money economy. In place of self-reliance, much value is now placed on the specialization which society needs to realize its greater goals. As Micronesians have moved away from a subsistence economy to the more complex society which the money economy brings, they have sacrificed many of their old ways in the interest of the new. These sacrifices have been in the interest of all, and, in return, society is obligated to assure that certain services be provided for those who, through no fault of their own but to meet the demands of a complex society, need such services.

Your Committee on Civil Liberties wishes to establish a national policy of providing the services contained in this proposal as the new nation acquires the revenue necessary to implement this policy. Inevitably, some services will be provided before others, with the priority to be determined by the national legislature.

It is recommended that this Committee Proposal be stated either as a separate article following the Declaration of Rights Article or stated elsewhere in the Constitution.

Signed by 11 members of the Committee on Civil Liberties

SCREP. NO. 53 COMMITTEE ON CIVIL LIBERTIES OCTOBER 29, 1975

Re: Healthful environment
(Comm. Pro. No. 32)

Your Committee on Civil Liberties, which was assigned the task of preparing proposals relating to the basic rights of Micronesian citizens, begs leave to report as follows:

The environment of the Federated States of Micronesia, to include but not limited to, the land, sea and air, is a public trust of which all citizens, living and yet unborn, are beneficiaries. As trustee, the Federated States of Micronesia is obligated to act in a manner best calculated to assure the protection of the air, water and other natural resources and the public trust therein from pollution, impairment or destruction. The Federated States of Micronesia, as trustee, is further obligated to secure the fundamental and inalienable right of all its citizens to live in a healthful environment.

A trust is an obligation whereby the trustee is bound to deal with the subject of the trust for the benefit of all persons who participate in the trust, and any of whom may enforce the obligation.

The concept of a trusteeship is not new to Micronesia. Culturally, Micronesia is a close relationship of people, land and water. The lands and waters have historically been viewed as being owned by the people as a whole. In some districts, the traditional leaders have held "title" to land and adjacent waters, but solely for the use and enjoyment of the people generally. This is a basic form of public trust.

The fundamental principle of trusteeship is that the trustee cannot profit at the expense of the beneficiaries. The trustee must exercise extreme good faith and must always act in the best interests of the beneficiaries. The trustee must account to the beneficiaries for what it has done and in no way must the trustee have interests or claims contrary to the beneficiaries.

The public trust concept broadens the standing of citizens to sue on behalf of their fellow beneficiaries. The attorney general, any political subdivision of the state, any instrumentality or agency of the state or of a political subdivision thereof, any person, partnership, corporation, association, organization or other legal entity will now be granted standing to maintain an action in the appropriate court where a violation of the trust occurs or is likely to occur.

Whenever administrative, licensing or other proceedings and judicial review thereof are available by law, the agency or the court shall permit the attorney general, any political subdivision of the state, any instrumentality or agency of the state or of a political subdivision thereof, any person, partnership, corporation, association, organization or other legal entity to intervene as a party on the filing of a pleading asserting that the proceeding or action for judicial review involves conduct which has, or which is likely to have, the effect of polluting, impairing or destroying the air, water, or other natural resources or the public trust therein.

It is the intention of the Committee to create a separate Article of the Constitution to contain this important guarantee to the people of Micronesia.

Signed by 11 members of the Committee on Civil Liberties

SCREP. NO. 54 — COMMITTEE ON STYLE AND ARRANGEMENT — OCTOBER 29, 1975

Re: Property Ownership (Comm. Pro. No. 28)

Your Committee on Style and Arrangement submits its report on Committee Proposal No. 28 (CWDI) -- Property Ownership.

On Lines 1 and 2 your Committee changed the wording "Only citizens and corporations wholly owned by citizens..." to "A noncitizen, or a corporation not wholly owned by citizens..." This change was made in accordance with the Committee's style of using singular form of expression wherever possible rather than plural forms. On line 4 and line 6 the reference to the "Federated States of Micronesia" was eliminated as unnecessary.

Your Committee on Style and Arrangement recommends that the attached proposal be adopted by the Convention for inclusion in the Constitution.

Signed by 11 members of the Committee on Style and Arrangement

SCREP. NO. 55 — COMMITTEE ON STYLE AND ARRANGEMENT — OCTOBER 29, 1975

Re: Effective Date of Constitution
(Comm. Pro. No. 29)

Your Committee on Style and Arrangement submits its report on Committee Proposal No. 29 -- Effective Date.

Since the Committee on General Provisions intended to provide that the Congress could set the effective date of the Constitution but that in any event the Constitution should take effect one year after ratification, your Committee clarified the proposal by changing the order of the first sentence.

On line 6, your Committee changed the word "found" to "held". This better expresses the original intention that fundamental conflict is to be determined by a Court, and not by the administrating authority.

On line 8, your Committee eliminated the reference to the "former Japanese Mandated Islands" on the ground that "Trusteeship Agreement between the United States of America and the United Nations" is a sufficient reference

to the intended document.

In accordance with its style of using singular forms of expression, the word "any" on line 6 was changed to "a".

With these changes your Committee recommends that the attached proposal be adopted by the Convention for inclusion in the Constitution.

Signed by 11 members of the Committee on Style and Arrangement

SCREP. NO. 56 COMMITTEE ON GENERAL PROVISIONS OCTOBER 30, 1975

Re: Transition Powers of the National Legislature
(Comm. Pro. No. 33)

Your Committee on General Provisions begs leave to report as follows:

Your Committee on General Provisions was assigned the task of dealing with the area of transition from government under the Trust Territory to government under this Constitution. Several provisions relating to transition have been approved by this Convention. Your Committee submits this proposal to cover transition problems that could not be anticipated by this Convention. The proposal states that the future National Legislature is empowered to enact legislation promoting a smooth and orderly transition to government under this Constitution.

In addition to a protection against unanticipated transition problems, this provision may be necessary to empower the National Legislature to enact transition laws not within the scope of its delegated powers. Committee Proposal No. 21 from your Committee on Governmental Functions, relating to powers of the National Government states that legislative powers of the National Legislature are those powers expressly delegated. While the enactment of transition legislation may be a matter of "indisputably national character," using the words of Proposal No. 21, your Committee recommends that the transition power be expressly delegated in this Constitution to the National Legislature. Accordingly, your Committee on General Provisions recommends adoption of the attached Committee Proposal.

Signed by 12 members of the Committee on General Provisions

SCREP. NO. 57 COMMITTEE ON CIVIL LIBERTIES OCTOBER 31, 1975

Re: Imprisonment for Debt
(Comm. Pro. No. 34)

Your Committee on Civil Liberties, to which was referred Committee Proposal No. 34 - Imprisonment for Debt, begs leave to report as follows:

The intent of this section is to bar imprisonment for honest failure to pay contractual debts. The Committee is of the opinion that it is unfair to imprison a person simply because of his economic misfortune and inability to pay his debt. If failure of payment, however, is tainted by fraud or concealment of assets to evade contractual obligations, the prohibition of this section is inapplicable.

The term "debt" means an obligation in the proper and popular sense, involving a debtor-creditor relationship and debts which arise out of contract. Accordingly, the bar on imprisonment does not apply to imprisonment incident to, and arising from, the commission of an intentional or malicious wrong. Nor is imprisonment barred where the "debt" is in the nature of a penalty imposed for violation of a state penal law or for penalty for violation of municipal ordinances, or for fines and costs in criminal proceedings.

Additionally, imprisonment for failure to abide by decrees for the payment of money in alimony decrees is not imprisonment for debt. Such imprisonment is for disobeying a binding command of the Court. In nonpayment of alimony, however, the court, in enforcing its contempt orders, must be mindful of the intent of this section and the due process guarantee that the punishment shall be proportional to the offense.

Your Committee on Civil Liberties submits herewith the attached Committee Proposal, entitled "Imprisonment for Debt" and recommends its adoption by the Convention.

Signed by 10 members of the Committee on Civil Liberties

SCREP. NO. 58 COMMITTEE ON GOVERNMENTAL FUNCTIONS AND COMMITTEE ON GOVERNMENTAL STRUCTURE OCTOBER 31, 1975

Re: Judiciary (Comm. Pro. No. 24 - Joint Amendment No. 10)

On October 28 the Committee of the Whole adopted Joint Amendment No. 10 to Proposal No. 24 regarding the structure and functions of the judiciary. The provisions of this amendment were taken both from Proposal No. 24, the Structure Committee proposal, and from Proposal No. 30, the Functions Committee proposal containing a judiciary article. Provisions which were taken from these two proposals were commented upon as to intent in their respective committee reports and therefore need no further comment.

However, there were five new matters contained in that amendment, matters not discussed in either committee report. A few very brief comments about the intent of the Committees with respect to these new matters is hereby included for the record.

The first matter is contained in Section 2. The original Structure Committee proposal set a minimum number of four justices in the highest court, including the chief justice. Under Joint Committee Amendment No. 10, the maximum number of regular justices of the Supreme Court is set at six justices including the chief justice. This amendment intends to give the new government more flexibility to determine the number of justices within the limit set by the Constitution. However, since other provisions of the amendment provide that session of the Appellate Division may not be held by less than three justices, the Supreme Court must have at least three justices. If circumstances justify more than three justices, the number can be increased but must not exceed six justices, including chief justice. The reason for allowing such flexibility in the number of Supreme Court justices is the anticipated decrease in the workload of the Supreme Court which might result when most of the cases normally tried in the present high court are placed under the jurisdiction of state courts as proposed here. If this occurs, it may no longer be necessary to have more than four justices at the national level. On the other hand, if no decrease in the workload of the national courts is realized, or if there is an increase in workload, the amendment permits increasing the number of justices up to six.

Second is Section 4 of Joint Amendment No. 10, relating to subsection (b) of Section 3 of Structure Committee Proposal No. 24, which authorizes the chief justice to appoint "retired judges" to carry out "such special assignment as may be provided by the rules of the High Court." Under the Joint Amendment, the chief justice is authorized to appoint not only retired justices or retired judges but also other justices or judges as well. The intent of this amendment is to provide more flexibility so that the choice of the chief justice is not limited to retired justices only. This amendment is intended primarily to permit utilization of state court judges on special assignment, but does not prevent the chief justice from appointing judges from other jurisdictions to undertake special assignments for the Micronesian national courts. It should be made clear, however, that this section is intended to

deal with special circumstances only and is not to be taken as authority to increase the number of regular Supreme Court justices.

The third amendment which deserves amplification as to intent is Section 7 (a) of Joint Amendment No. 10, which relates to Section 4 (b) and (c) of the original Structure Committee Proposal No. 24, under which cases decided at the state level can be appealed to the Appellate Division through the Trial Division. The difference between the two is that under the original Structure Committee proposal, appeals from state courts on state issues would be possible as a matter of right, whereas under the Joint Amendment, appeal from state courts involving state issues is possible only if permitted by the Constitution of the state. Also, under the Joint Amendment, the Appellate Division of the Supreme Court has discretion as to whether to hear such appeals. The amendment is framed in this manner so as to permit each state to decide whether it wants the decisions of its courts to be reviewed by the national Supreme Court.

The fourth substantive amendment is that of Section 11 of the Joint Amendment No. 10, which relates to Section 9 of Structure Committee Proposal No. 24. Under the latter, the total costs of both state and national judicial systems are to be paid by the national treasury, except in the case of the proposed Land Claims Court, the cost of which was to be shared by both levels of government. Under Joint Amendment No. 10, it is contemplated that state judicial systems will be financed mainly by state governments, while national financial assistance for a portion of the expenses is assured. While the term "state Judiciary" is used in the amendment, it should be made clear that the intent of the amendment is not to confine federal financial assistance to the state judiciaries only, but also to other courts such as district or municipal courts in order to ensure availability of judicial process to citizens in remote areas. The effect of this amendment is that financial assistance by the national government to the state judiciaries is constitutionally guaranteed. It creates an obligation for the national government to assume a portion of the responsibility for funding each state judiciary.

And finally, the last amendment deserving further comment for the record is Section 12 of the Joint Amendment No. 10, which is related to Section 11. The intent of this amendment is, again, to provide other types of national assistance which could be in a form other than direct monetary assistance. Under this provision, federal assistance can take the form of training programs, personnel services and the like, when such services are made possible by national law. Again the assistance herein contemplated, when made possible by law, is to be available to state as well as district or municipal courts.

Signed by 22 members of the Committees on Governmental Functions and Governmental Structure

SCREP. NO. 59 — COMMITTEE ON STYLE AND ARRANGEMENT — NOVEMBER 3, 1975

Re: Judiciary - Joint Committee
Amendment No. 10 (Comm. Pro. No. 24)

Your Committee on Style and Arrangement submits its report on Committee Proposal No. 24, Joint Committee Amendment 10 - Judiciary.

Your Committee has redrafted this provision to make it more concise, and to eliminate unnecessary words and phrases. Sections of the provision were rearranged and put in a more logical order. The provisions on original and appellate jurisdiction were shortened and clarified.

Your Committee was assisted by Fred Ramp of the Joint Committee staff who explained the intentions of the Joint Committee.

Your Committee believes that no change in substantive meaning has resulted from the Committee's work.

Signed by 12 members of the Committee on Style and Arrangement

SCREP. NO. 60 — COMMITTEE ON STYLE AND ARRANGEMENT — NOVEMBER 3, 1975

Re: Transition Powers (Comm. Pro. No. 33)

Your Committee on Style and Arrangement submits its report on Committee Proposal No. 33 - Transition Powers.

Your Committee recommends that this provision be adopted without change.

Signed by 12 members of the Committee on Style and Arrangement

SCREP. NO. 61 — COMMITTEE ON STYLE AND ARRANGEMENT — NOVEMBER 6, 1975

Re: Education, Health Care and Legal Services
(Comm. Pro. No. 31)

Your Committee on Style and Arrangement submits its report on Committee Proposal No. 31 - Health Care, etc.

The contents of Committee Report No. 52 have been carefully examined and it is clear that it is the intention of this Proposal to declare a policy which is to be observed by the Government of the Federated States of Micronesia as resources are available.

As a result, your Committee has rephrased the language of the Proposal so as to make it clear that as a matter of policy the Government is to take reasonable and necessary steps to achieve the rights stated in the section. The language change has been discussed with the attorney of the Committee on Civil Liberties and approved.

Your Committee recommends that Committee Proposal No. 31, CWDI, SDI, as attached, be adopted.

Signed by 10 members of the Committee on Style and Arrangement

SCREP. NO. 62 — COMMITTEE ON STYLE AND ARRANGEMENT — NOVEMBER 6, 1975

Re: Imprisonment for Debt
(Comm. Pro. No. 34)

Your Committee on Style and Arrangement submits its report on Committee Proposal No. 34 - Imprisonment for Debt.

Your Committee has reduced the language in the Committee Proposal, without making any substantive change. It recommends that Committee Proposal No. 34, SDI, as attached, be adopted.

Signed by 10 members of the Committee on Style and Arrangement

SCREP. NO. 63 COMMITTEE ON STYLE AND ARRANGEMENT NOVEMBER 6, 1975

Re: Articles on Legislative and Executive Branches (Comm. Pro. No. 24) and Functions (Comm. Pro. No. 21)

Your Committee on Style and Arrangement submits its report on Committee Proposal No. 24, Articles on Legislative and Executive Branches and Committee Proposal No. 21, Functions.

Your Committee has redrafted these two proposals to make them more concise, and to eliminate unnecessary words and phrases. In addition, certain changes were made in their internal organization.

Committee Proposal No. 21 now contains the provisions of Committee Proposal No. 26, previously adopted on second reading by the Convention by three-fourths vote; they are found in Section 3(d) and (e) and in Sections 4 and 5. They are included only to facilitate the preparation of the final draft of the constitution.

In addition, the provisions of Committee Proposal No. 21, dealing with the exercise of the veto power, are now included as a special section of Committee Proposal No. 24.

Your Committee is aware of possible inconsistencies between these two proposals which must be resolved and recommends that they be referred to your Special Conference Committee to eliminate any conflict, if necessary.

Signed by 10 members of the Committee on Style and Arrangement

SCREP. NO. 64 COMMITTEE ON STYLE AND ARRANGEMENT NOVEMBER 7, 1975

Re: Admission and Unity (Comm. Pro. No. 27) Environmental Protection (Comm. Pro. No. 32)

Your Committee on Style and Arrangement submits its report on Committee Proposal No. 27, Admission and Unity, and Committee Proposal No. 32, Environmental Protection.

Committee Proposal No. 27, as amended, consists of two sections. Your Committee on Style and Arrangement made no changes in the second of the two sections and in the first section deleted the words "promote and" originally found between the words "to" and "advance" on line 4 of our Style Draft. It was felt that the words "promote" and "advance" are redundant, and that the word "advance" adequately conveys the full intent of the Proposal, as amended. The only other change made to the first section consisted of the removal of the commas and the deletion of the word "both". This was done as a matter of grammar, and did not change the meaning of this section in any way.

Committee Proposal No. 32, as amended, was re-drafted to remove the word "biological" from the first part of the section. It was the feeling of your Committee that the phrase "or other harmful substances" would necessarily encompass the broad word "biological". The words "Federated States of" were added before the word "Micronesia" wherever it appeared for purposes of consistency.

Your Committee on Style and Arrangement recommends that the attached proposals be adopted by the Convention for inclusion in the Constitution.

Signed by 10 members of the Committee on Style and Arrangement

SCREP. NO. 65 COMMITTEE ON STYLE AND ARRANGEMENT NOVEMBER 7, 1975

Re: Traditional Rights, Levels of Government, and General Provisions (Comm. Pro. No. 24)

Your Committee on Style and Arrangement has examined the remaining provisions of Committee Proposal No. 24 which were adopted by the Committee of the Whole on November 6, 1975. With minor stylistic changes, your Committee finds them in proper form for adoption by the Convention. These sections will be placed in various parts of the Constitution, so the Style Draft 2, accompanying this report, has anticipated this by showing the Articles of the Constitution in which they will appear, and the probable section numbers which they will bear.

Your Committee recommends the adoption of Committee Proposal No. 24, CWD3, SD2, CD3, attached.

Signed by 9 members of the Committee on Style and Arrangement

SCREP. NO. 66 COMMITTEE ON GENERAL PROVISIONS NOVEMBER 7, 1975

Re: Public Education on Micronesian Constitution (Resolution No. 27)

Your Committee on General Provisions to which was referred Resolution No. 27 begs leave to report as follows:

Your Committee recognizes the importance of a comprehensive education campaign to instruct the people of Micronesia concerning the substance of the Micronesian Constitution. Without such a process it will be impossible for the people to cast meaningful votes when they participate in the ratification process.

Your Committee agrees that this education process should involve not only the Education for Self-Government Task Force but also Convention delegates and staff to the greatest degree possible. Due to the expertise acquired during the course of this Convention the delegates should be intimately involved with the process of explaining the Constitution to the people of the districts. Delegates are aware of the many factors and considerations involved in the provisions which have been finally adopted. Therefore, their aid in exptaining the document to their constituents will be invaluable.

At the time your Committee was examining Resolution No. 27, the subject of post-convention public education program was under active consideration by another committee established for that purpose. That committee has produced certain recommendations as to the approach to be taken in instituting a comprehensive public education program to (1) explain the working of the Convention itself, (2) explain the Constitution to the people, and (3) promote understanding of the Constitution and encourage support for the Constitution. Your Committee has examined those recommendations and found them to be within the general intent of Resolution No. 27. Accordingly, the resolution has been redrafted to incorporate these recommendations.

The resolution establishes a Post-Convention Committee consisting of one delegate from each district Delegation and the President of the Convention as Chairman. The Post-Convention Committee is charged with the responsibility to coordinate the establishment and operation of a program of public education. It may also represent the Convention in providing a smooth phasing out of Convention activities and responsibilities, including whatever is required by law to be done by the Convention in preparing and submitting a report to the Congress of Micronesia, and to provide continuity in the transition from the Convention to the establishment of the comprehensive public education program.

The resolution makes certain recommendations as to approaches to the institution of an education program.

First, is the recommendation that district Delegation and staff be utilized in the early phase of the program. We feel that soon after the adjournment of the Convention each Delegation must report back to the people in their respective districts regarding the Draft Constitution, giving background information on each provision of the Constitution. To accomplish this, each Delegation must be given adequate financial support.

Second, is the utilization of the traditional chiefs or leaders who are members of or observers to the Convention. The functions to be performed by the traditional chiefs as a special committee under this phase of the program will be different from those to be performed by the district Delegations under the first phase. Its primary purpose is to provide opportunity for the traditional chiefs to meet with traditional and other community leaders in the districts to enlist their support for the Constitution. We feel that after the Constitution has been adopted by the Convention, all participating delegates must strive to disregard their differences and combine their efforts together in support of the Constitution. We strongly believe that our traditional chiefs are capable of this and that they are the most appropriate leaders to promote united support for the Constitution. Their visit to the district must, therefore, be scheduled so as to take place after the district Delegations have had an opportunity to explain the Constitution to the people.

Third, is the establishment of a special group to perform functions almost similar to that of the traditional chiefs but with the additional responsibility to answer questions regarding the Constitution and to explain the many factors and considerations involved in the provisions of the Constitution. In addition, it is expected that by the time this phase of the program is implemented the preparation for the ratification of the Constitution will be in progress. In such events, the group may assist in explaining the ratification process. While the resolution recommends that members of the Convention be utilized in this phase of the program, it is not intended that this be an absolute requirement. Other appropriate persons or group of persons may be utilized. We feel, however, that the task could be made less difficult if those who actually participated in the drafting of the Constitution are involved in this phase of the program.

As will have been evident from the scope of the program envisioned by this resolution, implementation of the recommendations will require not only the cooperation of all persons in the government and the private sector, but also adequate financial support from both the executive and legislative branches of our government. Your Committee strongly believes the comprehensive public education program is a program of first priority order which must receive adequate funding even at the curtailment of other existing programs.

To be a viable and enduring document, the Constitution must be thoroughly explained and understood by those who must live or die under it.

Finally, the fourth recommendation is the establishment of a central office with adequate administrative and technical staff to support the program. Your Committee strongly believes that the success of the program depends almost entirely on the amount and quality of administrative and technical support it receives from the government. It is therefore strongly recommended that the Convention and the Post-Convention Committee endeavor to obtain funds in sufficient amount to permit the establishment of an office with adequate administrative and technical staff to direct and support the proposed comprehensive public education program.

Your Committee is in complete accord with the purpose and intent of Resolution No. 27 in the form attached hereto and strongly recommends that it be adopted by this Convention.

Signed by 11 members of the Committee on General Provisions

SCREP NO. 67 COMMITTEE ON STYLE AND ARRANGEMENT NOVEMBER 7, 1979

Re: Draft Constitution for the Federated States of Micronesia

Your Committee on Style and Arrangement now submits its report on the draft Constitution for the Federated States of Micronesia. Your Committee has divided the document into Articles, numbered the Articles, and given them titles. Committee proposals adopted by the Convention have been distributed among the Articles. Often, individual provisions have been rearranged or relocated. The Articles are divided into numbered sections.

Your Committee recommends to the Convention that section titles not be adopted as part of the Constitution. The official version of the Constitution will presumably be published under the auspices of the Congress, and your Committee recommends that the editor of the official version be assigned the task of giving titles to sections. Your Committee believes that if the Convention were to adopt section titles legal ambiguities might possibly be created. Courts might make use of the titles as an aid to interpretation in the belief that the titles were an official indication of the Convention's intent. By not assigning titles, the Convention can avoid this possibility.

General Style: Your Committee has attempted to render the Constitution in simple, concise English. Complex, legalistic, and archaic expressions have been eliminated wherever possible without changing the substantive meaning. To achieve the simplest and shortest expressions, your Committee has often rearranged or substantially rewritten Committee Proposals. In doing this, however, your Committee has consulted with the Chairman or the staff attorney of the substantive Committee to make certain that no change in meaning resulted from such changes.

Your Committee has adopted certain particular principles of style that we wish to call to your attention and to make part of the record of this Convention:

(1) "May" and "shall". The word "may" is the primary English word conveying "power" or "capacity". Your Committee chose to use this word to indicate a delegation of power, and the negative "may not" to indicate a limitation of power. Thus:

> Article _____, Sec. 5. The Congress may prescribe the qualifications of judges and their compensation.
>
> Article _____, Sec. . A tax imposed by a state or local government may not restrict interstate commerce.

Your Committee reserved the word "shall" for instances where a command was intended:

> Article _____, Sec. ___. National taxes shall be imposed uniformly.

(2) "is" and "shall be". Because the Committee wished to reserve "shall" for commands, and because the use of "shall be" for simple declarations is somewhat archaic, "is" was chosen for the simple declaration:

> Article _____, Sec. 1. The judicial power of the national government is vested in a Supreme Court.
>
> (rather than: "shall be vested...")

(3) Singular and plural. Your Committee found that simplicity and clarity were improved if singular forms of expression were used wherever possible rather than plural forms. Thus, wherever the Committee Proposal referred to "all citizens", "every contract", "any law", "the states", your Committee used the indefinite article "a" with the singular form ("a citizen", "a contract", "a law", "a state").

Your Committee also believes that use of the singular is appropriate because the Constitution is always interpreted in a particular instance and with respect to a particular question or set of facts.

(4) Comprehensive and specific. Your Committee found that clarity and brevity were improved by the use of comprehensive expressions rather than a list of specific instances. Thus, when your Committee received a proposal saying, "rights, titles, leases, or other interests in property...", it was changed to "an interest in property." Again: "Territory may be claimed, annexed, acquired or otherwise added to the national territory...", was changed to "Territory may be added...".

(5) Provide and prescribe. There are many instances throughout the Constitution where Congress is authorized to "provide by law" for various things. In some instances it seemed clear to your Committee that the intention was that Congress should enact a statute. In other instances a broader grant of power was intended and Congress could delegate the power to an administrative agency created by it, or assign the power to the executive branch. To distinguish these two, your Committee used the phrase "prescribe by statute" where a statute was intended, and the phrase "provide by law" when a broader power was intended. In some instances your Committee used a shorthand method, using "prescribe" to indicate that a statute was intended, and "provide" for the broader grant:

> Article _____, Sec. 5. The Congress may prescribe the qualifications of judges and their compensation.
>
> Article _____, Sec. 1. ...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.

In two or three instances the word "establish" was used, because no other word would be suitable in the context. Your Committee intended, however, that "establish" should have the same meaning as "provide".

Your Committee on Style and Arrangement herewith submits to you a complete draft of the Constitution of the Federated States of Micronesia which incorporates the provisions of all Committee Proposals adopted by the Convention, as amended, and recommends its adoption.

Signed by 8 members of the Committee on Style and Arrangement

PROPOSALS ADOPTED FOR INCLUSION IN THE CONSTITUTION

Com. Prop. No.	Page No.	Com. Report	Page No.	Style Com. Report	Page No.	Subject
CP 1 (CWD1;SD1)	895	(Report 2)	769	(Report 44)	872	Freedom of Expression
CP 2 (CWD1;SD1)	895	(Report 3)	770	(Report 44)	872	Freedom of Assembly, etc.
CP 4 (CWD1;SD1)	896	(Report 5)	773	(Report 44)	872	Traditional Rights
CP 5 (SD1)	897	(Report 6)	774	(Report 13)	780	Preamble
CP 6 (SD1)	898	(Report 7)	774	(Report 12)	779	Three Branches of Govt.
CP 7 (CWD1;CWD2;SD1)	899	(Report 9)	776	(Report 18)	788	National Territory
CP 8 (CWD1;SD1)	900	(Report 10)	777	(Report 19)	789	Amending Constitution
CP 9 (SD1;CD1)	901	(Report 11)	778	(Report 51)	881	Freedom of Religion
CP 10 (CWD1;CD1;SD1; CD2)	902	(Report 14)	782	(Report 21)	792	Citizenship, etc.
CP 11 (SD1;CD1)	903	(Report 16)	784	(Report 22)	793	Supremacy of Constitution
CP 12 (SD1;CD1)	904	(Report 17)	786	(Report 24)	801	Public Auditor
CP 13 (CWD1;SD1)	905	(Report 20)	790	(Report 25)	804	Budget Process
CP 14 (CWD1;SD1;CD1; CD2;CD3)	906	(Report 23)	793	(Report 44)	872	Balance Bill of Rights
CP 15 (SD1;CD1)	908	(Report 27)	806	(Report 39)	866	Public Money
CP 16 (SD1)	909	(Report 28)	808	(Report 39)	866	Existing Laws
CP 17 (CD1)	910	(Report 29)	810	(Report 46)	874	Local Government
CP 18 (SD1)	911	(Report 30)	810	(Report 45)	874	Assumption of Rights
CP 19 (SD1;CD1)	911	(Report 31)	811	(Report 39)	866	Suffrage
CP 20 (CWD1;SD1;CD1)	912	(Report 32)	812	(Report 47)	875	Lease Renegotiation
CP 21 (SD1;CWD1;CD3)	913	(Report 33)	813	(Report 63)	888	Functions
CP 22 (SD1;CD1)	917	(Report 34)	821	(Report 48)	875	Judicial Guidance
CP 23 (CWD1;CWD2;SD1)	917	(Report 35)	822	(Report 48)	875	Property to Nat. Govt.
CP 24 (CD1;CD2;CWD2; Art.1 CD3:CWD3;SD1; & 2 CD4)	918	(Report 36)	823	(Report 63)	888	Executive and Legislative
Art.3 (CD3;SD1)		(Report 58)	885	(Report 59)	886	Judiciary
Remainder (SD1)		(Report 36)	823	(Report 65)	889	Miscellaneous Structure
CP 26 (SD1;CD1)	930	(Report 38)	863	(Report 50)	880	Taxation
CP 27 (CWD1;SD1)	931	(Report 40)	868	(Report 64)	888	Admission and Unity
CP 28 (CWD1;SD1)	932	(Report 42)	870	(Report 54)	883	Land Ownership
CP 29 (SD1)	933	(Report 43)	871	(Report 55)	883	Effective Date
CP 31 (CWD1;SD1)	935	(Report 52)	881	(Report 61)	887	Medical and Legal Aid
CP 32 (CWD2;SD1)	936	(Report 53)	882	(Report 64)	888	Environment
CP 33 (CWD1;SD1)	937	(Report 56)	884	(Report 60)	887	Transition
CP 34 (SD1)	938	(Report 57)	884	(Report 62)	887	Imprisonment for Debt
Draft Constitution	567			(Report 67)	891	

PROPOSALS FILED

CP	3	(CWD1;SD1;CD1)	896	(Report 4)	771	(Report 15)	784	Eminent Domain (Defeated)
CP	25		929	(Report 37)	861			Capital
CP	30		933	(Report 49)	876			Judiciary

OF 1975

COMMITTEE PROPOSAL NO. 1

(Committee on Civil Liberties;
Report No. 2)

A PROPOSAL

Providing for Freedom of Speech and Press.
RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Freedom of Speech and Press. No law shall abridge the freedom of every person to speak, write, publish, photograph, illustrate, or broadcast on any subject or to gather, receive or transmit knowledge or information, but each person shall be responsible for the abuse of that liberty.

Date: August 8, 1975 Offered by: Committee on Civil Liberties

COMMITTEE PROPOSAL NO. 2

(Committee on Civil Liberties;
Report No. 3)

A PROPOSAL

Providing for the Right to Petition and Peaceably Assemble.
RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Right to Petition and Peaceably Assemble. The people have the right to assemble in a peaceable manner, to consult for the common good, to make known their opinions to their representatives, and to apply for redress of grievances.

Date: August 11, 1975 Offered by: Committee on Civil Liberties

COMMITTEE PROPOSAL No. 1 (CWDI)(SDI)
COMMITTEE PROPOSAL NO. 2 (CWDI)(SDI)

(Committee Report No. 44)

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.

Date: October 29, 1975 Offered by: Committee on Civil Liberties

COMMITTEE PROPOSAL NO. 3

(Committee on Governmental Functions; Report No. 4)

A PROPOSAL

Relating to the power of eminent domain.
RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. The Power of Eminent Domain. The national government of Micronesia shall have the power to take private property for a public purpose upon the payment of fair compensation with the express approval of the appropriate district government. The manner in which approval of the district governments is expressed to the national government and the procedure for exercising the power of eminent domain by the national government shall be determined by national law.

Date: August 14, 1975 Offered by: Committee on Governmental Functions

COMMITTEE PROPOSAL NO. 3a

(Committee on Governmental Functions; Minority Report No. 4(A)

A PROPOSAL

Relating to the power of eminent domain.
RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. The Power of Eminent Domain. The national government of Micronesia shall have the power, concurrent with the district governments, to take private property for a public purpose upon the payment of fair compensation. The power of eminent domain shall be invoked only upon a demonstration of failure of a good faith effort by the government to acquire the property by purchase. The questions of public purpose and the fairness of compensation shall be judicially determined in the absence of agreement between the parties.

Date: August 14, 1975 Offered by: Two members of the Committee on Governmental Functions

COMMITTEE PROPOSAL NO. 4

(Committee on Civil Liberties; Report No. 5)

A PROPOSAL

Providing for the preservation of local customs.
RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Local Customs -- Customary Law. The customs of the inhabitants of Micronesia not in conflict with this Constitution or the statutory laws of Micronesia shall be preserved. The recognized customary law of the various parts of Micronesia shall have the full

force and effect of law so far as such customary law is not in conflict with the Constitution or the statutory law of Micronesia.

Date: August 16, 1975 Offered by: Committee on Civil Liberties

COMMITTEE PROPOSAL NO. 4 (CWD1)(SD1)

(Committee Report No. 44)

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.

Date: October 22, 1975 Offered by: Committee on Civil Liberties

COMMITTEE PROPOSAL NO. 5

(Committee on General Provisions;
Report No. 6)

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 divide us. Our islands sustain us, our island nation enlarges us and makes us stronger.

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.

Micronesian life 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 the recognition of 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. (P.2)

Date: August 19, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 5 (SD1)

(Committee on Style & Arrangement
Report No. 13)

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 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 men explored seas in rafts and canoes. The Micronesian nation is born in an age when men voyage among (P.2)
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.

August 19, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 6

(Committee on Governmental Structure;
Report No. 7)

A PROPOSAL

Providing for a three-branch Central Government.
RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE ____

SECTION ____. Composition of Central Government. There shall be a Central Government of Micronesia consisting of an executive, a legislature, and a judiciary.

Date: August 21, 1975 Offered by: Committee on Governmental Structure

COMMITTEE PROPOSAL NO. 6 (SD1)

(Committee on Style & Arrangement;
Report No. 12)

A PROPOSAL

Providing for a three-branch national government.
RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE ____

SECTION ____. Composition of National Government. There shall be a national government of Micronesia consisting of an executive, a legislature, and a judiciary.

Date: August 21, 1975 Offered by: Committee on Governmental Structure

COMMITTEE PROPOSAL NO. 7

(Committee on General Provisions;
Report No. 9)

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 national territory of the state of Micronesia is composed of the islands of the Micronesian Archipelago, made up of all islands which formerly comprised the land territory of the Trust Territory of the Pacific Islands, together with the waters embraced therein, and airspace and all the other territories and waters belonging to the state of Micronesia by historic right or legal title. The national territory of the state 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 air space over which the state 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 inlernal waters of the (P.2) state of Micronesia.

SECTION ____. State Boundaries. Each state shall be comprised of the islands as defined by laws in effect immediately prior to the effective date of this Constitution. Marine boundaries between states shall be computed on the basis of mean distances between the outermost islands of the states. 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.

SECTION ____. Addition of Territory. Territory may be claimed, annexed, acquired or otherwise added to the national territory or a state 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 state the approval of the legislature for that state and an affirmative vote of a majority of those voting on that question in the state, shall be required.

Date: September 22, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 7 (CWD1)(CWD2)(SD1)
(Committee on Style & Arrangement;
Report No. 18)

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 ~~national territory of the state~~ nation of Micronesia is composed of the islands of the Micronesian Archipelago, made up of all islands of ~~District~~ 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 ~~state~~ nation of Micronesia by historic right, custom, or legal title. The ~~national~~ territory of the ~~state~~ 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 ~~state~~ 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 (P.2) 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 ~~state~~ nation of Micronesia.

SECTION ____. ~~State~~ District Boundaries. Each ~~state~~ 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 ~~states~~ districts shall be determined by law, applying the principle of ~~computing mean distances between the outermost islands of adjacent states~~ equidistance. Boundaries of ~~states~~ districts may be changed by law with the consent of the ~~state~~ district legislatures concerned.

SECTION ____. Addition of Territory. Territory may be claimed, annexed, acquired or otherwise added to the national territory or a ~~state~~ 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 ~~state~~ district, the approval of the legislature for that ~~state~~ district shall be required.

Date: September 22, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 8

(Committee on General Provisions; Report No. 10)

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 a part of the Constitution only when approved by a majority of the votes cast on that question in three-fourths of the states 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 extent of such conflict.

Date: September 22, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 8 (CWD1)(SD1)
(Committee on Style & Arrangement;
Report No. 19)

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 a part of the Constitution only when approved by three-fourths of the votes cast on that ~~question~~ amendment in each of three-fourths of the ~~states~~ 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 extent of such conflict.

Date: September 22, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 9

(Committee on Civil Liberties;
Report No. 11)

A PROPOSAL

Providing for freedom of Religion.
RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE ____

SECTION ____. Freedom of Religion. No law shall be enacted respecting an establishment of religion, or prohibiting the free exercise thereof.

Date: September 22, 1975 Offered by: Committee on Civil Liberties

COMMITTEE PROPOSAL NO. 9 (SD1)

(Committee on Style & Arrangement;
Report No. 51)

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 imparing the free exercise of religion.

Date: October 29, 1975 Offered by: Committee on Civil Liberties

COMMITTEE PROPOSAL NO. 10

(Committee on General Provisions;
Report No. 14)

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 this Constitution becomes 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, 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 minor of unknown parentage found in Micronesia shall be a Micronesian national.

5. Any citizen of the Trust Territory of the Pacific Islands, who (P.2)
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.

6. Upon ratification of this Constitution, this article shall be construed to apply both retroactively and prospectively.

SECTION _____. Naturalization. Only Micronesian nationals, persons adopted when under the age of eight years by a Micronesian citizen, and spouses of Micronesian citizens are eligible for naturalization as Micronesian citizens, subject to 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.

Date: September 24, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 10 (CWDL,CDL,SDL)
(Committee on Style & Arrangement;
Report No. 21)

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 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 ~~state~~ 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 ~~state~~ 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. (P.2)

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~~ categories 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.

Date: September 24, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 11

(Committee on General Provisions; Report No. 16)

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 1. 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 states or international organizations shall be in conformance with this Constitution, and shall be invalid to the extent of such conflict.

SECTION 2. Fundamental and Inalienable Sovereignty of the Micronesian People. Agreements or treaties, whatever their form or designation, with other nations or international organizations, shall not prejudice, delegate or diminish the following fundamental and inalienable sovereign rights of the Micronesian people:

1. Traditional Micronesian rights and civil rights provided for in the Constitution.

2. The right to own land in Micronesia is limited to Micronesian citizens only. (P.2)

3. Full and exclusive rights of ownership of Micronesian marine and air space, and power to determine disposition of all Micronesian resources.

4. The international personality of the Micronesian nation as a sovereign and independent state under international law.

SECTION 3. Delegation of Governmental Power. Any agreement, whatever its form or designation, involving the delegation of any governmental powers, which may be made with one or more foreign states or with international organizations, shall be a treaty.

Date: September 27, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 11 (SD1)
(Committee on Style & Arrangement; Report No. 29)

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 1. 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 ~~states~~ nations or international organizations shall be in conformance with this Constitution, and shall be invalid to the extent of ~~such~~ any conflict.

SECTION 2. Fundamental and Inalienable Sovereignty of the Micronesian People. ~~Agreements or formalities, whatever~~ Whatever their form or designation, agreements or treaties with other nations or international organizations~~,~~ shall not prejudice, delegate, or diminish the following fundamental and inalienable sovereign rights of the Micronesian people:

1. ~~Traditional~~ Micronesian traditional rights and civil rights provided for in the Constitution.

2. The limitation of the right to own land in Micronesia ~~is limited~~ (P.2) to Micronesian citizens only.

3. Full and exclusive rights of ownership of Micronesian marine and air space, and power to determine disposition of all Micronesian resources.

4. The international personality of the Micronesian nation as a sovereign and independent state under international law.

SECTION 3. Delegation of Governmental Power. ~~Any agreements, whatever~~ Whatever their form or designation, agreements ~~involving the delegation of governmental powers that may be made with one or more foreign states~~ nations or ~~with~~ international organizations~~,~~ involving the delegation of governmental powers shall be ~~a~~ made by treaty.

Date: September 27, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 12

(Committee on Public Finance & Taxation; Report No. 17)

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. (P.2)

Date: September 29, 1975 Offered by: Committee on Public Finance & Taxation

COMMITTEE PROPOSAL NO. 12 (SD1)
(Committee on Style & Arrangement; Report No. 24)

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~~ national government and to ~~such~~ other public legal entities receiving public funds from the ~~central~~ national government. (P.2)

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.

Date: September 29, 1975 Offered by: Committee on Public Finance & Taxation

COMMITTEE PROPOSAL NO. 13

(Committee on Public Finance & Taxation; Report No. 20)

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 or omit any item in 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 (P.2) 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.

Date: September 30, 1975 Offered by: Committee on Public Finance & Taxation

COMMITTEE PROPOSAL NO. 13 (CWDL)(SDI)
(Committee on Style & Arrangement;
Report No. 25)

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~~ appropriating monies for the annual budget has been enacted by the National Legislature.

SECTION ____. Item Veto. The Executive may ~~strike out~~ (P.2) ~~items in~~ item veto an appropriation ~~bills~~ 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.

Date: September 30, 1975 Offered by: Committee on Public Finance & Taxation

COMMITTEE PROPOSAL NO. 14
(Committee on Civil Liberties
Report No. 23)

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 persons 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, (P.2)
ancestry, national origin, language or social status by the state.

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 (P.3)
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.

Date: October 3, 1975 Offered by: Committee on Civil Liberties

COMMITTEE PROPOSAL NO. 14 (CWDL)(SDI)
(Committee on Style & Arrangement)
(Committee Report No. 44)

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 (P.2) 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.

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.

Date: October 22, 1975 Offered by: Committee on Civil Liberties

COMMITTEE PROPOSAL NO. 15

(Committee on Public Finance & Taxation; Report No. 27)

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.

Date: October 10, 1975 Offered by: Committee on Public Finance & Taxation

COMMITTEE PROPOSAL NO. 15 (SD1)

(Committee on Style and Arrangement;
Report No. 39)

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. The Legislature (Congress) shall provide for equitable distribution from this fund except where a particular distribution is required by the terms or special nature of the assistance.

Date: October 10, 1975 Offered by: Committee on Public Finance & Taxation

COMMITTEE PROPOSAL NO. 16

(Committee on General Provisions;
Report No. 28)

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.

Date: October 11, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 16 (SD1)

(Committee on Style and Arrangement;
Report No. 39)

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, 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.

Date: October 11, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 17
(Committee on General Provisions)
(Committee Report No. 29)

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.

Date: October 9, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 17
(Committee on Style & Arrangement)
(Committee on General Provisions;
Report No. 46)

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.

Date: October 9, 1975 Offered by: Committee on General Provisions

(Committee on General Provisions;
Report No. 30)

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:

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.

Date: October 11, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 18 (SD1)
(Committee on Style & Arrangement)
(Committee Report No. 45)

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.

Date: October 22, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 19

(Committee on General Provisions;
Report No. 31)

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

(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.

Date: October 11, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 19 (SD1)

(Committee on Style & Arrangement; Report No. 39)

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 residency and provide for voter registration, disqualification while under sentence of a Micronesian court for conviction of crime, and disqualification for mental incompetence or insanity.

Date: October 11, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 19 (SD1)

(Committee on Style & Arrangement; Report No. 41)

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.

Date: October 11, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 20

(Committee on General Provisions; Report No. 32)

A PROPOSAL

Relating to renegotiation of certain land leases.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

SECTION ____. Renegotiation of Certain Leases. The national government of the Federated States of Micronesia, within a period of 2 years after the effective date of this Constitution, shall be required to renegotiate, in good faith, all land lease agreements of an indefinite term entered into between any person and the Government of the Trust Territory of the Pacific Islands.

Date: October 10, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 20 (CWDL)(SDL)

(Committee on Style & Arrangement; Report No. 47)

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 lease 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.

Date: October 25, 1975 Offered by: Committee on Style & Arrangement

COMMITTEE PROPOSAL NO. 21

(Committee on Governmental Functions; Report No. 33)

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 (P.2)

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; (P.3)

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 (P.4) 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 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 (P.5) 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, suspend the 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. 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. (P.6)

SECTION ____. Implementation. The provision of this article shall be further implemented by national law.

Date: October 10, 1975 Offered by: Committee on Governmental Functions

COMMITTEE PROPOSAL NO. 21 (SD1)

(Committee on Style & Arrangments; Report No. 63)

FUNCTIONS

SECTION 1. A power not expressly delegated to the national government or prohibited to the state is a state power.

SECTION 2. 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 3. The following powers are expressly delegated to the Congress of the Federated States:

(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;

(P.2)

(o) to impeach and remove the Chief Executive, members of the Congress 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 two-thirds majority of the membership.

SECTION 4. 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 5. A tax imposed by a state or local government may not restrict interstate commerce.

SECTION 6. A treaty is ratified by vote of two-thirds of the membership of (each house) the legislature, 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 7. Net revenue derived from ocean floor mineral resources exploited under Section 3 (m) shall be divided equally between the national government and the appropriate state government.

SECTION 8. The Chief Executive, a member of the legislature, or a Justice of the Supreme Court may be removed from office for treason, bribery, or conduct involving corruption in office, by a two-thirds vote of the membership of the legislature. When the Chief Executive or a member of the legislature 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 national Chief Executive.

SECTION 9. The following powers may be exercised concurrently by the Congress and the states:

(P.3)

(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 10. The following powers are expressly delegated to the Chief Executive of the national government:

(a) to conduct foreign affairs and the national defense in accordance with national law;
(b) to approve or disapprove national legislation;
(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 the national legislature, to appoint ambassadors and the principal officers of executive departments in the national government. Ambassadors and officers serve at the pleasure of the Chief Executive.

DECLARATION OF EMERGENCY

(P.4)

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 chief executive 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.

National Legislature shall convene at the call of its presiding officers or the chief executive 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.

Date: November 6, 1975 Offered by: Committee on Governmental Functions

COMMITTEE PROPOSAL NO. 22

(Committee on General Provisions;
Report No. 34)

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.

Date: October 13, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 22 (SD 1)

(Committee on Style and Arrangement;
Report No. 48)

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. Decisions of the Trust Territory Courts, and the common law of other nations, are not binding precedents.

Date: October 25, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 23

(Committee on General Provisions;
Report No. 35)

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 to the states according to the functions provided for in this Constitution; EXCEPT, any property used primarily for the benefit of a district which fails to ratify this Constitution shall be retained by the Government of the Trust Territory of the Pacific Islands.

Date: October 13, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 23 (CWD1,CWD2)(SD1)

(Committee on Style & Arrangement;
Report No. 48)

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.

Date: October 25, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 24
(Committee on Governmental Structure;
Report No. 36)

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 ____. EXECUTIVE

SECTION 1. Council of Ministers. There shall be a Council of Ministers of the Federated States of Micronesia in which is vested all executive powers of the Federated States of Micronesia. The Council of Ministers shall be collectively responsible for administering all of the laws of the Federated States of Micronesia. The Prime Minister and the Ministers of the Federated States of Micronesia shall exercise these powers on behalf of the Council of Ministers, except as provided by this Constitution.

SECTION 2. Ministers. Each State, by Statewide election, as provided by national law, shall elect one Minister to sit in the Council of Ministers. In addition to such other qualifications and disqualifications as may be provided by law, no person shall serve as a Minister who is not:

(a) a bona fide citizen of the Federated States of Micronesia and a bona fide resident of the State from which he is elected for at least seven years prior to the date of election.

(b) at least thirty-five years of age when he takes his oath of office.(P.2)

SECTION 3. Terms of Ministers. Except for the Ministers first elected, all Ministers shall serve for terms of four (4) years commencing on the first

day in (Month), unless a different date be designated by law. The eligibility of a Minister for re-election shall be determined by national law.

SECTION 4. Staggering of Terms. When the Ministers first meet, they shall draw lots so that half of the first Ministers, or if there is an uneven number of Ministers in the Council, then a majority shall serve for four (4) year terms, and the balance shall serve for two (2) year terms. Thereafter, the terms of all Ministers shall be for four (4) years.

SECTION 5. Removal of Ministers. A minister may be removed from office for cause in the manner provided for by this Constitution or by national law.

SECTION 6. Vacancies. Vacancies on the Council of Ministers shall be filled by special election as provided by national law; PROVIDED, that vacancies for terms of less than one year may be filled by appointment by the Chief Executive of the State concerned with the advice and consent of the State's legislature. Any Minister chosen to fill a vacancy, including the term of a Minister removed from office, shall serve only for the balance of the unfinished term, and shall thereafter be eligible for re-election as provided by national law.

SECTION 7. Duties of Ministers. Each Minister shall participate in the (P.3)
deliberations of the Council and have an equal vote in its collective decisions; PROVIDED, that any tie or deadlocked vote shall be considered as a negative vote on the issue being considered. Each Minister shall be the head of and responsible for the supervision of one or more executive departments, as may be determined by the Council of Ministers, and shall annually report to the Council of Ministers and National Legislature on the activities of each such department. The Ministers shall have such other duties as may be established by law. In their supervision of their respective departments and in carrying out their other duties, the Ministers shall act in accordance with the directives of the Council of Ministers. Each Minister shall receive and forward to the respective houses of the National Legislature of Micronesia the credentials of all senators and representatives elected from his State.

SECTION 8. Organization of Council. The Council of Ministers shall be the sole judge of elections, returns, appointments and qualifications of its members, and shall adopt its own rules of procedure. A quorum shall be a majority of the members of the Council, except when selecting a Prime Minister which shall require a quorum of all members. The Council, including less than a quorum, shall be empowered to compel the attendance of absent members. No member of the Council shall be held to answer before any tribunal other than (P.4)
the Council of Ministers for any speech, debate, or statement in any meeting of the Council.

SECTION 9. Prime Minister. At the first meeting of the Council of Ministers, and every four (4) years thereafter, the Ministers shall elect one of their number as Prime Minister, in accordance with procedures established by law. The Prime Minister shall thereupon become chairman of the Council of Ministers, with full participatory rights.

SECTION 10. Transitional Provisions for Prime Minister. Until procedures are established by law for the selection of the Prime Minister, the Prime Minister shall be chosen by a majority vote of the Council of Ministers. If no Minister receives a majority vote, and there are more than two nominees, the one receiving the lowest vote shall be eliminated, and another poll shall be taken. If two or more Ministers are tied for the lowest vote, one shall be eliminated by lot. Thereafter the process shall continue until either one Minister receives a majority or two Ministers are tied, and in the latter event one of them shall be designated Prime Minister by lot.

SECTION 11. Term of Prime Minister. The Prime Minister shall serve for a term of four (4) years, if not sooner removed for cause as provided by law; PROVIDED, that the position of Prime Minister shall be vacant if at any time the Prime Minister ceases to represent his State or is replaced as his (P.5)
State's representative on the Council of Ministers. No Prime Minister shall serve for more than two full consecutive terms. No Minister or Ministers from the same State shall serve as Prime Minister for more than two full consecutive terms.

SECTION 12. Absence or Illness of the Prime Minister. In the event of the illness or temporary absence of the Prime Minister, the Council of Ministers shall select an Acting Prime Minister who shall perform all of the functions of the Prime Minister until the Prime Minister has returned to his post and is able to carry out his duties.

SECTION 13. Vacancy in the Office of Prime Minister. In the event of a vacancy in the office of the Prime Minister, a successor shall be elected by the Council of Ministers from among its members to serve for the unfilled term. If there are any vacant seats on the Council of Ministers, no election for Prime Minister shall be held until such vacancies have been filled. In the

interim, the Council shall immediately elect from among its members an Acting Prime Minister to serve until a Prime Minister is elected.

SECTION 14. Prime Minister to Act in Accordance with Council Directives. The Prime Minister shall carry out his duties in accordance with the directives of the Council of Ministers.

SECTION 15. Duties of Prime Minister. The Prime Minister shall have (P.6) the following duties:

a) Be the head of state of the Federated States of Micronesia;

b) receive all foreign ambassadors;

c) make recommendations to the National Legislature from time to time as deemed necessary, and make an annual report to the National Legislature on the state of the Federated States;

d) approve or veto all bills enacted by the National Legislature;

e) appoint, subject to the concurrence of two-thirds of the Council of Ministers, and with the advice and consent of the Senate:

(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 16. Executive Departments. There shall be executive departments in the national government as may be established by law.

ARTICLE ____. NATIONAL AND OTHER GOVERNMENTS (P.7)

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, 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. There shall be a Chamber of Chiefs in the Executive Branch at the National level composed of one representative of the traditional chiefs of each State to be selected in the manner provided by the laws of the respective State. The terms of office and qualifications to serve shall be as provided by the laws of the respective State. Any State having no traditional chiefs shall select one representative pursuant to State law.

SECTION 2. Organization. The Chamber of Chiefs shall be organized (P.8) according to National law. Salaries shall be established by National law for members of the Chamber. Each member shall have one vote and may participate in all deliberations of the Chamber.

SECTION 3. Duties and Functions. The Chamber of Chiefs shall have the following duties and functions:

(a) Each member shall also be the representative of the traditional chiefs of his State, with such duties as shall be established by the laws of each State.

(b) All bills of the National Legislature relating to all matters pertinent to traditions and customs, after being adopted by both houses and before referral to the Prime Minister, shall be submitted to the Chamber of Chiefs. The Chamber of Chiefs, by unanimous vote, may disapprove all or any items of any such bill, whereupon it shall be vetoed by the Prime Minister. Such disapproval by the Chamber of Chiefs shall be made within fifteen days of the receipt of a bill if received by the Chamber while Congress is in session and more than fifteen days from the end of such session; in all other cases, the Chamber of Chiefs shall have thirty days to disapprove any bill it receives. If not disapproved, or only item vetoed, the bill shall be sent to the Prime Minister as provided for all other bills; PROVIDED, that only the Chamber of Chiefs shall have standing to challenge any National (P.9) law or National legislation on the ground that it was not submitted to the Chamber of Chiefs or on the ground that it was disapproved by the Chamber.

Any such challenge by the Chamber of Chiefs must be made in the High Court within sixty days of the time that any such law or legislation is signed by the Prime Minister or otherwise becomes law.

(c) The Chamber of Chiefs shall be entrusted with insuring the teaching, preservation, and continuity of the various languages and the better traditions of Micronesia, with a goal of sharing our common national heritage.

(d) The Chamber shall, whenever possible, mediate disputes between the various States of Micronesia.

(e) The Chamber of Chiefs may, by unanimous vote, recommend mercy for any person who is sentenced to death. [eliminate this provision if there is a provision outlawing capital punishment]

(f) The Chamber of Chiefs may advise the various branches of government as may be requested.

(g) The Chamber of Chiefs shall perform such other duties as may be provided by National law.

SECTION 4. Traditional Leaders at State Level. In each State having traditional leaders, the State constitution shall make provision for an active, functioning role for the traditional leaders of that State. (P.10)

SECTION 5. Traditional Leaders Eligible to Vote and Hold Public Office. Nothing in this article shall be construed as disenfranchising any traditional leader. Traditional leaders may vote, run for election, and hold any public office the same as any other citizens of Micronesia.

ARTICLE ____. CONGRESS OF MICRONESIA (P.11)

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."

SECTION 2. The Senate. The Senate shall be composed of two senators elected at large from each state, each such senator having one vote. Of the two senators from each state first elected pursuant to this Constitution, one shall be designated to serve a two-year term and the other to serve a four-year term, as determined by lot at the first meeting of the Senate. Thereafter all senators shall serve for a term of four years.

SECTION 3. The House of Representatives. The House of Representatives shall be composed of representatives apportioned among the states in accordance with their respective populations, except that each state shall be entitled to at least one representative. Each representative shall be elected for a term of two years. For purposes only of the first election of the House of Representatives under this Constitution subsequent to its ratification, the single member electoral districts for election to the House of Representatives of the Congress of Micronesia in existence on the day before this Constitution becomes effective shall remain in effect, except that Kusaie District shall also elect one representative at large to sit in such first Congress. Within two years subsequent to such first congressional election, the duly elected first Congress shall reapportion itself into single member electoral districts. Thereafter, Congress shall be reapportioned after each decennial census. Each such electoral district shall be as nearly equal in population as practicable, due regard being given to language, cultural, and geographical differences within each electoral district and the need to minimize the same. (P.12)

SECTION 4. General Elections. General elections shall be held biennially in each even-numbered year on the first ____ in _____ in accordance with such procedures as this Constitution and subsequent laws may prescribe. All members of Congress shall be chosen by secret ballot of the qualified voters.

SECTION 5. Qualification of Members. No person shall be eligible for election to the Senate unless such person shall have attained the age of thirty years, nor to the House of Representatives unless such person shall have attained the age of twenty-five years. No person shall be eligible for election to either the Senate or the House of Representatives unless he shall have been a citizen of Micronesia for at least fifteen years, and shall have been 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 any court of Micronesia shall be elected to Congress. Congress may prescribe further qualifications. (P.13)

SECTION 6. 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 7. 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 8. 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 9. Immunity. Senators and representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest (P.14) 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 10. Sessions. The Congress shall be a continuous body during the term for which its members are selected. The Congress shall meet in regular and public session as provided by law. It may be convened at other times by the Prime Minister or, at the written request of two-thirds of the members of each house, it shall be convened by the presiding officers of both houses.

SECTION 11. Organization and Procedure. Each house shall be the sole judge of elections, returns, and qualifications of its own members. Each house shall choose its presiding officer from among its members and shall determine its rules of procedure. Each house 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, and it shall have power to compel the attendance and testimony of witnesses and the production of documents and things either before such house of the Congress as a whole or before any committee thereof.

SECTION 12. Transaction of Business. A majority of all the members of each house of the Congress shall constitute a quorum to do business, but a (P.15) smaller number may adjourn from day to day and compel the attendance of absent members. Each house shall keep a journal of its proceedings which shall be published from day to day. Each house 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 13. Passage of Bills. Every bill when passed by the house in which it originated, or in which amendments thereto shall have originated, shall immediately be certified by the presiding officer and sent to the other house for consideration. A bill to become a law shall pass two readings in each house, on separate days, the final passage of which in each house shall be by a majority vote of all the members to which such house is entitled,which vote shall be entered upon the journal.

SECTION 14. 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. Bills may originate in either house and may be amended or altered or rejected by the other. 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 (P.16) 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 15. 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 ____. JUDICIARY (P.17)

SECTION 1. Judicial Power. The judicial power of Micronesia shall be vested in a High Court, a State Court in each of the states, a Municipal Court in each municipality or other local governmental unit which is established by state law, a Lands Claims Court in each of the

states, and in such other inferior courts of limited jurisdiction as may be established by law. All courts except the Appellate Division of the High Court may be divided into geographical and functional divisions as provided by law or by judicial rules not inconsistent with law.

SECTION 2. Composition of Courts.

(a) High Court. The High Court shall be a court of record and shall be the highest court of the nation. It shall consist of a chief justice and three associate judges or such greater number as may be provided by law. The High Court shall consist of a Trial Division and an Appellate Division. The Trial Division shall consist of the chief justice and the associate judges, except the sessions of the Trial Division may be held by any one judge alone. The Appellate Division shall consist of the chief justice and associate judges of the High Court, except that the chief justice or an associate judge may not sit as a member of the Appellate Division in a case which he has heard as a judge of the Trial Division. The concurrence of a majority of the judges of (P.18)
the Appellate Division shall be necessary to any final determination of the Appellate Division.

(b) State Courts. The State Courts shall be courts of record and shall be the highest courts of each state. Each State Court shall consist of a presiding judge and such greater number of State Court judges as may be provided by law; PROVIDED, that the number of State Court judges in each state shall not be reduced below the number of district court judges in the corresponding district existing on the day before the day this Constitution becomes effective.

(c) Municipal Courts. The Municipal Courts, where established, shall consist of at least one municipal court judge and such greater number as may be provided by law. Congress may enact laws requiring that Municipal Courts be courts of record.

(d) Land Claims Courts. The Land Claims Court in each state shall have such composition, organization, and procedures as are provided by state law.

SECTION 3. Appointment of Judges; Tenure; Removal; Compensation; Qualifications; Restrictions of Office.

(a) Appointment. The Prime Minister of Micronesia, with the concurrence of two-thirds of the national Council of Ministers and (P.19)
with the advice and consent of a majority of all members of the Congress of Micronesia, shall appoint the chief justice and associate judges of the High Court. The chief executive of each state, with the advice and consent of a majority of all members of the state's legislature, shall appoint the presiding judge of the State Court and all other judges of the State Courts. The chief executive of the state in which the Municipal Court is located, with the advice and consent of a majority of all members of the municipal or local legislative body, shall appoint the judges of the Municipal Courts.

(b) Tenure; Retirement. Judges of the High Court shall hold their offices for a term of seven years. Judges of the State Courts shall hold their offices for a term of five years. Judges of the Municipal Courts shall hold their offices for a term of three years. All judges may be reappointed, and shall be retired upon attaining the age of sixty-five years. A judge whose term of office has expired shall, however, continue to hold office until his successor is sworn into office. The chief justice of the High Court may from time to time appoint retired judges to such special assignments as may be provided by the rules of the High Court.

(c) Removal. Judges of the High Court may be removed only for (P.20)
cause by the Prime Minister of Micronesia with the concurrence of two-thirds of the Council of Ministers and with the concurrence of two-thirds of all members of the Congress of Micronesia. Judges of the State Courts may be removed only for cause by the chief executive of the state with the concurrence of two-thirds of all members of the state legislature. Judges of the Municipal Courts may be removed only for cause by the chief executive of the state in which the Municipal Court is located with the concurrence of two-thirds of all members of the municipal or local legislative body.

(d) Compensation of Judges. All judges shall receive such salaries as may be provided by law, which shall not be diminished during their term of office, unless as part of a reduction of salaries applied proportionately to all persons whose salaries are determined by law.

(e) Qualifications. Congress shall provide for qualification of all judges except judges of the Land Claims Courts.

(f) Restrictions of Office. No judge of the High Court or the State Courts shall hold any other paid office or employment. Any judge of any court who willingly becomes a candidate for an elective public office shall thereby forfeit his judicial office. Congress may enact (P.21)
laws to prohibit judges from engaging in activities or having interests which conflict with the proper discharge of their duties and responsibilities.

SECTION 4. Jurisdiction of Courts.

(a) Appellate Division of the High Court. The Appellate Division of the High Court shall have jurisdiction to review on appeal all final decisions of the Trial Division of the High Court, including all decisions of the Trial Division heard on appeal from other courts. The Appellate Division of the High Court shall have such other jurisdiction as may be provided for by law.

(b) Trial Division of the High Court. The Trial Division of the High Court shall have original and exclusive jurisdiction in all cases affecting ambassadors, other public ministers and consuls, in all disputes between the states of Micronesia, in all civil cases to which the national government is a party except where the ownership of land or any interest therein is at issue, and in all civil cases arising under this Constitution and the laws and treaties of the nation. The Trial Division shall have such additional civil and criminal jurisdiction as may be provided by law. The Trial Division of the High Court shall have appellate jurisdiction over all final decisions of the State (P.22)
Courts except as otherwise provided herein, and shall have such other appellate jurisdiction as may be provided by law.

(c) State Courts. The State Courts shall have original jurisdiction over all cases and controversies, civil and criminal, except those within the original and exclusive jurisdictions of the Trial Division of the High Court and of the Land Claims Courts. The State Courts shall have appellate jurisdiction over all final decisions of the Land Claims Courts, and such decisions on appeal shall be final, except to the extent otherwise provided herein for certification to the Trial Division of the High Court of substantial questions of law as to the interpretation or effect of any provision of this Constitution. When hearing an appeal from the Land Claims Courts, the State Courts shall sit as a three-judge panel with the concurrence of two judges necessary for any final determination of the State Court. Whenever necessary to constitute a three-judge panel, the chief justice of the High Court shall appoint one or more persons from the state, who would be qualified for appointment to the State Court, to act as special judges of the State Court. The State Courts shall have such other appellate jurisdiction as may be provided by law.

(d) Municipal Courts. Municipal Courts shall have such original (P.23)
jurisdiction as may be provided by law.

(e) Land Claims Courts. The Land Claims Court in each state shall have exclusive and original jurisdiction over all cases involving ownership of, or any interest in, land and submerged reef areas situated within the territorial jurisdiction of that state. The Land Claims Courts shall have such additional jurisdiction over matters governed by traditional laws and customs, not otherwise inconsistent with this Constitution and national laws, as may be provided by state law.

(f) Certification of Constitutional Issues. Whenever a case, not otherwise within the original and exclusive jurisdiction of the Trial Division of the High Court, involves a substantial question of law as to the interpretation or effect of any provision of the Constitution, upon application of any party or upon its own motion, the court hearing such case shall certify the question to the Trial Division of the High Court. Upon such certification, the Trial Division of the High Court may determine the question so certified, and upon such determination shall either dispose of the case or remit it to the court which certified the case to be disposed of in accordance with the (P.24)
determination.

SECTION 5. Administration. The chief justice of the High Court shall be the administrative head of the entire judicial system. He may assign judges from one geographical or functional division of a court to another division of that same court. The chief justice shall

appoint an administrative director to serve at his pleasure and to supervise the administrative operation of the judicial system.

SECTION 6. Acting Chief Justice. Whenever the chief justice is unable to perform the duties of his office, whether by absence from the country or otherwise, he shall designate an associate judge of the High Court to act in his stead until he is able to resume the duties of his office. In the event of a vacancy or whenever the chief justice fails to or is unable to so designate an acting chief justice, the Prime Minister shall designate an associate judge of the High Court to act as chief justice until the vacancy is filled or the chief justice is able to resume the duties of his office.

SECTION 7. Assessors. Whenever traditional laws and customs of a state are at issue in any case, including on appeal, and no judge of the court is well-versed in such laws and customs by birth or by training and experience, the presiding judge shall select one or more persons as assessors who are well-versed in such laws and customs by birth or by training and experience. Assessors shall sit with the court to advise it in regard to such laws and customs at issue. The court shall consult with such assessors before a determination is reached in the case. (P.25)

SECTION 8. Rules. The High Court shall make and promulgate rules governing all courts except the Land Claims Courts, including rules for the administration of courts, practice and procedure in civil and criminal cases, rules of evidence, and rules governing discipline of persons practicing before such courts. These rules may be changed by a two-thirds vote of all members of the Congress of Micronesia.

SECTION 9. Financing. The chief justice shall submit to the Congress of Micronesia an annual budget for the entire judicial system and the total cost of the system shall be paid by the national treasury, PROVIDED, that in the case of the Land Claims Court the Congress of Micronesia shall provide by law for the national government to bear the reasonable costs of all or a portion of such courts in each state, but may require each state to bear the remainder of costs of such courts in their respective states.

Date: October, 1975 Offered by: Committee on Governmental Structure

COMMITTEE PROPOSAL NO. 24
Joint Committee Amendment 10, SD1

(Committee on Style and Arrangement; Report No. 59)

A PROPOSAL

Relating to the national judiciary.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE ____
JUDICIAL

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 (P.2)

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 national courts, including the trial division of the Supreme Court, have 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, trial division of the Supreme Court, and state and local courts have concurrent original jurisdiction in cases arising under this Constitution, cases involving 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. (P.3)

(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 (P.4) 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.

Date: November 3, 1975 Offered by: Joint Committee on Structure & Functions

COMMITTEE PROPOSAL NO. 24

(Committee on Style & Arrangement; Report No. 63)

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 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.

SECTION 3. 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 4. 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 5. A state may provide that one of its seats is set aside for traditional leaders who run at large 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.

(P.2)

SECTION 6. 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 7. 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. Congress may prescribe further restrictions.

SECTION 8. The Congress may prescribe an annual salary and allowances for members. An increase of salary may not apply to the Congress enacting it.

SECTION 9. 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 statement in Congress.

SECTION 10. 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 11. (a) 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) Congress may determine its own rules of procedure and choose a presiding officer from among its members.

(P.3)

(c) 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 12. A majority of the members is a quorum, a smaller number may adjourn from day-to-day and compel the attendance of absent members.

SECTION 13. 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 14. 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 15. (a) 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 16. 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.

SECTION 17. For purposes of the first congressional election, (P.4) 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 _____. EXECUTIVE (P.5)

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 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 Congress, and make an annual report to Congress on the state of the Federated States;
(d) Approve or veto all bills enacted by Congress;
(e) Appoint, with the advice and consent of Congress:
  (i) all judges of the Supreme Court and other courts prescribed by statute;
  (ii) ambassadors to foreign countries;
  (iii) heads 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. A person is ineligible to become President unless he is a (P.6) 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 Micronesia for at least 15 years.

SECTION 4. 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 5. 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 both officers are unable to discharge their duties.

SECTION 6. The compensation of the President may not be increased or reduced during his term. He may hold no other office and may receive no other compensation from the Federated States of Micronesia or from a state.

SECTION 7. Executive departments shall be established by statute.

Date: November 6, 1975 Offered by: Committee on Structure & Functions

COMMITTEE PROPOSAL NO. 24 (CWD3;SD1;CD3;SD2)
(Committee on Style and Arrangement;
Report No. 65)

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 1. 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.

SECTION 3. There is no sovereign immunity in Micronesia.

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.

Date: November 7, 1975 Offered by: Committee on Structure and Functions

COMMITTEE PROPOSAL NO. 25

(Committee on General Provisions; Report No. 37)

A PROPOSAL

Relating to the capital of Micronesia and jurisdiction and control over property of the national government.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____
GENERAL PROVISIONS

SECTION _____. Capital of the Federated States of Micronesia. The location of the capital of the Federated States of Micronesia shall be determined by law not later than one year after the effective date of the Constitution. All lands, buildings, fixtures, and other property acquired by the national government, regardless of its location, shall be under the exclusive jurisdiction and control of the national government.

Date: October 15, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 25a

(Committee on General Provisions; Minority Report No. 37-A)

A PROPOSAL

Relating to the capital of Micronesia.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____
GENERAL PROVISIONS

SECTION _____. Capital of the Federated States of Micronesia. The seat of the national government of Micronesia shall be in the

State of Palau at such location as may be mutually agreed upon by the national government and the State of Palau; the State of Palau shall make available such location to the national government of Micronesia at no cost. The seat of the national government shall be under the exclusive control of said government.

Date: October 15, 1975 Offered by: Two members of the Committee on General Provisions

COMMITTEE PROPOSAL NO. 26

(Committee on Public Finance and Taxation; Report No. 38)

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. (P2.)

Date: October 16, 1975 Offered by: Committee on Public Finance and Taxation

COMMITTEE PROPOSAL NO. 26 (SD1)

(Committee on Style and Arrangement; Report No. 50)

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.

SECTION 5. A tariff, duty, or tax on exports is prohibited.

Date: October 29, 1975 Offered by: Committee on Public Finance and Taxation

COMMITTEE PROPOSAL NO. 27

(Committee on General Provisions; Report No. 40)

A PROPOSAL

Relating to secession and admission of new States.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECESSION AND ADMISSION OF NEW STATES

SECTION _____. Secession. No State or political subdivision thereof shall be allowed to secede from the union established by this Constitution.

SECTION _____. Admission of New States. New States may be formed and admitted by law, subject to the same rights, duties, and obligations as provided for in this Constitution.

Date: October 21, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 27a

(Committee on General Provisions; Minority Report No. 40A)

A PROPOSAL

Relating to withdrawal.

RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION _____. Withdrawal. At the end of eight years following the effective date of this Constitution, any state may withdraw from the Federated States of Micronesia by an act of its state legislature and ratified by a majority of the citizens of that state in a referendum called for that purpose. Upon such withdrawal by any state, this Constitution shall cease to apply to that state and its citizens. This right to withdraw shall exist for five years, at the end of which time no state shall have the constitutional right to withdraw from the Federated Government of Micronesia and this Constitution, except with the approval of two-thirds of the membership of the Micronesian National Assembly.

Date: October 22, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 27 (CWDI;SDL)

(Committee on Style & Arrangement;
Report No. 64)

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.

Date: November 7, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 28

(Committee on General Provisions;
Report No. 42)

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, their appurtances, and waters located within the Federated States of Micronesia.

Date: October 22, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 28 (CWDI)(SDL)

(Committee on Style & Arrangement;
Report No. 54)

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.

Date: October 22, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 29

(Committee on General Provisions;
Report No. 43)

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.

Date: October 22, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 29 (SD1)

(Committee on Style and Arrangement
Report No. 55)

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.

Date: October 22, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 30

(Committee on Governmental Functions;
Report No. 49)

A PROPOSAL

Relating to the Judiciary.
RESOLVED, that the following be agreed upon as part of the Micronesian Constitution:

ARTICLE _____

SECTION 1. Judicial Power. The judicial authority of the government of the Federated States of Micronesia shall be vested in a Supreme Court and such lower national courts as may be provided by law. All courts except the Appellate Division of the

Supreme Court may be divided into geographical and functional divisions as provided by judicial rule.

SECTION 2. Composition of Court. The Supreme Court shall be a court of record and shall be the highest court of the nation. It shall consist of a chief justice and five other associate justices. The Supreme Court shall consist of a Trial Division and an Appellate Division. The Trial Division shall consist of the chief justice and the associate justices, except that sessions of the Trial Division (P.2)
may be held by any one justice alone. The Appellate Division shall consist of the chief justice and associate justices of the Supreme Court, except that the chief justice or an associate justice may not sit as a member of the Appellate Division in a case which he has heard as a justice of the Trial Division. A session of the Appellate Division may not be held by less than three justices. The concurrence of a majority of the justices sitting shall be necessary for final determination of a case.

SECTION 3. Appointment of Justices. The chief executive of the national government, with the advice and consent of not less than two-thirds of the National Legislature (if bicameral legislature, appointment with the advice and consent of two-thirds of the members of the house having equal district representation), shall appoint the chief justice and associate justices of the Supreme Court.

SECTION 4. Tenure and Special Assignment. (P.3)
Justices of the Supreme Court shall serve during good behavior. The chief justice of the Supreme Court may appoint retired justices to such a special assignments as may be provided by judicial rule.

SECTION 5. Compensation. All justices shall recieve such compensation as may be provided by law, which shall not be diminished during their terms of office, unless as part of a uniform percentage reduction of salaries applied to all persons whose compensation is determined by law.

SECTION 6. Qualifications. The National Legislature shall provide for qualifications of all justices.

SECTION 7. Jurisdiction of Courts.

(a) Appellate Division of the Supreme Court. The Appellate Division of the Supreme Court shall have jurisdiction and may review on appeal decisions of (P.4)
the Trial Division, decisions of such lower national courts as may be established by law, and judicial determinations of a court of a state or any subdivision thereof in all cases arising under this constitution or which involve the construction or interpretation of this constitution, a treaty or national law.

(b) Trial Division of the Supreme Court. The Trial Division of the Supreme Court shall have original and exclusive jurisdiciton in cases affecting ambassadors and other officials of foreign governments; in disputes between the states of Micronesia; in cases in which the national government is a party except where the ownership of land or any interest therein is at issue; and in admiralty and maritime cases. The Trial Division shall have original jurisdiction in cases arising under this constitution, national law or a treaty, 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. In the event that original jurisdiction is concurrent between a state and a national court, the court having jurisdiction in a particular case shall be determined pursuant to criteria established by national law. The jurisdiction of the Trial Division may be exercised by other national courts as provided by law. (P. 5)

(c) Certification. Whenever a case being heard in a state or local court involves a substantial question of law as to the interpretation or effect of any provision of the Constitution, national law or a treaty, upon application of any party or upon its own motion, the court hearing such case shall certify the question to the Appellate Division of the Supreme Court. Upon such certification, the Appellate Division may determine the question so certified, and upon such determination shall either dispose of the case or remit it to the court which certified the case to be disposed of in accordance with the determination. (P. 6)

SECTION 8. Administration. The chief Justice of the Supreme Court shall be the administrative head of the national judicial system and may assign justices from one geographical or functional division of a court to another division of that court. The chief justice may appoint an administrative director to serve at his pleasure and to supervise the administrative operation of the judicial system.

SECTION 9. Acting Chief Justice. Whenever the chief justice is unable to perform the duties of his office, whether by absence from the country or otherwise, he shall designate an associate justice of the Supreme Court to act in his stead until he is able to resume the duties of his office. In the event of a vacancy or whenever the chief justice fails to or is unable to so designate an acting chief justice, the chief executive shall designate an associate justice of the Supreme Court to act as chief justice until the vacancy is filled or the chief justice resumes the duties of his office. (P. 7)

SECTION 10. Judicial Rules. The chief Justice of the Supreme Court shall make and promulgate and may amend rules governing all national courts, including rules for the administration of courts, retirement of justices and judges, practice and procedure in civil and criminal cases, rules of evidence, rules governing the transfer of cases between state and national courts, and rules governing the admission and discipline of persons practicing before such courts. These rules may be amended by law.

Date: October 25, 1975 Offered by: Committee on Governmental Functions

COMMITTEE PROPOSAL NO. 34

(Committee on Civil Liberties; Report No. 52)

A PROPOSAL

Relating to the right to medical 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 Medical 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 medical care;
The right to legal services;
The right to be educated.

Date: October 29, 1975 Offered by: Committee on Civil Liberties

COMMITTEE PROPOSAL NO. 31 (SWD1; SD1)

(Committee on Style and Arrangement; Report No. 61)

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.

Date: October 29, 1975 Offered by: Committee on Civil Liberties

COMMITTEE PROPOSAL NO. 32

(Committee on Civil Liberties; Report No. 53)

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 _____. Right to Live in a Healthful Environment. The physical environment of Micronesia constitutes a public trust of which all citizens, including those yet unborn, are beneficiaries. The government may by law provide for the protection and preservation of the environment and the uses of natural resources in ways compatible with the trust.

Date: October 29, 1975 Offered by: Committee on Civil Liberties

COMMITTEE PROPOSAL NO. 32 (CWDI; SDI)

(Committee on Style & Arrangement;
Report No. 64)

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.

Date: November 7, 1975 Offered by: Committee on Civil Liberties

COMMITTEE PROPOSAL NO. 33

(Committee on General Provisions;
Report No. 56)

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.

Date: October 30, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 33

(Committee on Style & Arrangement;
Report No. 60)

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.

Date: October 30, 1975 Offered by: Committee on General Provisions

COMMITTEE PROPOSAL NO. 34

(Committee on Civil Liberties;
Report No. 57)

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.

Date: October 31, 1975 Offered by: Committee on Civil Liberties

COMMITTEE PROPOSAL NO. 34 (SD1)

(Committee on Style and Arrangement;
Report No. 62)

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.

Date: October 31, 1975 Offered by: Committee on Civil Liberties

The Draft Constitution as submitted by the Committee on Style and Arrangement was attached to Committee Report 67.

SPECR NO. 1 SPECIAL CREDENTIALS COMMITTEE JULY 12, 1975

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 14, 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 3 members of the Special Credentials Committee

SPECR. NO. 2 SPECIAL CONFERENCE COMMITTEE August 16, 1975

Re: Committee Proposal No. 1

Your Special Conference Committee, to which was referred Committee Proposal No. 1, plus certain proposed amendments, begs leave to report as follows:

The instruction of the Convention to your Committee was to "come out with a procedural recommendation with respect to how the Convention recognizes customary and traditional laws with respect to the Bill of Rights." Your Committee held a meeting at which both the substantive and procedural questions were debated at length and came up with the following recommendation.

It is the recommendation of your Committee that the question of the role of custom in the Bill of Rights be re-referred to the Committee on Civil Liberties with the instruction that it produce a single provision protecting Micronesian customs, traditions, and morality in the Bill of Rights.

It is the hope of your Committee that adoption of such a procedure will remove the necessity of debating and arguing the relationship of customs and traditions to each specific civil liberty as it comes up for consideration on the floor. Your Committee feels that this question of custom can and should be handled in a single provision, and that one very beneficial effect of this would be to speed up the process of considering the Bill of Rights provisions while at the same time giving the kind of substantive protection to custom which it deserves and which the Delegates present here in this Convention obviously want.

Signed by 8 members of the Special Conference Committee

SPECR. NO. 3 SPECIAL CREDENTIALS COMMITTEE SEPTEMBER 17, 1975

Your Special Credentials Committee, which was appointed on September 15, 1975, and charged with reviewing the credentials of Alfonso C. Rasa, has completed its deliberations and respectfully submits the following report:

The Committee found no evidence which (1) would have disqualified Mr. Rasa as a candidate for election in June of 1974; or (2) would now make him ineligible to be seated as a delegate in this convention. Based upon the requirements and procedures spelled out in Public Law 5-60, as amended, and upon the Marianas Election Commissioner's certification of election results, your Committee found Mr. Rasa qualified to fill the delegate seat vacated upon the resignation of Joaquin I. Pangelinan.

For these reasons your Committee approves the credentials of Alfonso C. Rasa from the 4th Marianas Delegate District and recommends that he be seated in the Convention.

Signed by 3 members of the Special Credentials Committee

SPECR. NO. 4 SPECIAL CONFERENCE COMMITTEE SEPTEMBER 24, 1975

Re: Resolution No. 1

Your Special Conference Committee to which was referred Resolution No. 1, entitled "Declaring a consensus of the Constitutional Convention that a federation of autonomous states be established as the sovereign government of Micronesia.", begs leave to report as follows:

Resolution No. 1 calls for the establishment of a "loose federation" as opposed to a "strong central government" in Micronesia, two terms which give a general impression of their meaning but lack precision. The arguments favoring the establishment of a loose federation are well-known to all delegates to this Convention and are briefly reiterated in the body of the resolution.

Your Committee has carefully studied this resolution and attempted to discern the growing consensus of the Convention through examination of delegate proposals, committee proposals, committee reports, other Convention documents, plus debate, and we are now ready to report. Your Committee feels that the spirit and intention of Resolution No. 1 reflects the consensus of the Convetnion and further, that it calls for the establishment of a form of government with the greatest prospect of attaining true unity in Micronesia.

Your Committee feels that a federal system should be established in Micronesia with express powers in the national government and reserve powers in the district governments. The national government should have certain limited functions to perform and a taxing power sufficient to perform them, and that all other functions of government should be the responsibility of the district governments. Your Committee has studied

Miscellaneous Communication No. 14, the tentative report of the Committee on Governmental Functions, on distributing powers and functions between the national and district governments, and is in agreement with its conclusions and with the draft proposal attached thereto. Your Committee feels that the draft committee proposal sets forth definition to the concept of "loose federation" in an acceptable and desirable manner.

Your Committee is in accord with the intent and purpose of Resolution No. 1 and recommends its adoption.

Signed by 9 members of the Special Conference Committee, one of which did not concur.

SPECR. NO. 5 — SPECIAL SUBCOMMITTEE OF THE COMMITTEE ON ADMINISTRATION — OCTOBER 8, 1975

Your Special Subcommittee of the Administration Committee charged with reviewing Delegate Proposals Nos. 29, 100, and 120 herewith submits a progress report.

On October 7, 1975, your Special Subcommittee met at 7:00 p.m. in the Ponape Delegation's office at Hamilton's with full attendance of all Committee chairmen who comprise the membership of the Special Subcommittee. Vice President Lorenzo Cabrera of the Mariana Islands Delegation was also asked to attend so that all District Delegations would be participating in the Special Subcommittee's deliberations.

Your Special Subcommittee first turned its attention to a consideration of the scope of the three Delegate Proposals referred to it and also reviewed the work of the Convention's five subject matter committees already completed and shortly to be reported upon to the Convention. A plan of action was then developed for reviewing the contents of the three Delegate Proposals in the light of these activities of the subject matter committees. Upon completion of this review, your Special Subcommittee will prepare a further report.

Signed by 8 members of the Special Subcommittee of the Committee on Administration

SPECR. NO. 6 — SPECIAL CREDENTIALS COMMITTEE — OCTOBER 8, 1975

Your Special Credentials Committee, which was assigned the responsibility of reviewing the credentials of Alonzo Igisomar, has completed its deliberations and respectfully reports as follows:

The Committee has received satisfactory evidence that Alonzo Igisomar was duly selected by Marianas District Administrator Francisco C. Ada to fill the vacancy which occurred upon the adoption of Resolution No. 26.

Your Committee is satisfied that Mr. Igisomar is qualified to be seated as a delegate in the Convention. For that reason, your Committee approves the credentials of Alonzo Igisomar and recommends that he be seated as a delegate by the Convention.

Signed by 2 members of the Special Credentials Committee

SPECR. NO. 7 — SPECIAL SUBCOMMITTEE OF THE ADMINISTRATION COMMITTEE — OCTOBER 22, 1975

Your Special Committee of the Administration Committee to which has been assigned Delegate Proposals No. 29, No. 100, and No. 120 has met on two occasions and considered the provisions of these three Proposals. As

indicated by the attached staff report, practically all of the subjects included in these Delegate Proposals have been covered in the deliberations of the various subject matter committees, and with only minor exceptions are incorporated in Committee Proposals already before the Convention or now being introduced. Your Special Committee will submit a further report to you at a future date upon all subject matter committees concluding their work.

Signed by 9 members of the Special Subcommittee of the Administration Committee

T.T. COM. NO. 1

SEPTEMBER 16, 1975

To: President, Micronesian Constitutional Convention

The Chief of the Broadcast Division has asked me to write you on his behalf to introduce to you and the members of the Convention and your staff a number of reporters from various district radio stations who are here to cover the activities of the Convention for broadcast in their respective districts.

Those already on the island of Saipan are Paulino Pablo from WSZD, Ponape; Peter Maipi, WSZC, Truk; John Tamagig, WSZA, Yap, and Bauri Oingerang, WSZB, Palau. Ezekiel Lippwe and Elias Thomas from Headquarters Broadcast Division will also take part in the coverage.

To avoid confusion and provide an orderly coverage of the activities of different committees, the committee assignments are as follows: Civil Liberties, Peter Maipi; Governmental Structure, Paulino Pablo; Style and Arrangement, Bauri Oingerang; General Provisions, John Tamagig; Governmental Functions, Ezekiel Lippwe; and Public Finance, Elias Thomas. Assignments to cover other committees will be made from time to time. We request the permission of each chairman for our reporters to be allowed to listen to his committee's deliberations and to receive pertinent documents on matters being considered by his committee for the purposes of providing accurate reporting of the committee's activities.

Each reporter will also be covering the meetings of various subcommittees within each Standing Committee to which he is assigned. We also anticipate producing more tape recorded interviews in the various vernaculars and English as well, bringing into focus individual delegates.

The primary reason for this stepped-up effort of radio coverage of the Constitutional Convention is basically to disseminate more information about the Convention to Micronesians at the grass-roots level than we did during the first half of the Convention. This, I might add, has substantial impact on the Broadcast Division's budget, but we strongly believe that it is the most effective way of bringing the Constitutional Convention to all Micronesians.

We request patience, understanding and kind consideration from each delegate. We are trying to do the best we possibly can. If there should be any misunderstandings on our part in translating your comments or views while relaying them to the radio listeners, please let us know of such occasions so that corrective steps can be undertaken and accurate information can be released.

Finally, we pray that the wisdom of the Lord will guide you in all of your deliberations and that you will, in the end, produce a Constitution for Micronesia.

From: Raymond Blochong, Acting Director, Public Affairs

T.T. COM. NO. 2 (Dispatch--Information Copy)

OCTOBER 13, 1975

To: All District Administrators

Regarding dissemination of Micro ConCon information by your district radio stations and MSG 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.

From: Deputy High Commissioner Peter T. Coleman

MISCELLANEOUS COMMUNICATIONS

MISC. COM. NO. 1

JULY 14, 1975

To: President, Micronesian Constitutional Convention

Please be informed that this district Congress of Micronesia delegation has not duly authorized or appointed a Con Con representative. Please be further informed that we seriously question the legality of seating such a representative in the absence of formal appointment by this delegation. Upon our return from Saipan, we held several meetings with both traditional and elected leadership. As of the final such conference, no change had been made or approved in the Marshallese expressed position that there shall be no leadership participation in the Con Con.

From: Chairman Balos, Congress of Micronesia, Majuro, Marshall Islands

MISC. COM. NO. 2

JULY 15, 1975

To: President, Micronesian Constitutional Convention, and
Members of the Marshall Islands Delegation to Con Con

Support Senator Wilfred Kendall seating in the Con Con as a member of our delegation. Best wishes to you all and wish you success.

From: Representative Ekpap Silk, Congress of Micronesia, Marshall Islands

MISC. COM. NO. 3

JULY 15, 1975

To: Presiding Officers, Congress of Micronesia, and
Delegates, Micronesian Constitutional Convention

Acknowledge your dispatch of July 8, 1975 inviting Speakers of District Legislatures to attend opening ceremonies of Micronesian Constitutional Convention in Saipan. Am unable to be there at opening ceremonies due to shortage of preparation and time; however, on behalf of Palau Legislature, I extend to you and all our best greetings and with all of you a very successful meeting of Con Con. May our good Lord bestow upon all of you His grace and guidance so you may form a constitution which will reflect the wishes and desires of us all. Our prayers will always be with all of you.

From: Speaker Ilelbang Luii, Palau District Legislature

MISC. COM. NO. 4

JULY 13, 1975

To: Leo Falcam, Pre-Convention Committee

The President of the Trusteeship Council much regrets that owing to previous commitments he is unable to accept your kind invitation to be present at this important ceremony. He sends his good wishes to all members of the Constitutional Convention and hopes that success will attend them in their deliberations.

From: Girma Abebe, Secretary, Trusteeship Council, United Nations, New York

MISC. COM. NO. 5

JULY 15, 1975

To: Tosiwo Nakayama, President, Micronesian Constitutional Convention

In order for me to work effectively in the Committee on General Provisions and the Micronesian Constitutional Convention on behalf of my constituents and the Palau Delegation, I hereby resign, effective upon the receipt hereof, as Chairman of the Committee on General Provisions, and shall hereafter serve in this Committee to the best of my ability as a regular member.

From: Tosiwo Nakamura, Delegate, Micronesian Constitutional Convention

MISC. COM. NO. 6 JULY 15, 1975

To: Hans Williander, Chairman, Committee on Style and Arrangement

In order for me to work effectively in the Committee on Style and Arrangement and the Micronesian Contitutional Convention on behalf of my constituents and the Palau Delegation, I hereby resign, effective upon the delivery hereof, as Vice Chairman of the Committee on Style and Arrangement, and shall hereafter serve in this Committee to the best of my ability as a regular member.

From: Johnson Toribiong, Delegate, Micronesian Constitutional Convention

MISC. COM. NO. 7 JULY 13, 1975

To: Delegates, Micronesian Constitutional Convention

In the midst of the work of our Extraordinary Regional Assembly, which is being held in Kansas City, we want to express our interest in the work of the Convention. As a group of religious women we are deeply concerned with the present and future of Micronesia. We expect that the Constitution will be geared to the values and the needs of all the Micronesian people. We hope that within the framework of the Constitution the Micronesian people can continue to strive in making a positive contribution to the society of nations in peace, unity and freedom.

We offer our support through our prayers and continued interest toward those who are involved in the great task of drafting the Constitution.

From: Delegates to Extraordinary Regional Assembly, Mercedarian Missionaries

MISC. COM. NO. 8 JULY 14, 1975

To: Leo Falcam, Pre-Convention Committee

Just a note to thank you for your wire inviting me to be present for the formal opening ceremonies of the Micronesian Constitutional Convention which took place in Saipan last Saturday.

I regret that because of pressing business before the Senate last week, it was impossible for me to leave Washington and travel to the Mariana Islands. But I'd like to take this opportunity to convey my warmest regards to all of the delegates and my very best wishes for a successful meeting.

From: The Hon. J. Bennett Johnston, Senator, United States Senate

MISC. COM. NO. 9 JULY 22, 1975

To: President, Micronesian Constitutional Convention

The Executive Committee of the Palau Legislature, a committee authorized to act on behalf of the Palau Legislature between sessions, has today met to again reiterate the position of the Palau Legislature and the people of Palau in the future State of Micronesia. The Palau Legislature and the people of Palau have always supported loose federation of the districts of Micronesian in the future State of Micronesia, as reflected in Palau District Legislature Resolution No. 7h(1)-9, Fifth Palau Legislature, Sixth Regular Session, in April 1975, copies of which are being sent for information of the Delegates to the Micronesian Constitutional Convention.

The Palau Delegates to the Micronesian Constitutional Convention again on July 18, 1975 in Saipan further detailed the position of Palau in seven points raised before the Micronesian Constitutional Convention. As Senator Lazarus Salii puts it, "...the conditions (the points raised by the Palau Delegates) did not spring out of a vacuum. They evolved over a period of time...", the people of Palau have always gone on record in the past to advocate loose federation of the districts of Micronesia in the future State of Micronesia.

We want to go on record again that we fully support the conditions raised by our Delegates to the Micronesian Constitutional Convention and if they are not met, the Palau District may not join the future Micronesian Government. There may be reliance on the part of other delegations that the last general referendum in Micronesia reflects the desires of the people of Micronesia toward Micronesian unity. But the number of votes cast in the referendum does not represent even half of the registered voters in Micronesia and should not be taken as an expression of the wishes of the people of Micronesia in the formation of the future Micronesian Government.

We request that this letter and copies of the attached resolution be included in the communication calendar of the Convention.

Hoping the people of Palau through their elected representative have expressed their wishes, I remain

From: Ibedbang Inaii, Chairman, Executive Committee of the Palau Legislature

MISC. COM. NO. 10

JULY 25, 1975

To: Carl Heine, Chairman, Committee on Civil Liberties

On behalf of the Saipan Women"s Association, we would like to offer our appreciation for the proposal which you presented recently to the Micronesian Constitutional Convention.

Although we are aware that the final product of the convention will not apply to the Marianas, we do feel that every effort at eliminating discrimination and bias based on sex and hindering the progress and development of all Micronesian people by holding back over half of the population from full participation in society and politics is to be supported fully.

Therefore, we, the Saipan Women's Association, wish to endorse the proposal and encourage your committee and the whole convention to give serious and positive support to the equal rights clause.

From: Agnes M. McPhetres, President, Saipan Women's Association

MISC. COM. NO. 11

JULY 29, 1975

To: President, Micronesian Constitutional Convention

Regrettably, Delegate Frank Nifon will not be able to participate at this Convention for the next several days due to the fact that he is gravely ill.

Therefore, with your approval, it is requested that he be returned to his home as soon as possible. Moreover, may I ask that a round trip ticket be purchased by Con Con to accommodate this emergency.

Let's hope for his speedy recovery.

From: Chutomu Nimwes, Chairman, Truk District Delegation

MISC. COM. NO. 12

AUGUST 12, 1975

To: President, Micronesian Constitutional Convention

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 commitment 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.

From: William Ngeriam, Delegate, Micronesian Constitutional Convention

MISC. COM. NO. 13 AUGUST 11, 1975

To: President, Micronesian Constitutional Convention

It is with great pleasure in honoring your request of August 9, 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 relationship 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.

From: Joaquin I. Pangelinan

MISC. COM. NO. 14 AUGUST 19, 1975

To: President, Micronesian Constitutional Convention

Attached is Working Paper No. 4 of the Committee on Governmental Functions which we request be distributed to all Delegates at the Convention as a Miscellaneous Communication of the Committee, rather than a formal Committee Report.

The Working Paper is in the form of a Committee Report and contains a comprehensive draft Committee Proposal setting forth the Committee's views as to the distribution of functions between the national and district governments. The report and proposal represent a consensus of the Committee regarding the distribution of most functions of government. The Committee is reporting in the form of a working paper rather than a formal Committee Report so as to allow further consideration during the recess of (a) the exact wording of the constitutional provisions contained in the draft proposal, (b) functions on which the Committee was unable to achieve consensus prior to the recess, and (c) reactions to the draft proposal from other delegates and their constituents. Immediately following the recess the Committee intends to formally report.

Your Committee requests that each Delegate in this Convention give this proposal the most serious consideration during the recess and communicate to any member of the Committee on Governmental Functions your reaction, for it is only through such a process that the Committee will be able to mold a proposal dealing with the controversial issue of decentralization which is satisfactory not only to the members of the Committee but to the Convention as a whole.

From: Hirosi Ismael, Chairman, Samuel Falanruw, Vice Chairman,
and eight members of the Committee on Governmental Functions

MISC. COM. NO. 15

SEPTEMBER 12, 1975

To: Alfonso Rasa

This is to inform you that the Marianas delegate seat to the Micronesian Constitutional Convention formerly occupied by the Honorable Joaquin T. Pangelinan was declared vacant by the Convention on August 18, 1975. Such vacancy was declared upon receipt by the Convention of Honorable Pangelinan's letter of resignation dated August 11, 1975.

Our records indicate that you were the second highest vote getter in the subject delegate election district in the Marianas. And pursuant to the provisions of Public Law No. 5-60, as amended, any vacancy occurring in a given delegate election district shall be filled by the candidate who received the second highest number of votes therein.

On behalf of the officers and delegates to the Micronesian Constitutional Convention, I hereby request that you submit your credentials as a delegate-elect to the said Convention for review.

Please be advised also that, in view of the transfer of your official duty station from Saipan to Ponape, the Convention will underwrite the cost of your travel from Ponape to Saipan. All efforts are being made to have the Convention office on Saipan purchase your airline ticket in order to enable you to travel to Saipan on Sunday's flight (September 14, 1975). In the event that we are unable to make the proper arrangements, we suggest you purchase your airline ticket for reimbursement later upon your arrival on Saipan.

We look forward to seeing you in Saipan soon.

From: Tosiwo Nakayama, President, Micronesian Constitutional Convention

SEPTEMBER 15, 1975

To: Tosiwo Nakayama, President, Micronesian Constitutional Convention

This is to inform you that I hereby accept the Convention's offer to fill the seat of Joaquin Pangelinan, which has been declared vacant.

I will submit my credentials as delegate-elect on Monday, September 15, and expect a full review then.

In view of the recent transfer of my duty station from Saipan to Ponape, I expect the Convention to underwrite my travel costs and other expenses while on Saipan.

From: Alfonso Rasa

MISC. COM. NO. 16

SEPTEMBER 8, 1975

To: Tosiwo Nakayama, President, Micronesian Constitutional Convention

As the Micronesian Constitutional Convention recesses at the mid-point of its deliberations, I would like to take the opportunity to express to you and the other delegates of the convention the interest and support of the Office of Territorial Affairs and the entire Department of the Interior in the important work which you are doing.

We in Washington are following the press releases which are issued by the convention but have not taken any part in the proceedings, feeling rather that the work you are doing toward the formation of a future Micronesian government is a matter for the people and leaders of Micronesia themselves. The Constitutional Convention is, I believe, a major stride in self-government.

As the delegates return to their home islands for consultation with their constituents, and when they return for the remainder of the convention, please assure them of our continued support and interest.

From: Fred M. Zeder, Director of Territorial Affairs, United States Department of the Interior

MISC. COM. NO. 17

To: Tosiwo Nakayama, President, Micronesian Constitutional Convention

The Conference of Micronesian Protestant Church Leaders held in Ponape from September 8 through 13, 1975 hereby submits its report in the form of four resolutions.

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 our 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.

From: Mack Williams, Liaison Officer
(Done for and by order of the Conference of Micronesian Protestant Church Leaders. Action taken September 13, 1975.)

MISC. COM. NO. 18 SEPTEMBER 26, 1975

To: Tosiwo Nakayama, President, Micronesian Constitutional Convention

Re: Delegate Proposal No. 155

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 these 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.

From: (Delegate) Nanniken Heinrich Stephen

MISC. COM. NO. 19

OCTOBER 2, 1975

To: Tosiwo Nakayama, President, Micronesian Constitutional Convention

I am pleased to forward to you the name of Mr. Alonzo Igisomar of Saipan, as a delegate to the Micronesian Constitutional Convention representing the Carolinian Community in place of Dr. Francisco Palacios, who has failed to attend.

As this matter rests with your Convention, I recommend that Mr. Igisomar be seated accordingly.

From: Francisco C. Ada, District Administrator, Mariana Islands District

MISC. COM. NO. 20

OCTOBER 9, 1975

To: Tosiwo Nakayama, President, Micronesian Constitutional Convention

There seems to be a question as to the interpretation of my letter to you dated October 2, 1975, appointing Mr. Alonzo Igisomar to replace Dr. Francisco T. Palacios.

This letter will clarify any doubts, I hope. The United Carolinian Association of Saipan recommended Mr. Alonzo Igisomar to fill the seat of Dr. Francisco T. Palacios declared vacant by the Convention. Upon such recommendation by the Carolinian Association, I hereby appoint Mr. Alonzo Igisomar to fill that vacated seat.

I recommend that the Convention seat him accordingly.

From: Francisco C. Ada, District Administrator, Mariana Islands District

MISC. COM. NO. 21 OCTOBER 10, 1975

To: Tosiwo Nakayama, President, Micronesian Constitutional Convention

Due to personal health, I respectfully submit my resignation as delegate to the Micronesian Constitutional Convention to take effect Monday, October 13, 1975.

I want to thank each and every one of the delegates and staff for their kind assistance, friendship and courtesies extended to me. I wish you all well, happiness, and a very, very successful Constitutional Convention.

From: Jose R. Cruz

MISC. COM. NO. 22 OCTOBER 10, 1975

To: Tosiwo Nakayama, President, Micronesian Constitutional Convention

It is uncomfortable to be critical of the honest and tremendous amount of work of the Drafting and Research sections of the Micronesian Constitutional Convention whose joint effort has made this Convention a success to date. On the whole, they are doing quite a laudatory job, and this should be formally recognized by the Convention in due time. Some discrepancies, however, ought to be officially brought to your attention and to the attention of both the Drafting and Research staffs as well:

1. When the Civil Liberties Committee reported out to the Convention its proposal on the freedom of "expression", some Delegates felt that "customs" should prevail over the free exercise of such a freedom. We asked, through our interpreters, that the drafting section provide us assistance with respect to an amendment which would provide the prevalence of "customs" over the free exercise of some basic freedoms. Much to our dismay, our interpreters were flatly told that such could not be done.

2. When the Committee of the Whole was heatedly debating the issue of eminent domain, Delegate Mwoty dispatched his interpreter to request of the drafting section to do a draft amendment that would flatly deny the power of eminent domain. Delegate Mwoty's interpreter was flatly told by a member of the staff that the amendment requested could not be done. Hence, Delegate Mwoty went ahead by having his interpreter draft an amendment which was hand carried to one of the secretaries for typing. The secretary inquired whether the Drafting staff had an opportunity to look over the draft amendment. Of course, the reply was that the Drafting staff was being avoided. At any rate, the draft amendment was eventually brought to the Drafting Section and Delegate Mwoty was summoned to explain what he intended. Finally, the amendment was drafted in the form desired, but it took an awful lot of precious time away.

3. Delegate Proposal No. 140 was introduced by Populsom Fichita Bossy and Delegate Soiter Mwoty. Its intention was put in writing and was thoroughly expounded to the people in the Drafting Section by their interpreters. To be redundant, the intention of the said proposal is to limit our future judges to decide court cases in the future, basing their decisions only on this Constitution and laws enacted thereunder, our own Micronesian customs and traditions and whatever relevant aspects of our Micronesian lifestyles. Thus, it becomes necessary that our future judges be prohibited from using any case decided prior to the effective date of this Constitution. It further prevents our future judges from reading into our Constitution outside laws which many times are ill-fitting to our Micronesian situations of life. In short, it tries to make sure that our Constitution is interpreted in light of what we, the Delegates and our people, want—free from interpretations of any other Constitutions.

Please carefully digest Delegate Proposal No. 140, and satisfy yourself with the distorted meaning of the original intent.

4. Committee Report No. 23 relative to Committee Proposal No. 14; Committee Report No. 11 relative to Committee Proposal No. 9; An Explanation of Amendment No. 1 relative to Committee Proposal No. 4; and Committee Report No. 2 relative to Committee Proposal No. 1 all use U.S. cases for explanations and clarifications that are purely U.S. in meaning, intent and circumstances.

Reports such as these are made permanent records of the Convention. These records will become a useful tool of the Micronesian courts in the future for researching the precise meaning of terms and intent of this Constitution, and such meaning and intent will be used as bases for courts' interpretations of this Constitution.

It has been said before, and it should be said again, that admiration is in order for the expression of absolute faith by some Delegates in the U.S. Constitution. However, the U.S. Constitution is a masterpiece with respect to U.S. ideologies, special conditions and the total environment. Such a masterpiece of work was not carved out to take into consideration Micronesian peculiarities.

Mr. President, at the appropriate time, I will make a motion to strike from all records of this Convention all references to U.S. common law. This Convention has never been provided briefs of these cited cases, and we are not even sure whether they have been shepherdized to ensure that the rulings are up to date.

In summation, the good work of both the Drafting and Research sections are to be highly commended, but they must be alerted that they are here to do what the duly elected Delegates ask them to do, not to tell the Delegates what they should do.

From: Soiter Mwety and Popuisom Fichita Bossy

MISC. COM. NO. 23

OCTOBER 13, 1975

To: Tosiwo Nakayama, President, Micronesian Constitutional Convention

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.

From: Norman Meller, Director, Research and Drafting,
Micronesian Constitutional Convention

PETITION NO. 1

PALAU DELEGATION
OUTLINE OF POSITION

JULY 18, 1975

I. 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(s) of Micronesia:

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

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

   b. 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.

   c. 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:

      i. international relations and national defense

      ii. immigration, international travel, and postal service

      iii. international and inter-district transportation and communication

      iv. international and inter-district trade and commerce

      v. 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. The central legislative authority of Micronesia shall be unicameral in structure consisting of equal number of representatives from each district--equal district representation.

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

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

   b. ownership and use of land by foreign governments, corporations, national 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 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.

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

   a. 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:

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

      ii. air and ocean transportation and communication business transactions and activities.

   b. 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 in 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 final consideration and approval.

Signed by 8 members of the Palau Delegation

CHAPTER 1. GENERAL PROVISIONS

Rule 1. Convening Day. On the convening day, the President of the Senate of the Congress of Micronesia, in his capacity as acting-President of the Convention, shall take the Chair and call all persons present to order. The Convention shall then proceed to organize in the following manner:

a) consideration and adoption by a majority of the Delegates-elect and select present of the report on Delegate credentials to be submitted by the Pre-Convention Committee, based on the recommendations of the Credentials Committee appointed pursuant to Public Law No. 6-24. If any Delegate was selected after May 15, 1975, a Special Credentials Committee shall be appointed by the acting-President, and the Convention shall stand in recess until it can receive and adopt the report of the Special Credentials Committee on his seating;

b) adoption of the Rules of Procedure of the Convention by a majority vote of the Delegates present;

c) election of the Convention President and other officers provided for in the Rules.

Rule 2. Quorum. Two-thirds of the seated Delegates to the Convention shall constitute a quorum for the transaction of business unless otherwise provided by law. A smaller number may adjourn from day to day, and may compel the attendance of absentees by any means adopted by a majority of the Delegates present, and may fix penalties for non-attendance. The Convention President may declare a meeting of the Convention adjourned if no quorum is present at the hour of opening. For purposes of ascertaining whether a quorum exists, the President shall count, or direct the Convention Secretary to count, the Delegates present.

During a meeting of the Convention any Delegate may call upon the President to determine whether a quorum exists or not, and the President shall so determine and announce his finding. No Delegate shall be absent from a meeting of the Convention without leave of his delegation chairman, subject to appeal to the Convention. The name of a Delegate not present to answer a quorum count, and not excused by his delegation chairman who shall report such absences to the President, shall be noted on the Journal of the Convention as "absent without leave" and any such Delegate who is absent without leave shall receive no compensation for that day.

Rule 3. Admission to Floor--Defined. No person, other than a Delegate, an officer or employee of the Convention shall be admitted on the floor of the Convention for a period of 15 minutes immediately preceding the time set for any call to order, during any session of the Convention, and for 10 minutes immediately following adjournment, unless invited or approved by the President. All persons granted admission to the floor during this period shall be known to the Sergeant-at-Arms to be entitled to admission to the floor, and persons who must be introduced shall be admitted on the floor only upon the personal request of a Delegate each time such courtesy is granted. The words "floor of the Convention" means the space of the main floor of the Convention, excluding the space designated for visitors and for the press.

Rule 4. Bar of the Convention--Defined. Any Delegate, having answered roll call at the opening of any session, or having entered upon the floor of the Convention after roll call, shall thereafter be deemed as present until leave of absence is obtained from the Convention. Any Delegate present at

any session shall continue to be present if he shall be within the bar of the Convention. The words "within the bar of the Convention" mean the space occupied and used by the Convention, or any committee or other room attached thereto, and used in connection with conducting the business of the Convention.

CHAPTER II. OFFICERS AND EMPLOYEES

Rule 5. Officers of the Convention. The President shall be elected by a majority vote of the Delegates by secret ballot. If no nominee receives a majority, and there are three or more candidates, the name of the one receiving the lowest number of votes cast shall be removed from consideration before further balloting. In any event, thereafter the polling shall be continued in this manner until a nominee is elected by a majority of the Delegates. Each delegation, in alphabetical order, shall nominate one or more of its Delegates for Vice-President. Upon the completion of the first delegation's nomination, the Delegates shall cast a secret ballot; the Delegate receiving the largest number of votes shall be declared elected. Thereafter, the process shall be continued until all six Vice-Presidents have been elected. The Floor Leader shall be elected in the same manner as the President. 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.

Rule 6. The President. The President shall take the Chair each day at the hour to which the Convention shall have adjourned or recessed. He shall call the Convention to order and, except in the absence of a quorum, shall proceed to business in the manner prescribed by these rules. He shall preserve order and decorum; confine members to the question and prevent personal reflections in debate; speak to points of order and shall decide questions of order, subject to an appeal to the Convention. When two or more Delegates seek recognition at the same time, the President shall name the Delegate who is first to speak. The President shall appoint all committee members, except where the Convention shall otherwise order. All appointments made by the President shall be announced to the Convention. He shall refer proposals and other Convention documents to the appropriate committee for consideration and action and certify with the Secretary of the Convention all official acts of the Convention. The President, or his designee, in the name of the President, with the Convention Secretary, shall certify all vouchers for the payment of the expenses of the Convention. The President shall authorize the admission of non-Delegates into the Convention Hall, subject to appeal to the Convention; declare the vote and announce the results on all questions and decisions; oversee the administration of the business of the Convention; and perform such duties as may be required by law, these rules, and as may properly appertain to the Office of the President.

Rule 7. Naming of Acting President. The President may appoint any Delegate to perform the duties of the Chair, but not for a longer time than one day without leave of the Convention.

Rule 8. Naming of Chairman of the Committee of the Whole. When the Convention shall have decided to go into the Committee of the Whole, the President shall name a Chairman to preside therein.

Rule 9. Voting by the President. The President may vote in all elections, on all divisions called for by any Delegate, and on all questions, except on appeals from his decision.

Rule 10. Vice-President--Duties and Powers. In the absence of the President from the Chair, a Vice-President shall exercise the powers and perform the duties of the President, and shall preside over the Convention. The Vice-Presidents shall daily rotate the duties and powers of the office among themselves in the alphabetical order of the first letter of their surnames.

Rule 11. Convention Secretary--Roll Call. The Convention Secretary shall attend the Convention each day when the Convention is in session unless excused by the President. He shall have charge of all the records of the Convention and be responsible for the same, and shall not permit original documents to be withdrawn from his keeping unless ordered by the President; he shall authenticate the signature of the President on all official acts, and countersign vouchers for the expenses of the Convention. He shall perform such other duties as are required of him by law, these rules, and the Convention. The Convention Secretary may delegate the authority to perform any or all of his duties, except for certification of official acts, documents and vouchers.

The Convention Secretary shall call the roll at the opening of each session of the Convention and announce whether or not a quorum is present. He shall announce the names of the Delegates absent with leave of the Convention, and the names of Delegates absent without leave, and enter the names of all absentees upon the Journal.

Rule 12. Invocation. Unless otherwise directed by the President, and arranged by the Convention Secretary, each session of the Convention shall be opened by a moment of silent prayer.

Rule 13. Publication, Distribution, and Correction of Journal. The Convention Secretary shall keep a verbatim Journal of the Plenary Session proceedings of the Convention in conformity with the rules; supervise the daily publication thereof, and make such corrections as may be necessary. On each session day he shall furnish each Delegate a duplicated copy of the proceedings of the previous day. The Journal shall be considered the approved Journal of the Convention, unless otherwise ordered.

Rule 14. Daily List of Business. The Convention Secretary shall daily furnish each Delegate with a list of the business on his desk and a calendar of the Delegate proposals introduced showing their reference.

Rule 15. Printing and Care of Proposals. The Convention Secretary shall attend to the printing of all proposals, resolutions, and documents ordered printed by the Convention. The Convention Secretary shall give a number to each Delegate proposal and each resolution when introduced, in the order received. When proposals are reported from committees, they shall be called "Committee Proposals", shall be printed, and shall be given a Committee Proposal number in the order received. The Convention Secretary shall cause to be printed at the head of the Committee Proposal the name of the committee which reported the same and the character and number of any report of the committee respecting the proposal. The Convention Secretary shall be responsible to the Convention for the care and preservation of each Delegate proposal introduced into the Convention and each Committee Proposal. Committee Proposals shall be kept on file in order by their proposal numbers, unless otherwise ordered by the Convention, and such file shall be called the Committee Proposal File.

Rule 15a. Safeguarding and Preservation of Convention Records. The Convention Secretary shall be responsible for the care and preservation of all records, documents, and papers of the Convention. After the adjournment of the Convention, he shall deliver such materials to the Clerk of the Senate of the Congress of Micronesia for safekeeping. All such materials shall remain in the custody of the Clerk of the Senate, and be treated in the same manner as records of the Senate until such time as an Archives for Micronesia is created, when they shall be permanently located in the Archives. Whether in the custody of the Convention or the Senate of the

Congress of Micronesia, all records, documents, and papers of the Convention shall be treated as "government property" as that term is used in 11 TTC Sec. 1405, Possession or Removal of Government Property.

Rule 16. Responsibility for Convention Hall. The Convention Secretary shall exercise supervisory care and control of the Hall of the Convention and all Convention rooms and equipment. The Convention Secretary, subject to review by the Committee on Administration, shall oversee the purchase or rent of all necessary equipment, supplies, and postage; arrange for postal, telephone, and telegraph service; and supervise the performance of the administrative staff of the Convention.

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.

Rule 18. Sergeant-at-Arms. The Sergeant-at-Arms shall be the chief police officer of the Convention. He shall have charge of such assistants as the Convention authorizes. He shall attend to the adequacy of the seating arrangements, lighting, and ventilation of the Convention Hall, committee rooms, and connecting passageways. He shall have authority to serve subpoenas and warrants issued by the Convention or any duly authorized officer or committee of the Convention, or cause the same to be done by his assistants, or by duly constituted police officers as may be provided by law. He shall see that all visitors are seated and that they are at no time standing on the floor of the Convention while in session. He shall attend the Convention every meeting day, unless excused by the President, maintain order among those present as spectators; give notice to the presiding officer of the attendance of any person with communications or otherwise; attend any committee meeting if so requested; and generally execute all other requirements of his office.

Rule 19. Floor Leader. It shall be the duty of the Floor Leader to propose routine motions which contribute to the orderly and speedy conduct of business, to act as floor manager in aid of the adoption of a proposal or a resolution when another Delegate does not assume this task, and otherwise perform such other duties as the President or the Convention may designate.

Rule 20. Employees. The Convention, by resolution, shall designate employee positions and job descriptions, provide salary scales, and provide for the appointment of employees under the authority of the Convention Secretary.

CHAPTER III. MEMBERS

Rule 21. Conduct in Debate. When any Delegate is about to speak in debate or present any matter to the Convention, he shall seek recognition in an appropriate manner, and respectfully address himself to "Mr. President." After being recognized, he shall confine himself to the question under debate, and avoid personalities.

Rule 22. Members Called to Order. If any Delegate in speaking transgresses the rules of the Convention, the President shall, or any Delegate may, call him to order; in which case the Delegate so called to order shall immediately stop speaking and shall not begin to speak again unless to explain or proceed in order.

Rule 23. Times Delegates May Speak. No Delegate may speak more than

twice on the same question in Plenary Session without leave of a majority of the Delegates present and voting, unless he be the mover of the matter pending or Chairman of the Committee that reported it, in which case he shall be privileged to speak three times.

Rule 24. Conduct on the Floor. While the President is putting any question, or while the roll is being called or taken by the Convention Secretary, no Delegate shall walk out of or cross the Convention Hall nor in such cases, or when a Delegate is speaking, shall any Delegate entertain private conversation or pass between the speaker and the Chair.

Rule 25. Contest of Election or Selection. No protest or petition objecting to the election or selection of any Delegate whose credentials have been approved by the Credentials Committee before May 15, 1975, and accept by the Pre-Convention Committee, shall be received or considered once the Convention has adopted the recommendations of the Pre-Convention Committee. No protest or petition objecting to the selection of any Delegate subsequent to May 15, 1975, shall be received or considered, after the credentials of such Delegate are approved by the Convention upon the recommendation of a Special Credentials Committee of the Convention.

CHAPTER IV. COMMITTEES

Rule 26. Types of Committees. There shall be standing committees of the Convention whose functions, duties, and memberships shall be as provided by these rules. In addition to the Special Conference Committee, special committees may be established by the President or by the Convention, as required, to consider and report on such special or temporary assignments as shall be referred to them. The President may fill vacancies in committees from time to time as may be required.

a) Special Conference Committee. The Special Conference Committee shall be composed of 12 Delegates, 2 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. Appointment of Delegates by the President to serve on this committee shall, to the extent possible, accommodate distinguishable political, cultural, and geographical factors within the respective districts. It shall be the duty of this committee to meet on the call of the President and to consider and recommend solutions to such fundamental jurisdictional and substantive questions as are referred to it by the President or by the Convention.

Rule 27. Subject Matter and Procedural Committee. There shall be not less than five subject matter and two procedural committees whose duties, functions and memberships shall be as specified herein.

Subject Matter Committees

a) Committee on Civil Liberties. The Committee on Civil Liberties shall be comprised of not more than 13 Delegates, including at least one Delegate from each of the districts of the Trust Territory. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to traditional and customary rights; civil and criminal law protections; due process of law, equal protection of the law, and privileges and immunities vested in Micronesian citizenship; suffrage and elections; and other related matters.

b) Committee on Public Finance and Taxation. The Committee on Public Finance and Taxation shall be comprised of not more than 13 Delegates, including at least one Delegate from each of the districts of the Trust Territory. It shall be the duty of this committee to consider all

proposals and other matters referred to it by the President and by the Convention relating to taxation and finance, indebtedness ceilings, levy of duties or tariffs on imports and exports, control of international commerce, establishment of a national treasury, control of banks, revenue laws and other related matters.

c) Committee on Governmental Structure. The Committee on Governmental Structure shall be comprised of not more than 17 Delegates, including at least one Delegate from each of the districts of the Trust Territory. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to the structure of the central government of Micronesia, including the nature and composition of that government, separation of powers, the size, nature and composition of each branch (where applicable), apportionment of the legislature, and other related matters. It shall also be the duty of this committee to consider all proposals and other matters relating to the Micronesia-wide public civil service system, the structure of the court system and its jurisdiction, and other related matters.

d) Committee on Governmental Functions. The Committee on Governmental Functions shall be comprised of not more than 16 Delegates, including at least one Delegate from each of the districts of the Trust Territory. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to the functions to be exercised by government in Micronesia and the powers vested in and limitations imposed on the central government with respect thereto; central/local relations and division of functions; sharing of powers among the district and municipal governments; application of the national constitution to the districts and other related matters.

e) Committee on General Provisions. The Committee on General Provisions shall be comprised of not more than 14 Delegates, including at least one Delegate from each of the districts of the Trust Territory. It shall be the duty of this committee to consider all proposals and other matters referred to it by the President or by the Convention relating to the relations of Micronesia to the United States, other nations, and international bodies; territorial jurisdiction; citizenship and naturalization; transitional provisions; revision and amendment of the Constitution, and other related matters.

A subject matter committee may consider and investigate legislation relating to any subject within its jurisdiction which it will recommend be adopted by the national legislature as an accompanying constitutional statute to facilitate the operation of the Constitution.

Procedural Matters

f) Committee on Style and Arrangement. The Committee on Style and Arrangement shall be comprised of 12 Delegates, 2 from each district. It shall examine, consider and edit all proposals referred to it for inclusion in the Constitution for the purposes of avoiding inaccuracies, repetition, inconsistencies or poor drafting, and shall consider and make recommendations on any differences, conflicts or unresolved matters of substance. The committee shall have the authority to rephrase language and to regroup sections proposed for inclusion in the Constitution, but shall have no authority to change the sense or purpose of any proposal referred to it. The committee shall also have the power to recommend re-referral of Committee Proposals submitted to it back to the originating committee. It shall undertake to resolve any inconsistency or conflict in conference with the originating committee. If the committee shall fail to resolve any such inconsistency or conflict, it shall notify the Convention and await its instructions.

c) Committee on Administration. The Committee on Administration shall consist of the chairman of the other six standing committees, the chairman of the Special Conference Committee, and all officers of the Convention who are Delegates. The President of the Convention shall serve as chairman of this committee and the vice-chairman shall be elected by the committee members. While not a member of the committee, the Convention Secretary shall be responsible for carrying into effect the decisions of the committee. The committee shall facilitate the work of the Convention, including the coordination of the activities of the other committees, and reviewing the business, financial, personnel and logistical affairs of the Convention.

Rule 28. Members Entitled to Serve on Committees. No Delegate who serves as a member of either the Committee on Governmental Functions or the Committee on Governmental Structure shall serve as a member on any other standing committee, except the Committee on Style and Arrangement. The remaining Delegates shall serve on no more than two standing committees; provided, however, that no such Delegate shall serve at the same time on the Committee on Public Finance and Taxation and on the Committee on Civil Liberties, and that no such Delegate shall serve at the same time on the Committee on General Provisions and the Committee on Style and Arrangement. Additionally, the President may meet with any standing or special committee as an ex officio member, without the voting privilege.

The limitations imposed by this rule on committee membership shall not be construed as limitations on membership of the Committee on Administration.

Rule 29. Chairman of Committee. The first named Delegate of any committee shall be the temporary chairman of such committee and the second named Delegate shall be vice-chairman until the committee at its first duly called meeting shall, by a majority of its number, elect a chairman and a vice-chairman of its choice. When a committee shall elect a chairman and vice-chairman, it shall make a report of such election to the Convention. Each committee shall meet at the call of its chairman or upon the written request of a majority of its members. A record roll call vote on any matter before a committee shall be taken on demand of any Delegate member of the committee. Each committee shall maintain a summary journal of its proceedings and a business schedule, both of which shall be available to the Delegates, news media and interested members of the public. In case of a vacancy or the prolonged absence of the chairman and vice-chairman, the President of the Convention may appoint an acting-chairman to serve in such capacity. The chairman of the committee may place under oath or affirmation any person who appears before the committee to testify on any matter pending before the committee.

Rule 30. Sitting of Committees During Session of the Convention. No committee shall sit during the sessions of the Convention, unless it receives special leave of the Convention, by a majority vote of the Delegates present.

Rule 31. Power to Incur Expenses. No committee or Delegate shall incur any expenses chargeable to the Convention unless authorized in accordance with the provisions of these Rules or by the Convention.

Rule 32. Subcommittees of Committees. A committee, by a majority vote of its Delegate members, may provide for the appointment of sub-committees composed of Delegates named to the committee. Reports of subcommittees shall be considered by the entire committee before recommending any action thereon by the Convention.

(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.)

Rule 33 was rescinded 9-23-75

Rule 34. Report of Committees. A majority of the members appointed in a committee shall be necessary to report a Committee Proposal out of committee. (The report of a minority of any committee shall be received, printed in the same manner as the majority report, and treated as an amendment to or substitute offered for the report of the committee.) All Committee Proposals favorably reported by a committee to the Convention shall go to the First Reading File.

Rule 35. Powers of Committees. Committees shall have the right to hold public hearings and to take testimony under oath or affirmation. Before a committee shall hold any hearing or meeting at a location other than where the Convention is meeting, the consent of the President shall first be obtained. A committee shall have the power to subpoena documents and witnesses. A committee may grant the powers here authorized to any sub-committee.

Rule 36. Consideration of Proposals With or Without Committee Recommendation. 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.

CHAPTER V. COMMITTEE OF THE WHOLE

Rule 37. Passage of First Reading. After passing First Reading, all Committee Proposals shall be placed on the Calendar for Second Reading on the following day, to be considered first in the Committee of the Whole.

Rule 38. Consideration of Proposals. When the Convention shall have arrived at the Second Reading of Committee Proposals, it shall resolve itself into the Committee of the Whole if directed by a majority vote of those Delegates present. No other business shall be in order until all Committee Proposals on the Calendar for Second Reading are considered or passed, or the committee rises. Unless a particular proposal is ordered to be given priority, the Committee of the Whole shall consider and act upon each Committee Proposal on the Calendar for Second Reading according to its order of reference.

Rule 39. Unfinished Consideration of Committee Proposals. All Committee Proposals on the Calendar for Second Reading not disposed of shall be automatically continued to the next day and shall take their places at the head of the Calendar for Second Reading of Committee Proposals for that day in the order of their precedence on the prior day.

Rule 40. Readings; Debate; Amendment. In the Committee of the Whole, proposals shall first be read in their entirety by the Convention Secretary and then read, debated, and acted upon by clauses. All amendments shall be entered on separate paper and reported to the Convention by the chairman when the entire Committee Proposal is reported.

Rule 41. Motion that Committee Rise. A motion that the Committee of the Whole rise shall always be in order and shall be decided without debate by a majority vote of those present. If consideration of a Committee Proposal has not been completed, when the Committee of the Whole next sits it shall further consider that unfinished proposal.

Rule 42. Reconsideration. A motion to reconsider shall be in order in the Committee of the Whole by a majority vote of those present.

Rule 43. Application of Convention Rules. The rules of the Convention shall be observed in the Committee of the Whole, so far as they may be applicable; provided, however:

a) no motion to adjourn the Convention shall be in order.

b) no motion for the previous question shall be in order.

c) no roll call vote shall be called.

d) no referrals shall be made to any other committee.

e) no motion to postpone indefinitely shall be in order.

f) no limitation on the number of times a Delegate may speak shall apply.

A summary journal of the proceedings in the Committee of the Whole shall be kept by the Secretary and shall include, among other things, a concise and complete memorandum of motions, amendments and other related matters.

CHAPTER VI. TRANSACTION OF BUSINESS

Rule 44. Order of Business. The order of business of the Convention shall be as follows:

1. Call to Order
2. Silent Prayer
3. Roll Call
4. Communications from the Trust Territory Government
5. Petitions, memorials and other communications
6. Reports of special committees
7. Reports of standing committees
8. First Reading of Committee Proposals
9. Second Reading of Committee Proposals
10. Consideration of Resolutions
11. Introduction and referral of Delegate proposals
12. Special Orders
13. Miscellaneous and Unfinished Business
14. Announcements

If any matter is not considered in its appropriate order, it shall lose its precedence for the day but shall appear in the Order of Business of the following day in its regular order. Any matter may be made a special order of business for any particular day or time by a majority vote of the Delegates present.

Rule 45. Petitions--Printing in Journal. No petition, memorial, or other comparable communication shall be read or printed in full in the daily Journal unless ordered read or printed by a majority vote of those present.

Rule 46. Stating Motions. When a motion is made and seconded, it shall be stated by the President; or, if in writing, it shall be handed to and read aloud by the Convention Secretary before being debated.

Rule 47. Reduced to Writing. Every motion shall be reduced to writing if the President or any Delegate shall request it, and shall be entered upon the Journal, together with the name of the Delegate making it, unless withdrawn or ruled out of order by the President.

Rule 48. When in Possession; Withdrawal. After a motion has been stated by the President or read by the Convention Secretary, it shall be deemed to be in the possession of the Convention, but may be withdrawn by the maker of the motion at any time before being amended or put to a vote.

Rule 49. Precedence of Motions. When a question is under debate, no motion shall be received but:

1. to adjourn--not amendable or debatable

2. to take a recess--not amendable or debatable

3. to lay on the table--not amendable or debatable

4. for the previous question--not amendable or debatable

5. to postpone to a day (and time) certain--amendable and debatable

6. to commit--amendable and debatable

7. to amend--amendable and debatable

8. to postpone indefinitely--amendable and debatable

Such motions shall take precedence in the order in which they stand arranged, and shall be decided by a majority vote of those Delegates present. When a recess is taken during the pendency of any question, the consideration of such question shall be resumed upon reassembling unless otherwise determined. No motion to postpone to a day certain, or to commit, after once being decided, shall be again allowed on the same day and at the same stage of the question.

Rule 50. Motions in Order, Debatable. Except when a vote is being taken, a motion to adjourn shall always be in order. A motion to adjourn, a motion to take a recess, a motion to lay on the table, a motion for the previous question, and all matters relating to questions of order shall be decided without debate.

Rule 51. Order of Putting Questions. All questions shall be put in the order they were moved, except 1) in the case of privileged questions which have precedence, and 2) in the case of the filling up of blanks, where the largest sum and the longest time shall be first put.

Rule 52. Amendments to be Germane. No motion or proposition on a subject different from that under consideration shall be admitted under the guise of an amendment or substitute.

Rule 53. Division of Question. Any Delegate may call for a division of the question, which shall be divided if it contains propositions in substance so distinct that one being taken away, a substantive proposition shall remain for the decision of the Convention. A motion to strike out and insert shall be deemed indivisible.

Rule 54. Motions for the Previous Question--Method of Ordering. The method of ordering the previous question shall be as follows: Any Delegate may move the previous question and, unless otherwise stated in the motion,

it shall apply to the pending question only. This being seconded by at least ten Delegates, the Chair shall put the question, "Shall the main question now be put?". This shall be ordered only by a majority of the Delegates present. After the seconding of the previous question and prior to ordering the same, a Call of the Convention may be moved and ordered, but after ordering the previous question nothing shall be in order prior to the decision of the pending question or questions, except demands for a roll call vote, points of order, appeals from the decision of the Chair, and a motion to adjourn, to take a recess, or to lay on the table, all of which shall be decided without debate. The effect of the previous question shall be to put an end to all debate and bring the Convention to a direct vote upon the pending question or questions in their order down to and including the main question. Amendments on the Convention Secretary's desk not yet moved shall be deemed disposed of. When a motion to reconsider is taken under the previous question and is decided in the affirmative, the previous question shall have no operation upon the question to be reconsidered. If the Convention shall refuse to order the previous question, consideration of the subject shall be resumed as though no motion for the previous question had been made.

Rule 55. Motion for Reconsideration. Any Delegate voting with the prevailing side may move for a reconsideration of any question at the same or next succeeding session of the Convention, or the Committee on Style and Arrangement may move for reconsideration on any subsequent day if two days' notice of its intention to do so is given in writing to the Convention Secretary, which shall be included in the Journal. A motion to reconsider shall take precedence over all other questions, except a motion to adjourn and a motion to recess. No motion to reconsider shall be renewed on the same day.

Rule 56. Motion for Calls of the Convention--Ordering Calls of the Convention. Calls of the Convention may be ordered upon motion by a majority of the Delegates present. A motion for a Call of the Convention shall not be entertained after the previous question is ordered.

Rule 57. Procedure. After a Call of the Convention is ordered the doors shall be closed and the Delegates shall not be permitted to leave the floor of the Convention without permission of the Convention. The Sergeant-at-Arms shall notify all Delegates within the bar of the Convention of the Call. The roll of the Convention shall be called by the Convention Secretary and the absentees noted. The Sergeant-at-Arms may, upon motion, be dispatched after the absentees. In such case a list of the absentees shall be furnished by the Convention Secretary to the Sergeant-at-Arms, who shall bring such absentees to the floor of the Convention with all possible speed. In case the Sergeant-at-Arms shall require assistance in addition to the regularly appointed Assistant Sergeants-at-Arms of the Convention, the President may, upon motion, deputize any person properly qualified as a special Assistant Sergeant-at-Arms. The Convention may proceed to business under a Call of the Convention pending the arrival of any absentees.

CHAPTER VII. PROPOSALS

Rule 58. Introduction. Matters intended to become a part of the Micronesian Constitution may be presented by a Delegate or a group of Delegates in the form of a proposal and endorsed by the Delegate or Delegates introducing it. Four copies of any proposal shall be handed to the Convention Secretary not later than three hours prior to calling the Convention to order for the day. All proposals shall be introduced in accordance with the form prescribed by the Convention Secretary and

these rules. Proposals shall be printed and distributed under the direction of the Convention Secretary.

Where a proposal embraces subject matter which falls within the proper jurisdiction of several committees, the President (where applicable) shall divide the proposal and refer the parts to the appropriate committees of the Convention. If the proposal is not subject to such division, however, the President shall refer proposals to an appropriate committee with instructions to consult with other committees on related matters.

Rule 59. Order of Consideration.

a) Upon the introduction of a Delegate proposal, it shall be read by title, referred to a committee, and ordered printed and distributed, unless otherwise ordered by a majority of the Delegates present.

b) The regular order to be taken by a Committee Proposal shall be as follows:

1. Report of standing committee received, with appended Committee Proposal, and report placed on order of business.

2. Upon acceptance of committee report, Committee Proposal given First Reading by title and passed for Second Reading consideration on a subsequent day.

3. Upon the Convention reaching Second Reading File, consideration of Committee Proposal in Committee of the Whole in order of reference.

4. Report by the Committee of the Whole, including request for submission of its report on the Committee Proposal to the Committee on Style and Arrangement.

5. Report of Committee on Style and Arrangement, with style amendments (if any) recommended.

6. Second Reading, and vote on passage of Committee Proposal.

7. Re-reference of adopted Committee Proposal to Committee on Style and Arrangement, to be included in final draft of Constitution.

8. Report of Committee on Style and Arrangement of its complete revision of all Committee Proposals, and of any proposed amendment.

9. Reference to Committee of the Whole for consideration, article by article, and then as a whole, of any complete revision, and consideration of any proposed amendment by sections.

10. Report by the Committee of the Whole and placing on Special Order.

11. Final reading and passage of complete revision, article by article, and then as a whole, or in the case of any amendment, by sections and as a whole.

Rule 60. Voting. Except as provided elsewhere, either in legislation creating the Constitutional Convention or in these rules, the adoption of any motion or matter by the Convention shall require the affirmative votes of a majority of the Delegates present, and such vote shall be taken by voice vote. Nothing in this rule shall abridge the right of a Delegate to record his vote on any question previous to the announcement of the result.

On passage of Committee Proposals on Second Reading, and on passage of any constitutional provision on Final Reading, the vote shall be taken by roll call vote and entered in the Journal. No such provision shall be declared passed except by the affirmative votes of not less than three-fourths of the Delegates present in the Convention, a quorum being present. Abstentions shall not be counted as an affirmative vote in determining the result of a vote by the Convention on such constitutional provision. Before the vote on a constitutional provision, the President shall announce the affirmative votes necessary for passage.

Rule 61. Unfinished Special Orders. Any subject matter made the special order for a particular day, not having been reached on that day, shall come up for consideration under the order of "Miscellaneous and Unfinished Business" at the next succeeding session.

Rule 62. Limitation on Debate and Control of Dilatory Procedure. The Convention by resolution may limit the time of debate on any subject matter before the Convention, designate a method of allocating the period allowed for debate among Delegates, and take appropriate action to control dilatory procedure. In the absence of any such resolution, no Delegate shall speak more than five minutes at any one time, except that for Delegates using the services of interpreters the limit on time for speaking shall be ten minutes at any one time.

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.

CHAPTER VIII. MISCELLANEOUS

Rule 63. Reading and Endorsement of Papers. When the reading of a paper is called for and an objection is raised to such reading, the Convention by a majority vote of the Delegates present shall determine whether or not the paper shall be read.

Rule 64. Language of Proceedings. All proceedings shall be conducted in English, provided that a member lacking fluency in English may use his own language, and the Convention shall provide for interpretation into English in such cases.

Rule 65. Presentation and Endorsement of Petitions, Memorials, and Communications. Petitions received by any officer of the Convention or by any Delegate shall be endorsed by the recipient, and by him handed directly to the Convention Secretary who shall cause them to be placed on the Order of Business of the following day under "Petitions, Memorials and Other Communications". When reached on the Order of Business, the President shall assign each such matter to an appropriate committee, subject to an appeal to the Convention. The chairman of the committee, on behalf of the Convention, shall give appropriate notice of the receipt of the petition.

Rule 66. Calls of Convention. Upon calls of the Convention, and in taking a roll call vote upon any question, the names of the members shall be called alphabetically unless otherwise determined by the majority of the Delegates present.

Rule 67. Putting the Question. Except as specified elsewhere, either in legislation creating the Constitutional Convention or in these rules, the President shall put all questions to a voice vote in this form: "As many as are in favor of (as the question may be), say 'aye'" and after the affirmative vote is expressed, "as many as are opposed, say 'no'." If the President doubts the result of the vote, he may order a division of the Convention.

A division of the Convention or a roll call vote of the Convention on any question may be had on the demand of one-fifth of the Delegates present. When a division of the Convention is ordered, a rising vote shall be taken and the President shall declare the result. On a tie vote the question shall be deemed as lost.

Rule 68. Recognition During Roll Call. After a question has been stated by the President, and the call of the roll has been started by the Convention Secretary, the President shall not recognize a Delegate for any purpose, except upon points of order, until after the announcement of the vote by the Convention Secretary. The Convention Secretary shall enter upon the Journal the names of those voting "aye" and the names of those voting "no," and the names of those abstaining, if any. Any Delegate is privileged to reserve the right to explain, in writing, his vote on a roll call, but the Delegate must reserve that right at the time of voting and not otherwise. The written explanation shall be included in the Journal if presented to the Convention Secretary before the next session of the Convention.

Rule 69. Abstentions. On all questions put to a rising or roll call vote, except those questions designated by the President as voting on a constitutional provision, no Delegate shall abstain from voting. If a Delegate who is present indicates his refusal to vote "aye" or "no" on a question which is not designated as a vote on a constitutional provision, such refusal shall be deemed a vote in the affirmative.

Rule 70. Amendment or Suspension of Rules. No rule of the Convention shall be amended unless such amendment is in writing and in the possession of the Convention one day prior to its consideration. A rule may be suspended by a vote of two-thirds of the Delegates present; provided, however, that the requirement of two readings of Committee Proposals on separate days, and that all constitutional provisions be considered by the Style and Arrangement Committee before Final Passage may not be suspended except by the affirmative vote of two-thirds of the Delegates to the Convention.

Rule 71. Appeals--Form of Question. On all appeals from decisions of the Chair, the question shall be "Shall the judgment of the Chair stand as the judgment of the Convention?", which question shall be decided by a majority vote of those present by a rising vote, unless otherwise ordered by the Convention.

Rule 72. Debate on Appeals. No Delegate shall speak on the question of an appeal more than once without first receiving leave of the Convention by a majority vote of those present.

Rule 73. Tabling Appeals. An appeal may be laid on the table but shall not carry with it the subject matter before the Convention at the time such appeal is taken.

Rule 74. Practice. The rules contained in Cushing's Manual of Parliamentary Practice shall govern the Convention in all cases to which

they are applicable and in which they are not inconsistent with Public Law No. 9-60, as amended, and these rules of procedure.

Rule 75. Appropriations. No motion or resolution calling for an appropriation or expenditure of money shall be acted upon by the Convention without first having been referred to the Committee on Administration for consideration and recommendation.

SECTION BY SECTION INDEX TO ALL MICRONESIAN CONSTITUTIONAL CONVENTION ENABLING LEGISLATION
(all amendments indicated refer to Public Law No. 5-60)

2nd Reg. Sess. of 5th Congress (1974)

PL No. 5-60 Primary Con Con enabling act authorizing the call of the Micronesian Constitutional Convention.
(SB No. 38, SD1, HD3)

- Sec. 1 Creating Constitutional Convention
- Sec. 2 60 Delegates
- Sec. 3 Elections, selections and appointments of delegates
- Sec. 4 Vacancies
- Sec. 5 Pre-Convention Committee
- Sec. 6 Procedure
- Sec. 7 Powers of Convention
- Sec. 8 Duties
- Sec. 9 Staff Support
- Sec. 10 Compensation of Delegates
- Sec. 11 Conduct of Referendum
- Sec. 12 Appropriation (includes under Section 12(2) appropriation of $100,000 and under Section 12(4) reversion date of June 30, 1975.)
- Sec. 13 Effective date: March 29, 1974

1st Spec. Sess. of 5th Congress (1974)

PL No. 5-92 Appropriating $72,000 for district delegations.
(SB No. 371, SD1, HD1)

- Sec. 1 Appropriating $72,000 for districts
- Sec. 2 Method of disbursements and reversion date of June 30, 1975
- Sec. 3 Effective date: August 30, 1975

1st Reg. Sess. of 6th Congress (1975)

PL No. 6-19 Amending timing of and requirements in referendum
(SB No. 6-86, SD1)

- Sec. 1 Amending Section 11(2) re timing and procedure of referendum
- Sec. 2 Amending Section 11(7) by adding a new Subsection re vote requirement
- Sec. 3 Effective date: April 9, 1975

PL No. 6-24 Credentials Committee, vacancies and immunity.
(SB No. 6-63, SD1, HD3)

- Sec. 1 Providing for Credentials Committee
- Sec. 2 Amending Section 4 (re vacancies) by adding new Subsections (4) and (5)
- Sec. 3 Providing immunity for Con Con delegates
- Sec. 4 Effective date: April 9, 1975

PL No. 6-30 Appropriating $253,764 and amending Section 10 re delegate compensation.
(HB No. 6-197, HD1, SD1)

- Sec. 1 Supplemental appropriation of $205,764 for general PL 5-60 purposes
- Sec. 2 Supplemental appropriation of $48,000 for district delegations (suppl. to PL 6-92)
- Sec. 3 Section 1 funds revert Dec. 31, 1975. Section 2 funds revert July 1, 1975
- Sec. 4 Section 2 funds plus remaining PL 5-92 money expenditure requirement
- Sec. 5 Amending Section 10 re compensation of delegates
- Sec. 6 Effective date: April 10, 1975

PL No. 6-32 providing for traditional chiefs' right to vote.
(SB No. 6-34,
SD2)

Sec. 1	Amending Section 2 (3) (a) and (b) re selection of traditional leader delegates
Sec. 2	Amending Section 4 (3) re vacancies in traditional leader's seat
Sec. 3	Amending Section 6 (4) re voting in Con Con
Sec. 4	Amending Section 6 (5) re quorum requirement in Con Con
Sec. 5	Effective date: April 10, 1975

1st Spec. Sess. of 6th Congress (1975)

PL No. 6-59 Altering dates for selection of delegates
(SB No. 6-209)

Sec. 1	Amending Section 2 (1) re date for selection of district COM delegate
Sec. 2	Amending Section 2 (3) (c) re date for selection of traditional leader delegates
Sec. 3	Re seating of delegates selected after May 15, 1975
Sec. 4	Effective date: July 7, 1975

PL No. 6-61 Voting procedures, quorum and referendum
(SB No. 6-202
HD1, CD1)

Sec. 1	Further amending Section 6 (4) re voting on constitutional provisions
Sec. 2	Further amending Section 6 (5) re quorum requirement
Sec. 3	Further amending Section 11 (2) re timing and procedure for referendum
Sec. 4	Further amending Section 11 (7) re vote requirement for ratification in referendum
Sec. 5	Effective date: July 16, 1975

PL No. 6-62 Recess and relocation
(SB No. 6-203,
HD2)

Sec. 1	Amending Section 6 (1) allowing 30 day recess and re location
Sec. 2	Effective date: July 16, 1975

PL No. 6-67 $195,703 appropriation
(HB no. 6-319,
HD1)

Sec. 1	$61,966 supplemental appropriation
Sec. 2	$133,737 appropriation for recess(es)
Sec. 3	President authorized to expend
Sec. 4	Reversion date of March 31, 1976
Sec. 5	Full financial report by President not later than May 31, 1976 of all Con Con money
Sec. 6	Effective date: July 28, 1975

AN ACT

Calling a constitutional convention for Micronesia; prescribing its powers, duties and functions appropriating money therefor; and for other purposes.

BE IT ENACTED BY THE CONGRESS OF MICRONESIA:

Section 1. Constitutional Convention. There is hereby created a constitutional convention in and for the Trust Territory of the Pacific Islands. The convention shall be known as the Micronesian Constitutional Convention.

Section 2. Delegates. The convention shall consist of sixty (60) delegates, all of whom shall be Trust Territory citizens, selected as follows:

(Sec. 1, PL 6-59)

(1) Each district's delegation to the Congress of Micronesia shall select one delegate from among its membership. Selection of such delegates shall be made not later than July 11, 1975, and shall be made in writing by the district Congressional delegation to the President of the Senate of the Congress of Micronesia.

(2) Forty-two delegates shall be elected from the following delegate districts, as follows:

(a) Mariana Islands District, four delegates, elected from the following delegate districts, each electing the following delegates:

District No. 1, consisting of the municipalities of Tinian and Rota, and Municipal District No. 6 as defined by municipal ordinance of the Municipality of Saipan, as of the effective date of this act, electing one delegate;

District No. 2, consisting of the Municipal Districts No. 1, 2, 3, and 4 of Saipan, electing one delegate;

District No. 3, consisting of Municipal Districts No. 7 and 11 as defined by municipal ordinance of the Municipality of Saipan, as of the effective date of this act, electing one delegate;

District No. 4, consisting of Municipal Districts No. 5, 8, 9 and 10 as defined by municipal ordinance of the Municipality of Saipan, as of the effective date of this act, and islands north of Saipan Island, namely Agrihan, Pagan, Alamagan, Sarigan and Anatahan; electing one delegate.

(b) Marshall Islands District, nine delegates, elected from the following delegate districts, each electing the following delegates;

District No. 1, consisting of the municipalities of Majuro Atoll, electing one delegate;

District No. 2, consisting of the municipalities of Arno and Mili, electing one delegate;

District No. 3, consisting of the municipalities of Wotje, Maloelap, Erikub and Aur, electing one delegate;

District No. 4, consisting of the municipalities of Ebon and Namorik, electing one delegate;

District No. 5, consisting of the municipalities of Kili and Jaluit, electing one delegate;

District No. 6, consisting of the municipalities of Ailinglapalap, Jabwot and Namu, electing one delegate;

District No. 7, consisting of the municipalities of Kwajatein Atoll and the municipalities of Ujae, Lae, and Lib, electing one delegate;

District No. 8, consisting of the municipalities of Ujelang, Eniwetek, Bikini, Rongelap, Ailinginae, Rongerik, Wotho, Ailuk, Taka, Bikar, Taongi, and Utirik, electing one delegate;

District No. 9, consisting of the municipalities of Mejit and Likiep, electing one delegate.

(c) Palau District, five delegates elected from the following delegate districts, each electing the following delegates:

District No. 1, consisting of the municipalities of Koror, Airai, Aimeliik and Ngatpang, electing two delegates;

District No. 2, consisting of the municipalities of Kanangel Atoll and the island of Babelthuap, excluding the municipalities of Airai, Aimeliik and Ngatpang, electing two delegates;

District No. 3, consisting of the municipalities of Angaur, Peleliu, Sonsorol, Tobi, and Pulo Anna, electing one delegate.

(d) Ponape District, nine delegates, elected from the following delegate districts, each electing the following delegates:

District No. 1, consisting of Kusaie Island, electing two delegates;

District No. 2, consisting of the municipalities of Kolonia Town and Pingelap, electing one delegate;

District No. 3, consisting of the municipalities of Mokil, Kapingamarangi, Nukuor and Ngatik, electing one delegate;

District No. 4, consisting of the municipality of Uh, electing one delegate;

District No. 5, consisting of the municipality of Metelanim, electing one delegate;

District No. 6, consisting of the municipality of Kiti, electing one delegate;

District No. 7, consisting of the municipality of Sokehs, electing one delegate;

District No. 8, consisting of the municipality of Net, electing one delegate.

(c) Truk District, twelve delegates, elected from the following delegate districts, each electing the following delegates:

District No. 1, consisting of the municipality of Moen, electing two delegates;

District No. 2, consisting of the municipality of Dublon, electing one delegate;

District No. 3, consisting of the municipality of Uman, electing one delegate;

District No. 4, consisting of the municipalities of Parem, Tsis, and Fefan, electing one delegate;

District No. 5, consisting of the municipalities of Tol, Polle, Wonei and Pata, electing two delegates;

District No. 6, consisting of the municipalities of Udot, Fela-Beguets, Pot, and Romalum, electing one delegate;

District No. 7, consisting of all the municipalities of the Mortlock Islands, electing three delegates;

District No. 8, consisting of all the municipalities in the Hall Islands, Namonouito Atoll and the Western Islands, electing one delegate.

(f) Yap District, three delegates, elected from the following delegate districts, each electing the following delegates:

District No. 1, consisting of all the municipalities in the Yap Islands Proper, electing two delegates;

District No. 2, consisting of all the remaining municipalities of Yap District, electing one delegate.

(Sec. 1, PL 6-32)

(3) (a) The remaining twelve delegates shall be selected as follows: The recognized paramount and traditional chiefs of each administrative district shall meet and select from among their members two delegates to the convention.

(Sec. 1, PL 6-32)

(b) Notwithstanding the provisions of paragraph (a) of this Subsection, any district which does not have traditional chiefs shall be entitled to select two delegates to the Convention; PROVIDED, HOWEVER, that the district legislature shall select one such delegate and the District Administrator shall select the other. In making selections under the provisions of this paragraph, the appointing authority shall ensure that ethnic minority groups not otherwise represented on the district's delegation to the convention shall be represented insofar as practical.

(Sec. 2, PL 6-59)

(c) Appointments made under the provisions of this Subsection shall be made not later than July 11, 1975, and shall be transmitted in writing by the presiding officer of the district legislature in the case of district legislature appointees, or the District Administrator in the case of his appointees, to the President of the Senate of the Congress of Micronesia. The District Administrator shall also transmit to the President of the Senate of the Congress of Micronesia the names of the delegates selected by the paramount and traditional leaders of the district concerned.

Added by
[Sec. 3, PL 6-59]

[Any delegate selected after May 15, 1975, under Subsection (1) or (3) (a), Section 2, Public Law No. 5-60, as amended, and whose credentials have therefore not been examined by the Credentials Committee created under Public Law No. 6-24, is entitled to sit in the Micronesian Constitutional Convention after his credentials are found satisfactory by the Convention, notwithstanding the time limitations originally contained in Public Law No. 5-60 or the provisions of Public Law 6-24.

Section 3. Elections. The delegates to be elected under Section 2, Subsection (2) of this act shall be elected as follows:

(1) All citizens of the Trust Territory who have the qualifications of voters for members of the House of Representatives of the Congress of Micronesia are hereby eligible to vote for and choose delegates to the Convention. Registration to vote for members of the Congress of Micronesia shall also be registration to vote for delegates to the Convention.

(2) The election of delegates shall be held on the first Tuesday following the first Monday in June, 1974.

(3) Any person who is eighteen years of age or older, has fulfilled the residence requirements in the representative district for registration as a voter, as set forth in Title 43 of the Trust Territory Code, is not currently under a judgement of mental incompetency or insanity, and is not currently under parole, probation, or sentence for any felony for which he has been convicted by any court of the Trust Territory or any court within the jurisdiction of the United States, shall be eligible for election as a delegate from that representative district.

(4) The name of any candidate for election as a delegate shall be printed on an official ballot to be used at the election for choosing candidates only if at least twenty days prior to such election a nomination paper shall have been filed in the office of the Election Commissioner of the administrative district concerned in his behalf nominating him as a candidate for a delegate from the particular delegate district concerned, and signed by not less than twenty-five qualified voters of the delegate district involved. There shall be deposited with each nomination paper a fee of ten dollars. Such nomination fee shall be paid over to the Treasurer of the Trust Territory as a local revenue general realization, available for appropriation by the Congress of Micronesia. No such nomination paper shall contain any reference to, or designate any political party, and the ballots used at such election shall not contain any reference to or designation of the political party or affiliation of any candidate. The names of the candidates in each delegate district shall be on separate ballots. Except as herein provided, the ballots for election of the delegates shall be in substantially the same form as those for the general election for members of the Congress of Micronesia. The Election Commissioner shall, upon receipt of the nomination paper, indorse thereon the day, hour and minute that such nomination paper is received.

(5) In case of a tie vote at the election for delegates, the candidates so tied shall draw lots under the supervision of the Election Commissioner of the administrative district concerned to determine which of them shall be selected as delegates.

(6) Each person voting for delegates shall be permitted to vote for the number of delegates to which the delegate district in which he votes is entitled, and the candidate or candidates receiving the highest number of votes from each delegate district shall be the delegates to the Convention from that delegate district. The candidates not elected shall be designated as alternates in the order in which their vote totals appear.

(7) Except as otherwise specifically provided by this act, the election for such delegates shall be conducted, the returns made, the results ascertained, and the certificates of persons elected to be delegates to such Convention issued in the same manner as is prescribed by Title 43 of the Trust Territory Code relating to elections for members of the Congress of Micronesia.

(8) The Convention shall be the sole judge of the elections, returns, and qualifications of delegates.

Section 4. Vacancies. (1) Vacancies for any delegate appointed by a district delegation to the Congress of Micronesia shall be filled by appointment by that district's delegation to the Congress of Micronesia. (2) Vacancies for any delegate elected from a delegate district shall be filled by the candidate receiving the next highest number of votes in the election of delegates from the same delegate district. (3) Vacancies for any delegate appointed under the provisions of Subsection (3) of Section 2 of this act shall be filled in the same manner as the original appointment.

(Sec. 2, PL 6-32)

(Sec. 2, PL 6-24)

(4) As used in this section, the term "vacancy" shall mean a vacancy other than that resulting from a decision not to accept the credentials of a delegate, and includes a vacancy resulting from:

(a) death;
(b) resignation;
(c) wilful failure or refusal of an appointed delegate to serve;
(d) incapacity to serve as a delegate by reason of illness, upon a finding of the same by the Convention; or
(e) in the case of members of the Congress of Micronesia appointed by a district delegation to the Congress, the termination of membership in the Congress of Micronesia.

(5) No appointment as a delegate to the Convention may be revoked by the appointing authority.

Section 5. Pre-Convention Committee.

(1) There shall be a Pre-Convention Committee, which shall consist of seven members, selected as follows:

(a) Each district's delegation to the Convention, consisting of all the delegates selected under the provisions of Section 2, shall be called into meeting by the delegate who is a member of the Congress of Micronesia. The delegation shall then select a delegation chairman from its membership, who shall be the district's representative on the Committee. Such selection shall be made not later than July 31, 1974, and shall be made in writing by the district's delegation to the President of the Senate of the Congress of Micronesia.

(b) The President of the Senate of the Congress of Micronesia shall be Chairman of the Pre-Convention Committee.

(2) The duties of the Pre-Convention Committee shall be to facilitate the work of the Convention. To this end, the Committee shall ensure that accommodations and facilities for the convention are in proper order, and may take other steps as it may deem necessary or appropriate to accomplish this purpose.

(3) Members of the Committee shall be entitled to per diem and travel expenses, at standard Trust Territory rates, while on the business of the Committee.

Added by [Sec. 1, PL 6-24]

[4. The Pre-Convention Committee created by Public Law No. 5-60 shall, upon the effective date of this act, appoint a Credentials Committee consisting of three delegates to the Constitutional Convention who are not members of the Pre-Convention Committee; PROVIDED, that no delegate shall be appointed or may serve as a member of the Credentials Committee whose credentials have been contested, or who has direct knowledge bearing upon the outcome of any contested case. The Pre-Convention Committee shall designate one of three delegates so appointed to be Chairman of the Credentials Committee.

2. The Credentials Committee shall notify all delegates to file their credentials as delegates to the Constitutional Convention with the Credentials Committee at a designated place. Persons objecting to the credentials of a particular delegate or to the seating of the delegate at the Convention may file their objections in writing with the Credentials Committee not later than 14 days after the last date on which credentials may be filed with the Credentials Committee.

3. The Credentials Committee shall first consider the credentials of the delegates against whom no objections have been filed. The delegates whose credentials are approved by the Credentials Committee shall be immediately reported to the Pre-Convention Committee with the recommendation that these delegates be seated in the Constitutional Convention. Those whose credentials are disapproved shall be given at least five days' notice in writing of a time and place where the delegate may appear personally before the Credentials Committee and present oral or written evidence in support of his credentials and may be represented by counsel of his own choosing, or appear through his counsel, if he so desires.

4. The Credentials Committee shall then consider the credentials of delegates against whom written objections have been filed. The Credentials Committee shall for each contested delegate position give at least five days' notice in writing of the time and place where the parties may appear before the Credentials Committee and present oral and written evidence in support of their position. Parties shall have the right to be represented by counsel of their own choosing, or to appear through such counsel, if they so desire.

5. The Credentials Committee shall, within five days after a hearing pursuant to Subsection (3) and (4), notify each affected party and the Pre-Convention Committee of its decision to approve or to disapprove the credentials of the delegate concerned and its recommendations on each. Facts supporting the decision must be stated in the report. In the event that the Committee recommends that a special election be called in any delegate district, the High Commissioner shall, as soon as practicable after the determination of any appeal or after the expiration of the period for filing appeals under this section, call such special election. The special election shall be held on the date specified by the High

Commissioner, and in all other respects shall be held in accordance with the provisions of Section 3 of Public Law No. 5-60.

6. All hearings and all decisions of the Credentials Committee must be concluded on or before May 15, 1975.

7. Any person aggrieved by the decision of the Credentials Committee may, within 10 days following the notification of decision by the Credentials Committee as provided in Subsection (5) of this section, request in writing a review by the Pre-Convention Committee of a decision and recommendation of the Credentials Committee. The Pre-Convention Committee shall, within five days after receipt of a request, review the decision of the Credentials Committee and make a decision on the credentials of the delegate. Any decision by the Pre-Convention Committee may be appealed to the Micronesian Constitutional Convention.]

Section 6. Procedure.

(Sec. 1, PL 6-62)

(1) The Constitutional Convention shall convene in Saipan, Mariana Islands District and shall meet in session for not longer than ninety (90) calendar days. The Pre-Convention Committee shall specify the actual date for the convening of the Convention. The Convention, by a two-thirds vote of its members, may declare a recess or recesses which shall in total exceed no more than 30 days, such time not to be counted as part of the 90-day session, and shall reconvene at a location chosen by the Convention.

(2) The President of the Senate of the Congress of Micronesia shall act as President of the Convention until the Convention shall select a President from among its membership.

(3) The Convention shall select, from among its membership, a President and such additional officers as it may deem necessary and appropriate.

(Sec. 3, PL 6-32)
(Sec. 1, PL 6-61)

(4) The Convention shall adopt its own rules of procedure not inconsistent with this act; PROVIDED, HOWEVER, that no constitutional provisions shall be finally adopted by the Convention except by the affirmative votes of not less than three-fourths of the delegates present, a quorum being present; and that no voting except in person shall be permitted; and that abstentions shall not be counted as affirmative votes in determining the result of any vote by the Convention to finally adopt a constitutional provision.

(Sec. 4, PL 6-32)
(Sec. 2, PL 6-61)

(5) A quorum shall consist of two-thirds of the delegates, unless the Convention by its rules of procedure shall provide for a greater number.

Section 7. Powers of Convention. (1) The President of the Constitutional Convention, or the Chairman of any duly established Committee thereof, shall have the power and authority to issue subpoenas requiring the attendance of witnesses or the production of books, documents, or other evidence, in any matter related to the purpose of the Constitutional Convention.

Any subpoena or other process issued under the authority of the Convention shall run in the name of the Trust Territory of the Pacific Islands and shall be addressed to any police officer of the Trust Territory or of any administrative district. Such subpoena or other process shall be signed by the President, shall contain a reference to this Section, and shall set forth in general terms of the matter or questions with reference to which such testimony or other evidence is to be taken.

Any officer to whom the process described in this Subsection is directed, if within his jurisdiction, shall forthwith serve or execute the same upon delivery thereof to him, without charge or compensation; PROVIDED, HOWEVER, that any officer serving or executing such subpoena or process shall be compensated for his actual expenses, if any, in connection therewith.

(2) The President or the Chairman of any duly established Committee may administer oaths to witnesses in any matter under the examination of the Convention.

Every person who, having been summoned as a witness by the Convention to give testimony or to produce papers upon any matter under inquiry before the Convention, refuses to make oath or affirmation, or to answer any question inquiry, shall be guilty of contempt of the Constitutional Convention and upon conviction thereof shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

Whenever a person violates any of the provisions of this Subsection, the President shall certify a statement of such facts to the Attorney General of the Trust Territory who shall prosecute the offender in any appropriate court of the Trust Territory.

(3) The officers and employees of the Trust Territory Government and each district government shall cooperate with the Convention by furnishing such information as may be called for in connection with research activities of the Convention.

Added by [Sec. 3, PL 6-24]

[No delegate to the Convention shall be held to answer before any tribunal, other than the Convention, for any speech or debate in the Convention, and the delegates shall in all cases, except for treason, felony, or breach of the peace, be privileged from arrest while on the business of the Convention or in attendance thereat, and in going to and from the same.]

Section 8. Duties. The Convention shall draft a Constitution for the future government of the state of Micronesia. Such Constitution shall make adequate provision for the exercise of legislative, judicial, and executive functions, and shall guarantee to all the citizens of Micronesia a form of government which permits the free democratic expression of their views. It shall provide for an effective date, and shall require approval by a popular referendum as specified in this act. When said Constitution shall be drafted as aforesaid, the Convention shall notify the High Commissioner that it has completed its deliberations. Upon

receipt of such notification, the High Commissioner shall transmit a copy of the constitution adopted by the Convention to the Congress of Micronesia, and shall call a referendum on the Constitution, authority for which is hereby granted to the High Commissioner, subject to the provisions of Section 11 of this act. Prior to his calling of the referendum on the Constitution, the High Commissioner shall translate or cause to be translated the Constitution framed by the Convention from English to the predominant languages of Yap, Palau, Ponape and the Marshalls, the Marianas, Kapingamarangi, Kusaie, Ulithi, and Truk.

Section 9. Staff Support. The Convention and Pre-Convention Committee shall be assisted in its tasks by:

(1) The Staff of the Congress of Micronesia, which shall provide such administrative and technical assistance as may be necessary;

(2) Such other staff as the Convention or Committee may deem necessary toward the performance of its tasks, within the limits of the funds made available to it by this act and by other acts.

Section 10. Compensation of Delegates.

(Sec. 5, PL 6-30)

(1) Delegates to the Convention shall not be employed for gain or profit while serving as delegates, HOWEVER, any delegate who is an employee of the Trust Territory Government or district government shall be placed on administrative leave with pay and shall be entitled to receive his regular salary during his service as delegate.

(2) Delegates shall be entitled to all necessary travel expenses, and to per diem at standard Trust Territory rates, while on the business of the Convention or a committee thereof, including but not limited to the Pre-Convention Committee or subcommittee thereof.

(3) Delegates shall be paid at the minimum rate of thirty-two dollars and eighty-five cents ($32.85) per day while on the business of the Convention or a committee thereof; PROVIDED, delegates who are Trust Territory or district government employees shall be entitled to receive their regular salaries plus the difference between their prorated daily salaries and thirty-two dollars and eighty-five cents ($32.85) per day if their salaries are less than the latter amount; such difference to be paid out of the funds for the Convention; and PROVIDED FURTHER, that delegates who are members of the Congress of Micronesia, selected under the provisions of Subsection (1) of Section 2 of Public Law No. 5-60, shall not be entitled to be paid thirty-two dollars and eighty-five cents ($32.85) per day but shall be entitled to receive travel expenses and per diem as provided under Subsection 2 of this Section chargeable to the funds of the Convention.

Section 11. Conduct of Referendum.

(1) Except as otherwise provided in this Section, the provisions of Title 43 of the Trust Territory Code

regarding election of members to the Congress of Micronesia shall apply to the referendum authorized by Section 8 of this act.

(Sec. 1, PL 6-19)
(Sec. 3, PL 6-61)

(2) The referendum shall be held on the date the High Commissioner shall specify; PROVIDED, that the referendum shall be held simultaneously in each of the districts of the Trust Territory of the Pacific Islands existing on the date of the referendum.

(3) The Referendum Ballot shall appear substantially as follows:

"CONSTITUTIONAL REFERENDUM

Do you approve of the Constitution of Micronesia, as adopted by the Micronesian Constitutional Convention?

YES _____ NO _____."

(4) Notwithstanding the provisions of Subsection (3) of this Section, any voter so requesting shall be provided with a ballot printed in the vernacular commonly in use in the district in which he votes, instead of in English. The Election Commissioner shall be responsible for the accurate translation of the English language into each such vernacular.

(5) The Election Commissioner shall certify the results of the referendum to the High Commissioner, who shall transmit such certifications to the Presiding Officers of the Congress of Micronesia as soon as practicable after their receipt.

(6) No recounts shall be permitted, unless the Congress of Micronesia so authorizes. The Congress shall be the sole judge of the referendum and the results thereof.

(Sec. 2, PL 6-19)
(Sec. 5, PL 6-61)

(7) The Constitution shall be deemed to have been ratified and approved by the people of Micronesia if it is approved by a majority of the districts of the Trust Territory existing (on) the date of the referendum; PROVIDED, that the Constitution shall not take effect in any such district if it is disapproved by a majority of those voting in the referendum in that district.

Section 12. Appropriation.

(1) The High Commissioner is authorized and directed to obligate such sums as may have been appropriated for the purposes of the Micronesian Constitutional Convention as part of United States Annual Grant Fund appropriations to the President of the Senate as Chairman of the Pre-Convention Committee, prior to June 30, 1974.

(2) There is appropriated out of the General Fund of the Congress of Micronesia the sum of $100,000 for the purposes of the Micronesian Constitutional Convention, which appropriation shall include such sums as may be necessary to provide for such functions as are provided for in this act for which sums have not been appropriated, or have not been appropriated in sufficient quantity, by the United States Congress as part of the Annual Grant to the Trust Territory of the Pacific Islands.

(3) As used in this Section, the term "Micronesian Constitutional Convention" shall include the Convention, the election of delegates thereto, the holding of a referendum on the Constitution adopted by the said Convention, the meetings of all Committees of the Convention, and any other activity provided for in this act which is associated with the functions of the Convention.

(4) The sums appropriated by this act shall remain available for the purposes specified herein until June 30, 1975, at which time any sums remaining unexpended and unencumbered shall revert to the General Fund to the extent that sums have been appropriated out of the General Fund for such purposes, or shall otherwise lapse in accordance with applicable provisions of United States law, to the extent that amounts appropriated by the United States have not been expended or obligated for expenditure on such date.

(5) The President of the Convention shall, not later than August 30, 1975, transmit to the Congress of Micronesia and to the High Commissioner a complete report showing the status of all funds appropriated or obligated by this act. The Trust Territory Government shall provide all assistance which may be necessary to the President of the Convention in the preparation of this Report.

Section 13. Effective date. This act shall take effect upon its approval by the High Commissioner, or upon its becoming law without such approval.

March 29, 1974

/s/ Peter Coleman
Deputy High Commissioner
Trust Territory of the Pacific Islands

AN ACT

To appropriate the sum of $72,000 to defray certain expenses of the district delegations to the Micronesian Constitutional Convention, as created by Public Law 5-60, in their respective districts; and for other purposes.

BE IT ENACTED BY THE CONGRESS OF MICRONESIA:

Section 1. The sum of $72,000, or so much thereof as may be necessary, is hereby appropriated from the General Fund of the Congress of Micronesia to allow the delegates elected to the Micronesian Constitutional Convention in each district to travel to the various villages and island groups in their respective districts to meet with their constituency; to discuss issues that are likely to be raised in connection with the formulation of the Micronesian constitution; to better inform the population about the Micronesian Constitutional Convention; to gauge the views of their constituents and otherwise to prepare themselves for the upcoming Micronesian Constitutional Convention as established by Public Law 5-60. The said sum may be expended for travel, for the recruitment, compensation and travel of the staff members to district delegations and for such other and additional expenditures as the chairman of the district delegation may authorize and direct, PROVIDED, HOWEVER, that said appropriation shall not be used in any way to pay the salaries or provide remuneration to any delegate to the Convention; and provided further that the amount allotted and appropriated to the Palau District Delegation may be expended and used to supplement any funds appropriated by the Palau District Legislature to cover the cost and contingent expenses of the Palau District Constitutional Convention in lieu of the purposes stipulated in this section, other provisions in this act to the contrary notwithstanding. The sum appropriated herein shall be apportioned in accordance with the following schedule:

(1)	Truk District Convention Delegation	$10,000
(2)	Marshall Islands District Delegation	$20,000
(3)	Ponape District Delegation	$10,000
(4)	Yap District Delegation	$ 7,000
(5)	Palau District Delegation	$20,000
(6)	Mariana Islands District Delegation	$ 5,000

Section 2. The sum herein appropriated and apportioned shall be administered and expended by the chairman of each of the district delegations to the Micronesian Constitutional Convention respectively, solely for the purposes specified in this act. The chairman of each district delegation shall submit a report to the Congress of Micronesia on or before July 31, 1975, on the status of all funds apportioned to his district appropriated by this act. Any sum remaining unexpended and unobligated for expenditure after June 30, 1975, shall revert to the General Fund of the Congress of Micronesia.

Section 3. This act shall take effect upon its approval by the High Commissioner, or upon its becoming law without such approval.

August 30, 1974.

/s/ Peter Coleman
Acting High Commissioner
Trust Territory of the Pacific Islands

SIXTH CONGRESS OF MICRONESIA — Public Law No. 6-30

FIRST REGULAR SESSION, 1975 — HOUSE BILL NO. 6-197, H.D.1, S.D.1

AN ACT

To appropriate the sum of $253,764 from the General Fund of the Congress of Micronesia for the purpose of defraying expenses of the Micronesian Constitutional Convention and for the purpose of defraying the expenses of the district delegations, to amend Section 10 of Public Law No. 5-60, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF MICRONESIA:

Section 1. There is appropriated from the General Fund of the Congress of Micronesia the sum of $205,764, or so much thereof as may be necessary, for the purpose of defraying the expenses of the Micronesian Constitutional Convention, which appropriation shall include such sums as may be necessary to provide for such functions as provided for in Public Law No. 5-60.

Section 2. The sum of $48,000 or so much thereof as may be necessary, is hereby appropriated from the General Fund of the Congress of Micronesia for the purpose of carrying out the provisions of Public Law No. 5-92 and shall be apportioned in accordance with the following schedule:

(1)	Truk District Convention Delegation	$12,000
(2)	Marshalls District Convention Delegation	$10,000
(3)	Ponape District Convention Delegation	$10,000
(4)	Yap District Convention Delegation	$6,000
(5)	Palau District Convention Delegation	$5,000
(6)	Marianas District Convention Delegation	$5,000

Section 3. Any sums appropriated under Section 1 of this act which remain unexpended and unobligated for expenditure on December 31, 1975, and any sums appropriated under Section 2 of this act which remain unexpended and unobligated for expenditure on July 1, 1975, shall revert to the General Fund of the Congress of Micronesia. Any equipment, supplies, or other property purchased through the use of the funds hereby appropriated shall become property of the Congress of Micronesia to be returned thereto no later than December 31, 1975.

Section 4. Any funds appropriated under Section 2 of this act, and any funds appropriated under the provisions of Public Law No. 5-92 which are not expended or obligated for expenditure, shall only be expended with the prior approval of the Chairman of the Pre-Convention Committee or his designee, and any such expenditures shall only be made with prior concurrence of no less than two-thirds majority of the district delegation, any provisions of Public Law No. 5-92 to the contrary notwithstanding.

(Section 5 amends Section 10 of Public Law No. 5-60, as amended, concerning compensation of delegates; cf. pg 935)

Section 6. This act shall take effect upon approval by the High Commissioner, or upon its becoming law without such approval.

April 10, 1975

/s/ Edward E. Johnston
High Commissioner
Trust Territory of the Pacific Islands

AN ACT

To appropriate a supplemental sum of $195,703 from the General Fund of the Congress of Micronesia for the purpose of defraying expenses of the Micronesian Constitutional Convention; and for other purposes.

BE IT ENACTED BY THE CONGRESS OF MICRONESIA:

Section 1. There is hereby appropriated from the General Fund of the Congress of Micronesia the sum of $61,966, or so much thereof as may be necessary, for the purpose of defraying the expenses of the Micronesian Constitutional Convention; PROVIDED, that the sum of $1,000, or so much thereof as may be necessary, shall be set aside for the purpose of defraying the expenses of organizing any district delegation which has not organized by the effective date of this act.

Section 2. There is hereby appropriated out of the General Fund of the Congress of Micronesia the sum of $133,737 for the purpose of defraying the expenses of a recess or recesses which may be declared by the Convention.

Section 3. The President of the Convention shall have the authority and responsibility for the expenditure of the funds appropriated by this act.

Section 4. Any sums remaining unexpended or unobligated on March 31, 1976 shall revert to the General Fund of the Congress of Micronesia.

Section 5. The President of the Convention shall, not later than May 31, 1976, transmit to the Congress of Micronesia and to the High Commissioner a complete report showing the status of funds appropriated by this act, including the funds appropriated by the United States Congress, funds appropriated under Section 12 (2) of Public Law No. 5-60, funds appropriated under Public Law No. 5-92, and funds appropriated under Public Law No. 6-30.

Section 6. This act shall take effect upon approval by the High Commissioner, or upon its becoming law without such approval.

July 28, 1975

/s/ Edward E. Johnston
High Commissioner
Trust Territory of the Pacific Islands

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

RESOLUTION NO. 9, CWD1

A RESOLUTION

Relating to a recess of the Convention.

WHEREAS, Subsection (1) of Section 6 of Public Law No. 5-60, as amended by Public Law No. 6-62, provides that "The Convention, by a two-thirds vote of its members, may declare a recess or recesses which shall in total exceed no more than 30 days, such time not to be counted as part of the 90-day session."; and

WHEREAS, Section 2 of Public Law No. 6-67 appropriates the sum of $133,737 for the purpose of defraying the expense of a recess or recesses which may be declared by the Convention; and

WHEREAS, it is the consensus of the Delegates to the Micronesian Constitutional Convention that during said recess the Delegates would return to their respective districts for the purpose of consulting with their constituents regarding proposals introduced in the Convention, as well as submitting their views of the Convention; now, therefore,

BE IT RESOLVED that when the Convention concludes its business on Friday, August 22, 1975, it shall stand in recess until Monday, September 15, 1975; and

BE IT FURTHER RESOLVED that the Convention Delegates are urged to return to the Convention site prior to September 15, 1975; and

BE IT FURTHER RESOLVED that the Convention reconvene on September 15, 1975, at a time and place to be decided by the Convention by Resolution.

Adopted: August 1, 1975

Certified by: _____
Victorio Uherbelau
Convention Secretary

Attested to: _____
Asterio R. Takesy
Assistant Convention Secretary

Date: August 23, 1975

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

RESOLUTION NO. 11

A RESOLUTION

Relating to the reconvening of the Micronesian Constitutional Convention on Saipan.

WHEREAS, the Micronesian Constitutional Convention has commenced its deliberations auspiciously at the site selected by the Pre-Convention Committee on Saipan, Mariana Islands; and

WHEREAS, the physical accommodations at the Convention site for holding sessions of the Convention, calling meetings of committees, and facilitating the services of the Convention staff are superior to those available at any other place either on the island of Saipan or on any other island of the Trust Territory; and

WHEREAS, the presence of library and other research collections, of resource personnel, and of technicians on Saipan in relative proximity to the Convention provides assistance in aid of the work of the Convention not available on other islands of the Trust Territory; and

WHEREAS, Saipan offers a range of housing facilities for Delegates and an adequacy of transportation not duplicated elsewhere in the Trust Territory; now, therefore,

BE IT RESOLVED that when this Convention concludes its recess and reconvenes on September 15, 1975, that it reconvene at the Convention site located in the White Sands Hotel on Saipan, Mariana Islands; and

BE IT FURTHER RESOLVED that this Convention reconvene at 11:00 a.m. on the morning of September 15, 1975.

Adopted: August 7, 1975

Certified by: _____
Victorio Uherbelau
Convention Secretary

Attested to: _____
Asterio R. Takesy
Assistant Convention Secretary

Date: August 23, 1975

RESOLUTION NO. 16

A RESOLUTION

Relating to the Convention's administration during the recess.

WHEREAS, this Convention by Resolution No. 9 has approved the taking of a recess from August 23 to September 14, 1975, inclusive, so as to allow the Delegates to return to their Districts to consult with their constituents; and

WHEREAS, after due deliberation this Convention has also expressed its desire to continue its meetings on Saipan when it reconvenes, rather than to transfer the Convention site to Ponape; and

WHEREAS, the Convention has been meeting on the premises of the White Sands Hotel which has been the subject of a lengthy law suit, and due to the acrimonious nature of the suit, there is always the possibility that the parties thereto may take some action which may have the effect of barring the Convention from continued use of the facilities; and

WHEREAS, during the recess, the staff of the Convention will continue to provide the drafting and research services, and furnish the administrative support necessary to facilitate the work of the Convnetion; now therefore,

BE IT RESOLVED that when this Convention recesses at the end of the Convention day on August 22, and until it reconvenes on September 15, 1975, the President shall continue to exercise authority under Rule 7 to oversee the administration of the business of the Convention, including the work of the non-Delegate officers and Convention staff; and

BE IT FURTHER RESOLVED that the President is empowered to

take such steps as may be indicated to secure the continued use of the premises of the White Sands Hotel as the site for the Convention, and should it prove necessary, and after due consultation with the members of the Administrative Committee, the President is empowered to move the Convention to such other site on or off Saipan as will best assure the continued functioning of the Convention so that it may successfully complete the preparation of a Constitution for Micronesia.

Adopted: August 13, 1975

Certified by: _____
Victorio Uherbelau
Convention Secretary

Attested to: _____
Asterio R. Takesy
Assistant Convention Secretary

Date: _____

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

RESOLUTION NO. 20, CD1

A RESOLUTION

Expressing the continuing desire of the Honorable Delegates to this Convention to solicit participation of the traditional leaders of the Marshall Islands and the Mariana 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, seaIanes, 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 recoguized 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 traditional leaders of the Marshall Islands and the Mariana Islands; and

BE IT FURTHER RESOLVED that this request be formally expressed, by the President of this Convention, to the Nitijela and the traditional leaders of the Marshall Islands and the Mariana Islands.

Adopted: August 21, 1975 Certified by:

Victorio Uherbelau
Convention Secretary

Attested to:

Asterio R. Takesy
Assistant Convention Secretary

Date:

RESOLUTION NO. 24

A RESOLUTION

Relating to further recesses of the Convention.

WHEREAS, by Subsection (1) of Section 6 of Public Law No. 5-60, this Convention may continue in session for not longer than ninety (90) calendar days after it has convened, which period includes Saturdays, Sundays, and holidays; and

WHEREAS, Public Law No. 5-60 was amended by Public Law No. 6-62 of the Special Session of 1975 so as to permit the Convention to declare a recess or recesses, in total not exceeding thirty (30) days, which time is not counted as part of the ninety-day session; and

WHEREAS, this Convention by Resolution No. 9, adopted August 1, 1975, has authorized a recess of twenty-three (23) days between August 22 and September 15, 1975, leaving a maximum of seven (7) days for further recesses; and

WHEREAS, the tempo of Convention work in Committee of the Whole and Plenary Session will soon markedly quicken, requiring long hours of daily attendance and correspondingly leaving little opportunity for private study of Proposals and supporting materials, or to confer with fellow Delegates thereon; and

WHEREAS, the remaining recess period may be best utilized by devoting it to the studying and informally conferring over Proposals and most efficiently used by interspersing the remaining days of the recess periodically throughout the balance of the Convention; now, therefore,

BE IT RESOLVED that the Convention shall stand in recess on the Sunday of each week, beginning September 21, 1975, and until

1. adjournment sine die.

Adopted: September 20, 1975

Certified by:

Victorio Uherbelau
Convention Secretary

Attested to:

Asterio R. Takesy
Assistant Convention Secretary

Date: September 23, 1975

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

RESOLUTION NO. 26

A RESOLUTION

Declaring a vacancy for the seat previously held by Dr. Francisco T. Palacios.

WHEREAS, on June 28, 1975, Marianas District Administrator Francisco C. Ada appointed Dr. Francisco T. Palacios to serve as a Delegate in the Micronesian Constitutional Convention upon the endorsement submitted on Dr. Palacios' behalf by the Samol (Paramount Chiefs) and Reipi (Traditional Leaders) of the local Carolinian group called the Repaguluos; and

WHEREAS, although seated, in absentia, by the Convention on convening day, July 12, 1975, Delegate Palacios has remained absent throughout the entire course of the Convention to date; and

WHEREAS, on July 24, 1975, the Convention sent a dispatch to Dr. Palacios stating inter alia; "PUBLIC STATEMENTS ATTRIBUTED TO YOU INDICATE YOUR REFUSAL TO SERVE AS AN APPOINTED DELEGATE TO THE MICRO CON CON X PLS IMMEDIATELY CONFIRM SUCH REFUSAL TO SERVE BY DISPATCH AND RECONFIRM IN LETTER FORM TO THIS OFFICE:" and

WHEREAS, Dr. Palacios has not yet answered that communication, nor has he acted upon a similar request, made in person by the Convention President on August 19, 1975; and

WHEREAS, on August 21, 1975, the Convention adopted Resolution No. 20, expressing the continuing desire of the delegates "to solicit the participation of the traditional leaders of the Marshall Islands and Mariana Islands;" and

WHEREAS, District Administrator Ada, in a letter dated September 12, 1975, requested Dr. Palacios to participate in the remaining days of the Convention, stating "Your participation would be in fairness to the people (Carolinian Community Leadership) who

selected you as their choice of this Convention. It was because of that trust that I have appointed you to represent the minority."; and

WHEREAS, Dr. Palacios' disinclination to respond to any of the above enumerated attempts at soliciting his participation can only be interpreted as a willful failure or refusal to serve in the Convention; and

WHEREAS, Section 4 of Public Law 5-60, as amended by Public Law 6-24, states that a vacancy results inter alia, from the "willful failure or refusal of an appointed Delegate to serve," and provides that such a vacancy "shall be filled in the same manner as the original appointment."; now, therefore,

BE IT RESOLVED that the Delegates of the Micronesian Constitutional Convention of 1975 do hereby declare a vacancy exists for the seat previously held in the Convention by Dr. Francisco T. Palacios of the Marianas District by reason of his willful failure to serve in this Convention; and

BE IT FURTHER RESOLVED that the District Administrator, Marianas District, is hereby requested to expeditiously make a new appointment to fill said vacancy; and

BE IT FURTHER RESOLVED that the Convention Secretary is hereby directed to transmit a copy of this Resolution to Dr. Palacios, to the President of the United Carolinian Association and to the District Administrator, Marianas District.

Adopted: September 25, 1975 Certified by: _____
Victorio Uherbelau
Convention Secretary

Attested to: _____
Asterio R. Takesy
Assistant Convention Secretary

Date: December 23, 1975

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

RESOLUTION NO. 27, CDT

A RESOLUTION

Relating to public education on the Micronesian Constitution.

WHEREAS, the Micronesian Constitutional Convention recognizes the need and importance of insuring that the people of Micronesia have the maximum possible understanding of the draft Micronesian Constitution; and

WHEREAS, in order to promote a maximum understanding of the draft Constitution, it is imperative that a comprehensive public education program be conducted throughout Micronesia, utilizing all available means, including the Education for Self-Government Task Force, schools, news media, radio, community meetings, personnel of both government and private agencies and delegates and staff of the Convention; and

WHEREAS, it is the sense of the Micronesian Constitutional Convention that for a comprehensive public education program to be effective, it must have the necessary administrative and technical staff and a coordinating body to provide administrative and technical assistance and direction; now, therefore,

BE IT RESOLVED by the Micronesian Constitutional Convention that a Post-Constitutional Convention Committee, consisting of one delegate from each district delegation, and the Convention President as Chairman, is hereby established to:

1. Coordinate the establishment and operation of a comprehensive public education program on the Constitution;
2. Draft and recommend legislation to the Congress of Micronesia designed to accomplish the purpose of this Resolution; and

3. Carry out any duties and responsibilities assigned to it by the Micronesian Constitutional Convention or as may be required of the Convention; and

BE IT FURTHER RESOLVED that the Micronesian Post-Constitutional Convention Committee in establishing the comprehensive public education program considers including in such program the following:

1. Utilization of district delegation and staff to carry out a general public education program regarding the work of the Convention and the draft Constitution in their respective districts, either independently or in cooperation with other government agencies;

2. Establishment of a special committee consisting of all traditional chiefs who are delegates or observers to the Convention, to travel throughout the districts to promote understanding of the Constitution and encourage support for the Constitution;

3. Establishment of a special committee consisting of not more than two Convention delegates from each district to travel throughout the districts for the purpose of promoting active and positive participation and support of the population for the Constitution and the Constitutional Referendum; and

4. Establishment of a central office to provide administrative and technical support to the comprehensive public education program; and

BE IT FURTHER RESOLVED that copies of this Resolution be distributed to the Senate and House of Representatives of the Congress of Micronesia, the High Commissioner of the Trust Territory of the Pacific Islands, and to all District Administrators and all District Legislatures.

Adopted: November 7, 1975

Certified by: _____
Victorio Uherbelau
Convention Secretary

Attested to: _____
Asterio R. Takesy
Assistant Convention Secretary

Date: November 18, 1975

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

RESOLUTION NO. 28

A RESOLUTION

Inviting Iroij Litokwa Tomeing and Iroij Jeltan Lanki of the Marshall Islands to attend the Convention

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 Maraina 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 Lanki 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.

Adopted: September 29, 1975 Certified by: [signature]
Victorio Uherbelau
Convention Secretary

Attested to: [signature]
Asterio R. Takesy
Assistant Convention Secretary

Date: December 23, 1975

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

RESOLUTION NO. 31

A RESOLUTION

Designating a name for the new government of Micronesia.

BE IT RESOLVED by the Micronesian Constitutional Convention of 1975 that the new nation and national government be named the "Federated States of Micronesia"; and

BE IT FURTHER RESOLVED that each of the present administrative districts of the Trust Territory of the Pacific Islands be known as a "state" and that municipalities be known as "districts".

Adopted: November 7, 1975

Certified by: Victorio Uherbelau
Victorio Uherbelau
Convention Secretary

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

Date: November 8, 1975

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
Convention Secretary

Attested to: _____
Asterio R. Takesy
Assistant Convention Secretary

Date: November 18, 1975

RESOLUTION NO. 33

A 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.

RECOGNIZING the importance of providing for a smooth and orderly transition from government under the Trust Territory of the Pacific Islands to operation under the proposed Constitution for the Federated States of Micronesia; and

REALIZING that not all transition issues can be anticipated at this time for inclusion as provisions in the Constitution and that complicated technical and legal matters requiring action will arise prior to the effective date of the Constitution; and

DESIRING that the Congress of Micronesia and the Government of the Trust Territory of the Pacific Islands make necessary preparation for implementation of this Constitution prior to its effective date; now, therefore,

BE IT RESOLVED by the Micronesian Constitutional Convention that the Congress of Micronesia be requested 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; and

BE IT FURTHER RESOLVED that the Transition Commission be legally constituted and empowered to:

1. Suggest legislation to the Congress of Micronesia and the future national legislature necessary for implementation of Constitutional provisions;
2. Propose legislation which may be necessary when current laws are found to be inconsistent with provisions of this Constitution;
3. Discuss terms of transition with the Government of the Trust

Territory of the Pacific Islands, within the guidelines of the proposed Constitution;

4. Establish a timetable, in areas not specifically provided for in the Constitution, for transition from the old government to the new government;

5. Provide for education and training of new public officers and essential government staff;

6. Establish or recommend procedures for an equitable reallocation of government personnel and property;

7. Coordinate the relocation of the national capital;

8. Recommend an equitable division, if necessary, of assets in the Social Security Fund, Copra Stabilization Fund, Economic Development Loan Fund, and other such funds;

9. Study and recommend which services furnished by the United States, such as the Post Office, Civil Aeronautics Board, National Weather Service, Peace Corps, currency and coin, etc., should be continued under a treaty of cooperation with the United States; and

10. Negotiate, recommend, study, establish, or decide any other matters, within the grant of power given to such Commission, which will promote a smooth and orderly transition to government under the new Micronesian Constitution; and

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted to the High Commissioner of the Trust Territory of the Pacific Islands and to the President of the Senate and the Speaker of the House of Representatives of the Congress of Micronesia.

Adopted: November 7, 1975

Certified by: _____
Victorio Uherbelau
Convention Secretary

Attested by: _____
Asterio R. Takesy
Assistant Convention Secretary

Date: November 24, 1975

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

RESOLUTION NO. 35

A RESOLUTION

Relating to the name of the National Legislature.

WHEREAS, the Convention's Committee on Style and Arrangement is working diligently on the final style of the Micronesian Constitution; and

WHEREAS, the Committee's work is hampered by uncertainly as to the name of the National Legislature; and

WHEREAS, the name of the National Legislature need not turn on the question of whether that body is unicameral, bicameral, or multicameral; and

WHEREAS, the name of the National Legislature need not turn on the question of whether representation therein is by district or by population; now, therefore,

BE IT RESOLVED that this Convention chooses a name for the National Legislature and that the name shall be "CONGRESS OF THE FEDERATED STATES OF MICRONESIA".

Adopted: November 4, 1975

Certified by: Victorio Uherbelau
Victorio Uherbelau
Convention Secretary

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

Date: November 18, 1975

RESOLUTION NO. 36

A RESOLUTION

Relating to possible conflicts between the Constitution of the Federated States of Micronesia and agreements on the future political status of Micronesia.

WHEREAS, negotiations between the United States Government and Micronesia for a future political status relationship have resulted in a Partial Draft Compact between the people of Micronesia and the United States of America; and

WHEREAS, the Draft Compact has not been officially approved or ratified by the people of Micronesia; and

WHEREAS, the Draft Compact contains provisions which are inconsistent with the Constitution of the Federated States of Micronesia; and

WHEREAS, the Draft Compact may be put before the people of Micronesia for ratification prior to the effective date of the Constitution of the Federated States of Micronesia; and

WHEREAS, it is the sentiment of the Micronesian Constitutional Convention that any Draft Compact or other status agreement put before the people of Micronesia for ratification, whether prior to or after the effective date of the Constitution of the Federated States of Micronesia, shall be consistent with the terms of the Constitution of the Federated States of Micronesia; now, therefore,

BE IT RESOLVED by the Micronesian Constitutional Convention that any Micronesian body entrusted with negotiations for future political status be directed to

renegotiate the existing Draft Compact to the extent necessary to bring it into conformity with the Constitution of the Federated States of Micronesia, and to conduct future negotiations for any compact or other form of status agreement in conformity with the Constitution of the Federated States of Micronesia; and

BE IT FURTHER RESOLVED that the Convention Secretary is hereby directed to transmit a copy of this Resolution to the High Commissioner of the Trust Territory of the Pacific Islands, the Presiding Officers of the Congress of Micronesia, and the Chairman of the Joint Committee on Future Status of the Congress of Micronesia.

Adopted: November 7, 1975

Certified by: _____
Victorio Uherbelau
Convention Secretary

Attested to: _____
Asterio R. Takesy
Assistant Convention Secretary

Date: November 12, 1975

RESOLUTION NO. 37, CD3

A 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, presumptious; 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 borders; 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 of the Trust Territory of the Pacific Islands, and be made a part of the permanent record of the decisions made by the Delegates to the Micronesian Constitutional Convention of 1975.

Adopted: November 7, 1975

Certified by: Victorio Uherbelau
Victorio Uherbelau
Convention Secretary

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

Date: December 18, 1975

RESOLUTION NO. 38

A 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 degree of internal self-government...in the period before the termination of the Trusteeship"; and

WHEREAS, it is the sense of the Micronesian Constitutional Convention of 1975 that certain provisions of the Constitution are capable of implementation and should be implemented prior to the termination of the Trusteeship Agreement; 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.

Adopted: November 8, 1975

Certified by: _____
Victorio Uherbelau
Convention Secretary

Attested to: _____
Asterio R. Takesy
Assistant Convention Secretary

Date: November 18, 1975

ROLL CALL VOTES Preamble - CP 16	ALBERT, CHIRO	ANDRIKE, KINJA	APIS, KIKUO	BORJA, OLYMPIO T.	BOSSY, FICHITA	CABRERA, LORENZO LG.	CRUZ, JOSE R.	EPERIAM, WILLIAM	FALANRUW, SAMUEL	FALCAM, LEO A.	FRITZ, SOUKICHI	GIBBONS, IBEDUL Y.	HARUO, SASAUO	HATHEY, BELARMINO
CP 16, SD1, Existing Laws, 10/18	Y		Y		Y			Y	Y	Y	Y	Y		Y
CP 15, Supplemental Order, 10/28	Y		Y		Y	Y		Y	Y	Y	Y	Y		Y
CP 15, SD1, CD1, Public Money 10/28	A		N		Y	A		Y	Y	Y	N	Y		Y
CP 14, Sec.13,CWD1 SD1,CD1, Traditional Leaders, 10/29	Y		A		Y	A		Y	Y	Y	A	Y		Y
CP 14, Sec.11, CWD1 SD1,CD1, Discrimination 10/29	Y		Y		Y	Y		A	Y	Y	Y	Y		Y
CP 13, CWD1,SD1 Budget Process 10/8	Y				Y	Y	Y	Y	Y	Y	Y			Y
CP 12, SD1,CD1 Public Auditor 10/13	Y		Y		Y	Y		Y	Y	Y	Y			Y
CP 11, SD1,CD1 Supremacy of Constitution 10/17	Y		Y		Y	Y			Y	A	Y	A		Y
CP 10, CWD1,CD2,SD1,CD3 Citizenship, Etc., 11/7	Y		A		Y	Y		Y	Y	Y	Y	Y		
CP 10, CWD1,CD2,SD1 Citizenship, Etc., 10/6	Y					Y	Y	Y	Y	Y	Y			Y
CP 9,SD1,CD1,Freedom of Religion 10/29	Y		Y		Y			Y	Y	Y		Y		Y
CP 8,CWD1,SD2, Amending Constitution 10/2	Y					Y	Y	Y	Y	Y	Y			Y
CP 7, CWD2,SD1 National Territory 10/2	Y					Y	Y	Y	Y	Y	Y			Y
CP 5,SD1 Preamble 9/24	Y		Y		Y	Y		Y	Y	Y	Y	Y	Y	Y
CP 3,CWD1,SD1,CD1 Eminent Domain 11/7	Y		N		Y	Y		Y	Y	Y	N	Y		
CP 3,CWD1,SD1 Eminent Domain 9/26	Y				A	Y		Y	Y	Y	N	Y		Y
CP 3,CWD1 Eminent Domain 9/25	Y					Y		Y	Y	Y	N	Y		Y
Draft Constitution CD1 11/8	Y		Y		Y	Y		Y	Y	Y	Y	Y		Y
Preamble 11/8	Y		Y		Y	Y		Y	Y	Y	Y	Y		Y

	Draft Constitution 11/8	Preamble 11/8	CP 3 9/25	CP 3 9/26	CP 3 11/7	CP 5 9/24	CP 7 10/2	CP 8 10/2	CP 9 10/29	CP 10 10/6	CP 10 11/7	CP 11 10/17	CP 12 10/13	CP 13 10/8	CP 14 Sec.11 10/29	CP 14 Sec.13 10/29	CP 15 10/28	CP 15 10/28	CP 16 10/18
HEINE, CARL	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A	A	A	A
HEINZ, JOZN	A	A	A	A	A	A	A	A	A	A	A	A			A	A	A	A	A
HEUDART, KOZARC	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	N	A	A
IGISOWAR, ALONZC	A	A							Y	A	A		Y	A	A	A	A	A	A
IRIARTE, HEINRICH	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
IRIARTE, MAX	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
ISMAEL, HIROSE	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
JOSEPH, KINTOKY	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
KALLES, LANGUE			A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A
KENDALL, WILFRED	A	A			A						A	A		A	A	A	A	A	A
KLEINER, TOM												A	A	A	A	A	A	A	A
LANWI, ISAAC			A	A	A	A	A	A	A			A	A	A	A	A	A	A	A
LANWI, MARY	A	A			A				A			A	A		A	A	A	A	A
LINES, LUIS M.	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
LUKTUN, FRANCISCO	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
MANGLONA, BENJAMIN T.			A	A		A	A	A		A		A	A	A			A	A	A
YATTAK, APENE			A	A	A	A	A	A	A	A	A	A	A	A	A				A

	MWETY, SOITER	NAKAMURA, TOSIWO	NAKAYAMA, TOSIWO	NGIRAKED, JOHN O.	NIFON, FRANK	NIMWES, CHUTOMU	OLIKONG, SANTOS	OLTER, BAILEY	PALACIOS, FRANCISCO T.	PHILIPPO, TIPNE	RASA, ALFONSO C.	ROBERT, MAKETO	SALII, LAZARUS E.	SAWAICHI, JACOB	SIGRAH, TADAO P.	SONY, ISKIA	SOUND, MANUEL	STEPHEN, HEINRICH
CP 16 10/18	Y	Y	Y	Y			Y	Y		Y	Y	Y	Y	Y	Y	Y	Y	Y
CP 15 10/28	Y	Y	Y	Y		Y	Y	Y				Y	Y	Y	Y	Y	Y	Y
CP 15 10/28	Y	Y	Y	Y		A		A		Y		N	Y	Y	Y	Y	N	Y
CP 14 Sec.13 10/29	Y	Y	Y	Y		Y	Y	Y		Y		N	Y	Y	Y	A	Y	Y
CP 14 Sec.11 10/29	Y	Y	Y	Y		A	Y	Y		Y		Y	Y	Y	Y	Y	Y	Y
CP 13 10/8	Y	Y	Y	Y	Y		Y			Y	Y	Y		Y	Y	Y	Y	Y
CP 12 10/13	Y	Y	Y	Y	Y	Y	A	Y		Y	Y	Y			Y	Y	Y	Y
CP 11 10/17	Y	Y		A		Y	A	Y		Y	Y	Y	A	Y	Y	A	Y	Y
CP 10 11/7	Y		Y	Y		Y	Y	Y				Y	Y	Y	Y	Y	Y	Y
CP 10 10/6	Y	Y	Y	Y	Y	Y				A	Y	Y		Y	Y	Y	Y	
CP 9 10/29	Y	Y		Y		Y	Y	Y		Y		A	Y	Y	A	Y	Y	Y
CP 8 10/2	Y	Y	Y	Y	Y	Y	Y			Y	Y	Y	Y	Y	Y	Y	Y	
CP 7 10/2	Y	Y	Y	Y	Y	Y	Y			Y	Y	Y	Y	Y	Y	Y	Y	
CP 5 9/24	A	Y	Y		Y	Y	Y				Y	Y		Y	Y	Y	Y	Y
CP 3 11/7	Y	Y	Y	Y		A	Y	A				N	Y	Y	Y	N	Y	Y
CP 3 9/26	N	Y	Y	Y	Y	N	Y				Y	N	Y	Y	Y	N	Y	Y
CP 3 9/25	N	Y	N	Y	N	Y			A		Y	N	Y	Y	Y	N	Y	Y
Draft Constitution 11/8	Y	Y	Y	Y		Y		A		Y		Y	Y	Y	Y	Y	Y	Y
Preamble 11/8	Y	Y	Y	Y		Y		Y		Y		Y	Y	Y	Y	Y	Y	Y

	Preamble 11/8	Draft Constitution 11/8	CP 3 9/25	CP 3 9/26	CP 3 11/7	CP 5 9/29	CP 7 10/2	CP 8 10/2	CP 9 10/29	CP 10 10/6	CP 10 11/7	CP 11 10/17	CP 12 10/13	CP 13 10/8	CP 14 Sec.11 10/29	CP 14 Sec.13 10/29	CP 15 10/28	CP 15 10/28	CP 16 10/18
TACHELIN, HILARY	Y	Y	Y	Y	A	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y	Y
TRUSTED, ACTING RAKAI	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y
TWAN, LUKE M.	Y	Y	Y	Y	A	Y	Y	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y	Y
TORRIONG, JOHNSON	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A	Y	Y	Y	Y	Y	Y	Y
TUN, PETRUS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
WAINIT, ATASY	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y		A	A	Y	Y	Y	Y
WEIDAL, DARO	Y	Y	Y	A	A	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
WILLANDER, HANS	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
YOMA, SIRIK	Y	Y	N		A	Y	Y	Y	Y	Y	N	A	Y	Y	Y	Y	Y	Y	
Yes	45	43	32	32	32	45	44	44	40	40	42	37	41	45	43	38	35	36	47
No			11	11	7	-	-	-	2	-	2	2	-	-	-	2	5	-	
Abstain		2	2	2	7	-	-	-	3	-	6	5	5	5	5	6	5	-	

ROLL CALL VOTES

CP 17 - CP 34

	ALBERT, CHIRO	ANDRIKE, KENJA	APIS, KIKUO	BORJA, OLYMPIO T.	BOSSY, FIDELIA	CABRERA, LORENZO LG.	CRUZ, JOSE R.	EBERTAM, WILLIAM	FALANRUW, SAMUEL	FALCAM, LEO A.	FRITZ, SOUKICHI	GIBBONS, ZEDUL Y.	HARUO, SASAUO	HATHEY, BELARMINO
CP 34,SD1 Imprisonment for Debt 11/6	Y		A		Y	N		Y	Y	Y	Y	Y		Y
CP 33 Transition 11/4	Y		Y		Y	Y		Y	Y	Y	Y	Y		Y
CP 32,CWD1,SD1 Environment 11/7	Y		A		Y	Y		Y	Y	Y	Y	Y		
CP 31,CWD1,SD1 Medical & Legal Aid 11/6	Y		Y		Y	Y		Y	Y	Y	Y	Y		Y
CP 29,SD1 Effective Date 10/30	Y		Y		Y	A		Y	Y	Y	A	Y	Y	Y
CP 28,CWD1,SD1 Land Ownership 10/30	Y		Y		Y	Y		Y	Y	Y	Y	Y	A	Y
CP 27,CWD1,SD1 Admission and Unity 11/7	Y		A		Y	Y		Y	Y	Y	Y	Y		
CP 26,SD1,CD1 Taxation 10/30	Y		A		Y	Y		Y	Y	Y	Y	Y	A	Y
CP 24,Exec.&Legis.Art. CWD8,SD2,CD4 11/7	Y		A		Y	Y		Y	Y	Y	Y	Y		
CP 24, Judicial Art. CD2,CWD1,SD1,CD3 11/4	Y		Y		Y	Y		Y	Y	Y	Y	Y		Y
CP 23,CWD1,CD2,SD1 Property to National Govt. 10/25	Y		Y	Y				Y	Y	Y	Y			Y
CP 22,SD1 Judicial Guidance 10/25	Y		Y	Y				Y	Y	Y	Y			Y
CP 21,CWD1,CD2,SD1,CD3 Functions of Govt. 11/7	Y		Y		Y	Y		Y	Y	Y	Y	Y		
CP 21 on Sovereignty, CWD1, SD1,CD3 11/7	Y		Y		Y	Y		Y	Y	Y	Y	Y		
CP 21,CD2,CWD1,SD1,CD3 Functions of Govt. 11/6	Y		A		Y			Y	Y	Y	Y	Y		Y
CP 20,CWD1,CD1,CD2, Lease Renegotiation 10/25	Y		Y	Y				Y	Y	Y	Y			Y
CP 19,SD1,CD1 Suffrage 10/22	Y		Y		Y	Y		Y	Y	Y	Y	Y		Y
CP 18,SD1 Assumption of Rights 10/29	Y		Y		Y	Y		Y	Y	Y	Y	Y		Y
CP 17,CD1 Local Government 10/25	Y		Y	Y				Y	Y	Y	Y			Y

	CP 17 10/25	CP 18 10/29	CP 19 10/22	CP 20 10/25	CP 21 11/6	CP 21 11/7	CP 21 11/7	CP 22 10/25	CP 23 10/25	CP 24 Judicial 11/4	CP 24 Exec & Leg.Art. 11/7	CP 26 10/30	CP 27 11/7	CP 28 10/30	CP 29 10/30	CP 31 11/6	CP 32 11/7	CP 33 11/4	CP 34 11/6
HEINZ, CARL	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
HEINZ, JOHN	Y	Y		Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y	Y		Y
HELDART, KOTARO	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
IGISOMAR, ALONZO	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
IRIARTE, HEINRICH		Y	Y		Y	Y	Y			Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
IRIARTE, MAX		Y				Y	Y				Y		Y			Y	Y		Y
ISMAEL, HIROSI	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
JOSEPH, KINTOKY	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
KALLES, LANGUE	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
KENDALL, WILFRED					A	Y	Y			Y	Y		Y			Y	Y	Y	N
KIJINER, TOM																			
LANWI, ISAAC		N	N		Y					Y	Y	N		N	A	A		Y	N
LANWI, MARY		Y	Y		Y	Y	Y			Y	A	Y	Y	Y	Y	Y	Y	Y	Y
LIMES, LUIS M.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A	Y	Y	Y	A
LUKTUN, FRANCISCO	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
MANGLONA, BENJAMIN T.	Y		Y	Y				Y	Y					A	A				
MATEAK, APINEL	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

	MWITY, SOTTER	NAKAMURA, TOSIWO	NAKAYAMA, TOSIWO	NGIRAKED, JOHN O.	NIFON, FRANK	NIMMES, CHUTOMU	OLIKONG, SANTOS	OLTER, BAILEY	PALACIOS, FRANCISCO T.	PHILIPPO, TIPNE	RASA, ALFONSO C.	ROBERT, MAKETO	SAIII, LAZARUS E.	SAWAICHI, JACOB	SIGRAH, TADAO P.	SONY, ISKIA	SOUND, MANUEL	STEPHEN, HEINRICH
CP 34 11/6	≥	≥	≥	≥		≥	≤	≥				≥	≤	≥	≥	≥	≥	≥
CP 33 11/4	≥	≥	≥	≥		≥		≥		≥		≥	≥	≥	≥	≥	≥	≥
CP 32 11/7	≥	≥	≥	≥		≥	≥	≥				≥	≥	≥	≥	≥	≥	≥
CP 31 11/6	≥	≥	≥	≥		≥	≥	≥				≥	≥	≥	≥	≥	≥	≥
CP 29 10/30	≥	≥	≥	≥	≥	≥	≥	≤		≥		≥	≥	≥	≥	≤	≥	≥
CP 28 10/30	≥	≥	≥	≥	≥	≤	≥	≥		≥		≥	≤	≥	≥	≥	≥	≥
CP 27 11/7	≥	≥	≥	≥		≥	≥	≥				≥	≥	≥	≥	≥	≥	≥
CP 26 10/30	≥	≥	≥	≥	≥	≥	≥	≥		≥		≥	≥	≥	≥	≥	≥	
CP 24 Exec & Leg.Art. 11/7	≥	≥	≥	≥		≥	≤	≥				≥	≥	≥	≥	≥	≥	≥
CP 24 Judicial 11/4	≥	≥	≥	≤		≥		≥		≥		≥	≥	≥	≥	≥	≥	≥
CP 23 10/25	≥	≥	≥	≥		≥	≥	≥		≥		≥		≥	≥	≥		
CP 22 10/25	≥	≥	≥	≥		≥	≥	≥		≥		≥		≥	≥	≥		
CP 21 11/7	≥		≥	≥		≥	≥	≥				≥	≥	≥	≥	≥	≥	≥
CP 21 11/7	≥		≥	≥		≥	≥	≥				≥	≥	≥	≥	≥	≥	≥
CP 21 11/6	≥	≥				≥	≤	≤		≥		≥		≤	≥	≥	≥	≥
CP 20 10/25	≥	≥	≥	≥		≥	≥	≥		≥		≥		≥	≥	≥		
CP 19 10/22	≥	≥	≥			≥	≥	≥		≥	≥	≥	≥	≥	≥	≥	≥	
CP 18 10/29	≥	≥	≥	≥		≥	≥	≥		≤		≥	≥	≥	≥	≥	≥	≥
CP 17 10/25	≥	≥	≥	≥		≥	≥	≥		≥		≥		≥	≥	≥		

	CP 17 10/25	CP 18 10/29	CP 19 10/22	CP 20 10/25	CP 21 11/6	CP 21 11/7	CP 21 11/7	CP 22 10/25	CP 23 10/25	CP 24 Judicial 11/4	CP 24 Exec. & Leg.Art. 11/7	CP 26 10/30	CP 27 11/7	CP 28 10/30	CP 29 10/30	CP 31 11/6	CP 32 11/7	CP 33 11/4	CP 34 11/6
TACHELIOL, HILARY	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
TERMETEET, ACTING REKLAI		Y	Y		Y	Y	Y			Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
TMAN, LUKE M.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
TORIBIONG, JOHNSON	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
TUN, PETRUS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
WAINIT, TATASY	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A	Y	Y
WEITAL, DARC	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
WILIANDER, HANS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A	Y	Y	Y	Y
YOMA, STRIK	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A	Y	Y	Y	Y
TOTAL: Yes	39	46	45	39	39	45	45	39	39	45	44	45	45	45	41	47	44	46	41
TOTAL: No		1	1									1		1					3
TOTAL: Abstain		1			5					1	3	2	1	4	9	1	2		4

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM.	REP/AM	REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
CP 001	PROVIDING FOR FREEDOM	CC	CL	A-	002 08/08/75	08/11/75-A -			
	OF SPEECH AND PRESS	CC	Cw	A-	ORL 08/12/75		08/12/75-DEFER		
	CIVIL LIB 08/08/75	CC					TO 8/14-		
		CC	Cw	A-	ORL 08/14/75		08/14/75-DRAFT		
		CC					REFERRED-TO-SPC		
		CC	SPC	A-	002 08/16/75				
		CC	Cw	A-	ORL 08/16/75		08/16/75-DEFER		
		CC					TO 8/18-WITH		
		CC					NEW DRAFT -		
		CC	Cw	A-	ORL 08/18/75		08/18/75-A-CwD1	STYLE -08/18/75	
		CC	S	A-	008 08/22/75	PROGRESS-REPORT			
		CC	S	A-SD1	044 10/22/75	FINAL ACTION	COMBINED WITH		
		CC					CP 2 BELOW		
		CC					10/23/75-A -	STYLE -10/23/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART IV, SEC 1
CP 002	PROVIDE RIGHT TO PET &	CC	CL	A-	003 08/13/75	08/14/75-A -			
	PEACEABLY ASSEMBLE	CC	Cw	A-	ORL 08/15/75		08/15/75-DEFER		
	CIVIL LIB 08/13/75	CC					TO 8/16-		
		CC	Cw	A-	ORL 08/16/75		08/16/75-A-CwD1	STYLE -08/16/75	
		CC	S	A-	008 08/22/75	PROGRESS-REPORT			
		CC	S	A-SD1	044 10/22/75	FINAL ACTION	COMBINED WITH		
		CC					CP 1 ABOVE		
		CC					10/23/75-A -	STYLE -10/23/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/06/75-A -		ART IV, SEC 1
CP 003	RELATING TO THE POWER	CC	GF	A-	004 08/14/75				
	OF EMINENT DOMAIN	CC	GF	A-	04A 08/14/75	08/15/75-A -			
	GOVT FUNCTIONS 08/14/75	CC	Cw	A-	ORL 08/16/75		08/16/75-DEFER		
		CC					TO SEPT 16		
		CC					09/16/75-DEFER		
		CC					TO 9/19		
		CC	Cw	A	ORL 09/19/75		09/19/75-DEFER		
		CC					TO 9/20-		
		CC	Cw	A	ORL 09/20/75		09/20/75-A-CwD1	STYLE -09/20/75	
		CC	S	A-SD1	015 09/24/75	FINAL ACTION	09/25/75-DEFEAT		DEFEAT-09/25/75

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.		H/S	COMM.	REP/AM	REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
		CC						09/26/75-RECON		
		CC						09/26/75-CD1-A		
		CC						09/26/75-DEFEAT		DEFEAT-09/26/75
		CC						11/07/75-RECON		
		CC						11/07/75-CD2-A		
		CC						11/07/75-DEFEAT		DEFEAT-11/07/75
CP 004	PROVIDE FOR PRESERVA- TION OF LOCAL CUSTOMS CIVIL LIB 08/16/75	CC	CL	A-		005 08/16/75	08/16/75-A -			
		CC	Cw	A-		ORL 08/18/75				
		CC						08/18/75-DEFER TO 8/19-		
		CC	Cw	A-		ORL 08/19/75		08/19/75-A-CWD1	STYLE -08/19/75	
		CC	S	A-		008 08/22/75	PROGRESS-REPORT			
		CC	S	A-SD1		044 10/22/75	FINAL ACTION	10/23/75-A -	STYLE -10/23/75	
		CC	S	A-		067 11/07/75	FINAL ACTION	THIRD READING		
		CC						11/08/75-A -		ART V, SEC 2
CP 005	RE TO PREAMBLE TO THE CONSTITUTION OF MICRO GEN PROVISIONS 08/19/75	CC	GP	A-		006 08/19/75	08/20/75-A -			
		CC	Cw	A-		ORL 08/21/75				
		CC	S	A-SD1		013 09/22/75	FINAL ACTION	08/21/75-A -	STYLE -08/21/75	
		CC	S	A-		067 11/07/75	FINAL ACTION	09/24/75-A -	STYLE -09/24/75	
		CC						THIRD READING		
								11/08/75-A -		PREAMBLE
CP 006	PROVIDING FOR A THREE- BRANCH CENTRAL GOVT GOVT STRUCTURE 08/21/75	CC	GS	A-		007 08/21/75	08/21/75-A -			
		CC	Cw	A-		ORL 08/22/75				
		CC	S	A-SD1		012 09/22/75	FINAL ACTION	08/22/75-A -	STYLE -08/22/75	
		CC	S					09/23/75-A -	STYLE -09/23/75	
CP 007	RE TO THE TERRITORY OF THE STATE OF MICRONESIA GEN PROVISIONS 09/22/75	CC	GP	A		009 09/22/75	09/22/75-A			
		CC	Cw	A-		ORL 09/23/75				
		CC						09/23/75-CWD1-A		
		CC						09/23/75-DEFER TO 9/26-		
		CC	Cw	A-		ORL 09/26/75		09/26/75-A-CWD2	STYLE -09/26/75	
		CC	S	A-SD1		018 09/30/75	FINAL ACTION	10/02/75-A -	STYLE -10/02/75	
		CC	S					11/07/75-RECALL		
		CC						11/07/75-A -CD1	STYLE -11/07/75	
		CC	S	A-		067 11/07/75	FINAL ACTION	THIRD READING		
		CC						11/08/75-A -		ART I, SEC 1,2, 3
CP 008	RELATING TO AMENDING	CC	GP	A		010 09/22/75	09/22/75-A			

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM.	REP/AM	REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
	THE CONSTITUTION	CC	CW	A-	CRL 09/23/75		09/23/75-DEFER		
	GEN PROVISIONS 09/22/75	CC					TO 9/25-WITH		
		CC					DRAFT		
		CC	CW	A-	CRL 09/25/75		09/25/75-A-CWC1	STYLE -09/25/75	
		CC	S	A-SD1	019 09/30/75	FINAL ACTION	10/02/75-A -	STYLE -10/02/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART XIV, SEC 1
CP 009	PROVIDING FOR FREEDOM	CC	CL	A-	011 09/22/75	09/23/75-A -			
	OF RELIGION	CC	CW	A-	CRL 09/24/75		09/24/75-A -	STYLE -09/24/75	
	CIVIL LIB 09/22/75	CC	S	A-SD1	051 10/29/75	FINAL ACTION	10/29/75-A -CC1	STYLE -10/29/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART IV, SEC 2
CP 010	RE CITIZENSHIP NATURAL-	CC	GP	A-	014 09/23/75	09/24/75-A -			
	IZATION & IMMIGRATION	CC	CW	A-	CRL 09/25/75		09/25/75-RC-GP		
	GEN PROVISIONS 09/24/75	CC	GP						
		CC	CW	A-	CRL 09/30/75		09/30/75-A-CWC1		
		CC					09/30/75-A -CC1	STYLE -09/30/75	
		CC	S	A-SD1	021 10/03/75	FINAL ACTION	10/03/75-DEFER		
		CC					TO OCT 4 -		
		CC					10/04/75-DEFER		
		CC					TO OCT 6 -		
		CC	---				10/06/75-A -CC2	STYLE -10/06/75	
		CC	S				11/07/75-RECALL		
		CC					11/07/75-A -CC3	STYLE -11/07/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART III ART IX, SEC 2 (C)
CP 011	RE SUPREMACY OF CONSTI	CC	GP	A-	016 09/27/75	09/27/75-A -			
	& SOVEREIGNTY OF MICRO	CC	CW	A-	CRL 09/29/75		09/29/75-A -	STYLE -09/29/75	
	GEN PROVISIONS 09/27/75	CC	S	A-SD1	022 10/03/75	FINAL ACTION	10/03/75-DEFER		
		CC					TO OCT 4 -		
		CC					10/04/75-DEFER		
		CC					TO OCT 6 -		
		CC					10/06/75-DEFER		
		CC					TO NOV 3 -		
		CC					10/08/75-REMOVE		
		CC	---				FROM TABLE TO		

CONSTITUTIONAL CONVENTION STATUS TABLE NOVEMBER 8, 1975

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM.	REP/AM	REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
		CC					OCT 17		
		CC					10/17/75-A -CD1	STYLE -10/17/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART II
CP 012	PROVIDING FOR A PUBLIC AUDITOR	CC	FT	A	017 09/29/75	09/30/75-A -			
		CC	CW	A-	ORL 10/02/75		10/02/75-A -	STYLE -10/02/75	
	FINANCE & TAX 09/29/75	CC	S	A-SD1	024 10/07/75	FINAL ACTION	10/08/75-DRAFTS		
		CC					162 REFERRED		
		CC					TO FT AND S		
		CC					CHAIRMEN		
		CC	FT						
		CC	S						
		CC	---				10/10/75-DEFER		
		CC	---				TO OCT 11		
		CC					10/11/75-RECESS		
		CC					10/13/75-A -CD1	STYLE -10/13/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART XII, SEC 1
CP 013	RELATING TO THE BUDGET PROCESS	CC	FT	A-	020 09/30/75	10/02/75-A -			
		CC	CW	A-	ORL 10/03/75		10/03/75-A-CWD1	STYLE -10/03/75	
	FINANCE & TAX 09/30/75	CC	S	A-SD1	025 10/07/75	FINAL ACTION	10/08/75-A -	STYLE -10/08/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART XII, SEC 2
CP 014	RELATING TO THE BILL OF RIGHTS	CC	CL	A-	023 10/02/75	10/04/75-A -			
		CC	CW	A-	ORL 10/07/75	10/06/75-A -	10/07/75-DEFER		
		CC					TO OCT 10 -		
		CC					10/10/75-DEFER		
		CC					TO OCT 17		
		CC	CW	A-	ORL 10/17/75		10/17/75-DEFER		
		CC					TO OCT 18 -		
		CC					(SEC 4 ONLY)		
		CC	CW	A-	ORL 10/18/75		10/18/75-A-CWD1	STYLE -10/18/75	
		CC	S	A-SD1	044 10/22/75	FINAL ACTION	10/23/75-A -CD1		
		CC					(SEC 11-DEFEAT)	STYLE -10/23/75	
		CC	S				10/27/75-RECON		
		CC					SEC 11 ON CCT		
		CC					28 PASSED		

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM.	REP/AM	REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
		CC				SECTION 11 ONLY	10/29/75-RECON		
		CC					10/29/75-A -CO2		
		CC					-CO3	STYLE -10/29/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -CO1		
		CC					(CO1 IS ON ART		
		CC					V, SEC 1)		ART IV, SEC 3
									TO 12
									ART V, SEC 1
CP 015	RELATING TO DISPOSITION	CC	FT	DEFER	027 10/09/75	10/10/75-DEFER			
	OF PUBLIC MONIES	CC				TO OCT 11 -			
	FINANCE & TAX 10/10/75	CC				10/11/75-RECESS			
		CC		A-		10/13/75-A -			
		CC	CM	A-	ORL 10/14/75		10/14/75-A -	STYLE -10/14/75	
		CC	S	A-SD1	039 10/17/75	FINAL ACTION	10/18/75-DEFER		
		CC					TO OCT 21 -		
		CC					10/21/75-DEFER		
		CC					TO OCT 28 WITH		
		CC	---				DRAFT		
		CC					10/28/75-A -CO1	STYLE -10/28/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART XII, SEC 1
CP 016	CONTINUATION OF RIGHTS,	CC	GP	A-	028 10/11/75	10/13/75-A -			
	PROCEEDINGS & TT LAWS	CC	CM	A-	ORL 10/14/75		10/14/75-A -	STYLE -10/14/75	
	GEN PROVISIONS 10/13/75	CC	S	A-SD1	039 10/17/75	FINAL ACTION	10/18/75-A -	STYLE -10/18/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART XV, SEC 1
CP 017	RE EXISTING DISTRICT &	CC	GP	A-	029 10/09/75	10/13/75-A -			
	MUNICIPAL GOVERNMENTS	CC	CM	A-	ORL 10/14/75		10/14/75-A -	STYLE -10/14/75	
	GEN PROVISIONS 10/09/75	CC	S	A-	046 10/25/75	FINAL ACTION	10/25/75-A -CO1	STYLE -10/25/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART XV, SEC 4
CP 018	ASSUMPTION OF RIGHTS,	CC	GP	A-	030 10/11/75	10/13/75-A -			
	ETC, OF GOVT OF TTPI	CC	CM	A-	ORL 10/14/75		10/14/75-A -	STYLE -10/14/75	

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM.	REP/AM	REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
	GEN PROVISIONS 10/13/75	CC	S	A-SD1	045 10/22/75	FINAL ACTION	10/23/75-DEFEAT		DEFEAT-10/23/75
		CC					10/23/75-RECON		
		CC					OCT 29 PASSED		RECON -10/29/75
		CC					10/29/75-RECON		
		CC	S	A-	067 11/07/75	FINAL ACTION	10/29/75-A - THIRD READING	STYLE -10/29/75	
		CC					11/08/75-A -		ART XV, SEC 2
CP 019	RELATING TO SUFFRAGE	CC	GP	A-	031 10/11/75	10/13/75- A-			
		CC	CW	A-	CRL 10/14/75		10/14/75-A -	STYLE -10/14/75	
	GEN PROVISIONS 10/13/75	CC	S	A-SD1	039 10/17/75	FINAL ACTION	10/18/75-CD1-A		
		CC					10/18/75-RC-S		
		CC	S	A-	041 10/22/75		10/22/75-A -	STYLE -10/22/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART VI
CP 020	RENEGOTIATION OF	CC	GP	A-	032 10/10/75	10/13/75- A-			
	CERTAIN LAND LEASES	CC	CW	A-	CRL 10/14/75		10/14/75-RF-GP		
	GEN PROVISIONS 10/10/75	CC					TILL OCT-17-		
		CC	GP						
		CC	CW	A-	CRL 10/17/75		10/17/75-A-CWD1	STYLE -10/17/75	
		CC	S	A-SD1	047 10/25/75	FINAL ACTION	10/25/75-A -CD1	STYLE -10/25/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART XIII, SEC 5,6
CP 021	RELATING TO FUNCTIONS	CC	GP	A-	033 10/10/75	10/14/75-A -			
	OF GOVERNMENT	CC	CW	A-	CRL 10/15/75		10/15/75-DEFER		
	GOVT FUNCTIONS 10/13/75	CC					TO OCT 20 -		
		CC					(SEC 1&2-ADOPT)		
		CC	CW	A-	CRL 10/20/75		10/20/75-CWD1-A		
		CC					10/20/75-DEFER		
		CC					TO OCT 22 -		
		CC	GP	A-	CRL 10/22/75		10/22/75-A -CD1		
		CC					-CD2	STYLE -10/22/75	
		CC	S	A-SD1	063 11/06/75	FINAL ACTION	11/06/75-REFER		
		CC					TO SC&S		
		CC					11/06/75-A -CD3		
		CC					(CD3 INCLUDED		
		CC					ARTICLE ON EXEC		
		CC					& LEGIST OF CP		
		CC					24 ALSO PART		
		CC	S				OF CP 26)	STYLE -11/06/75	
							11/07/75-RECALL		

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM.	REP/AM	REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
		CC					11/07/75-A -CD4		
		CC					-CD5	STYLE -11/07/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -CD1		
		CC					(CD1 IS CN ART		
		CC					IX, SEC 10 &		
		CC					ART X, SEC 7)		ART VIII, SEC 1,2
									ART IX, SEC 1, 2(A)(B)(C)(F)(G)(H)(I)(J)(K)(L)(M)(N)(O)(P)(Q),3,4,6 TO 22
									ART X
CP 022	RELATING TO JUDICIAL GUIDANCE	CC	GP	A-	034 10/13/75	10/14/75-A -			
	GEN PROVISIONS 10/13/75	CC	CW	A-	CRL 10/15/75		10/15/75-A -	STYLE -10/15/75	
		CC	S	A-SD1	046 10/25/75	FINAL ACTION	10/25/75-A -CD1	STYLE -10/25/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART XI, SEC 11
CP 023	RE TRANSFER OF PROPERTY TO NEW NATIONAL GOVT	CC	GP	A-	035 10/13/75	10/14/75-A -			
		CC	CW	A-	CRL 10/15/75		10/15/75-A-CWD1		
	GEN PROVISIONS 10/13/75	CC					-CWD2	STYLE -10/15/75	
		CC	S	A-SD1	048 10/25/75	FINAL ACTION	10/25/75-A -	STYLE -10/25/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART XV, SEC 3
CP 024	STRUCTURE FOR GOVT OF FEDERATED STATES	CC	GS	A-	036 10/14/75	10/14/75-A -	10/21/75		
		CC	CW	A-	CRL 10/21/75		10/21/75-DEFER		
	GOVT STRUCTURE 10/14/75	CC					TO OCT 23 -		
		CC					WITH DRAFTS -		
		CC	CW	A-	CRL 10/23/75		10/23/75-DEFER		
		CC					TO OCT 24 WITH		
		CC					DRAFTS -		
		CC	CW	A-	CRL 10/24/75		10/24/75-DEFER		
		CC					TO OCT 27 WITH		
		CC	---				DRAFTS -		

LEG.AC.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM.	REP/AM	REP.AC.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
CC					ARTICLE	ON EXECUTIVE	10/27/75-A -CC(		
CC							10/27/75-DEFER		
CC							TO CCT 29 -		
CC	CW	A-		ORL	10/29/75		10/29/75-DEFER		
CC							TILL ARTICLE C,		
CC							LEGIST ADOPTED		
CC	CW	A-		ORL	10/30/75		10/30/75-DEFER		
CC							TO OCT 31 -		
CC	CW	A-		ORL	10/31/75		10/31/75-A-CWC1		
CC							10/31/75-DEFER		
CC							TO NOV 1 WITH		
CC							DRAFT -		
CC							11/01/75-RECESS		
CC							11/03/75-CLOSED		
CC							SESSION -		
CC	SC			ORL	11/04/75	PROGRESS REPORT			
CC	---					OF SPECIAL COMM			
CC	CW	A-		ORL	11/05/75		11/05/75-A-CWC2	STYLE -11/05/75	
CC	S	A-SD1		063	11/06/75	FINAL ACTION	11/06/75-REFER		
CC							TO SC6S - -		
CC							11/06/75-INCOR-		
CC							PORATED IN CP		
CC							21,CC3		CP 21,CC3
CC						ARTICLE	ON LEGISLATIVE	10/27/75-DEFER	
CC							TO OCT 29 -		
CC	CW	A-		ORL	10/29/75		10/29/75-MOTION		
CC							TO REFER TO		
CC							SPC DEFER TO		
CC							OCT 30 -		
CC	CW						10/30/75-W/DRAW		
CC	CW	A-		ORL	10/30/75		10/30/75-DEFER		
CC							TO NOV 3 WITH		
CC							DRAFTS -		
CC							11/03/75-CLOSED		
CC	---						SESSION -		
CC	SC			ORL	11/04/75	PROGRESS REPORT			
CC	---					OF SPECIAL COMM			
CC	CW	A-		ORL	11/05/75		11/05/75-A-CWC3	STYLE -11/05/75	
CC	S	A-SD1		063	11/06/75	FINAL ACTION	11/06/75-REFER		
CC							TO SC6S - -		
CC							11/06/75-INCOR-		
CC							PORATED IN CP		

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM.	REP/AM	REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
		CC					21, CD3		CP 21, CD3
		CC				ARTICLE ON JUDICIARY	10/27/75-DEFER		
		CC					TO OCT 28 -		
		CC					10/28/75-A -CD2		
		CC	GS						
		CC	GP	A-	058 10/31/75	JOINT REPORT ON			
		CC				INTENT OF JOINT			
		CC	---			COMMITTEE DRAFT		STYLE -10/31/75	
		CC	S	A-SD1	060 11/03/75	FINAL ACTION	11/04/75-A -CD3	STYLE -11/04/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC	---				11/08/75-A -CD1		
		CC	---				(CD1 IS ON ART		
		CC					XI, SEC 10)		ART XI, SEC 1
		CC							TO SEC 10
		CC				ARTICLE ON GOVT LEVELS			
		CC	CW	A-	ORL 11/06/75		11/06/75-A -	STYLE -11/06/75	
		CC	S	A-SD2	065 11/07/75	FINAL ACTION	11/07/75-A -CD4	STYLE -11/07/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART VII
		CC				ARTICLE ON CATV			
		CC	CW	A-	ORL 11/06/75		11/06/75-A-CWD4	STYLE -11/06/75	
		CC	S	A-SD2	065 11/07/75	FINAL ACTION	11/07/75-A -	STYLE -11/07/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART XIII, SEC 7
		CC				ARTICLE ON TRAD LEADERS			
		CC	CW	A-	ORL 11/06/75		11/06/75-A-CWD3		
		CC					-CWD6		
		CC					-CWD7	STYLE-11/06/75	
		CC	S	A-SD2	065 11/07/75	FINAL ACTION	11/07/75-A -	STYLE -11/07/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART V, SEC 3
		CC				ARTICLE ON CON CON			
		CC	CW	A-	ORL 11/06/75		11/06/75-A-CWD8	STYLE -11/06/75	
		CC	S	A-SD2	065 11/07/75	FINAL ACTION	11/07/75-A -	STYLE -11/07/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART XV, SEC 2
CP 025	RE CAPITAL OF MICRO AND	CC	GP	A-	037 10/15/75				
	PROPERTY OF NATL GOVT	CC	GP	A-	37A 10/15/75	10/15/75-A -			
	GEN PROVISIONS 10/15/75	CC	CW	A-	ORL 10/16/75		10/16/75-DEFER		

CONSTITUTIONAL CONVENTION STATUS TABLE NOVEMBER 8, 1975

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM.	REP/AM	REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
		CC							
		CC							
		CC	Ch	A-		ORL 10/24/75			
		CC					TO OCT 24 -		
		CC					WITH DRAFT -		
		CC					10/24/75-DEFER		
		CC					TO NOV 8 WITH		
		CC					DRAFT		
							11/06/75-PLACED		
		CC	---						
		CC					ON 2ND READING		
		CC	Ch	A-		ORL 11/06/75	CALENDAR		
		CC					11/06/75-REFER		
		CC					TO SPECIAL COMM		
		CC					W INSTRUCTIONS		
		CC	SC	A-		ORL 11/07/75			
		CC	Ch	A-		ORL 11/07/75			
							11/07/75-FILE		FILE -11/07/75
CP 026	RELATING TO TAXATION	CC	FT	A-		038 10/16/75	10/16/75-A -		
	FINANCE & TAX 10/16/75	CC	Ch	A-		ORL 10/17/75			
		CC					10/17/75-DEFER		
		CC					TO OCT 21 -		
		CC	Ch	A-		ORL 10/21/75	10/21/75-A -	STYLE -10/21/75	
		CC	S	A-SD1		050 10/29/75	FINAL ACTION	10/29/75-DEFER	
		CC					TO OCT 30 WITH		
		CC					DRAFT -		
		CC	S				10/30/75-A -CD1	STYLE -10/30/75	
									INCLUDED IN CP
		CC	---						
									21, CD3, STYLE
		CC	S	A-		067 11/07/75	FINAL READING		REPORT 63
		CC					THIRD READING		
							11/08/75-A -		ART VIII, SEC 3
									ART IX, SEC 2
									(D)(E),5
CP 027	RE SECESSION AND	CC	GP	DEFER		040 10/20/75			
	ADMISSION OF NEW STATES	CC	GP	DEFER		40A 10/22/75	10/22/75-DEFER		
	GEN PROVISIONS 10/21/75	CC					TO OCT 23 -		
		CC		A-			10/23/75-A -		
		CC	Ch	A-		ORL 10/24/75			
		CC						10/24/75-DEFER	
		CC	Ch	A-		ORL 10/31/75		TO OCT 31 -	
		CC						10/31/75-DEFER	
		CC						TO NOV 1 WITH	
								DRAFT -	
		CC	Ch						

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM.	REP/AM	REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
		CC	CW				11/03/75-DEFER		
		CC					TILL ARTICLES		
		CC					ON EXEC & LEGIS		
		CC					OF CP 24 ARE		
		CC					DISPOSED OF		
		CC	CW	A-	ORL 11/05/75		11/05/75-REFER		
		CC					TO SPECIAL COMM		
		CC	SC						
		CC	SC	-	ORL 11/06/75				
		CC	CW	A-	ORL 11/06/75		11/06/75-MINOR		
		CC					PROPOSAL W/DRAW		
		CC					11/06/75-A-CWD1	STYLE -11/06/75	
		CC	S	A-SD1	064 11/07/75	FINAL ACTION	11/07/75-A -	STYLE -11/07/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART I, SEC 4 ART XIII, SEC 3
CP 028	OWNERSHIP OF LAND BY	CC	GP	A-	042 10/22/75	10/23/75-A -			
	CITIZENS OF FED STATES	CC	CW	A-	ORL 10/24/75		10/24/75-A-CWD1		
	GEN PROVISIONS 10/22/75	CC					10/24/75-RC-GP		
		CC	GP	A-	ORL 10/25/75				
		CC	CW	A-	ORL 10/25/75		10/25/75-A -	STYLE -10/25/75	
		CC	S	A-SD1	054 10/29/75	FINAL ACTION	10/30/75-A -	STYLE -10/30/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART XIII, SEC 4
CP 029	RE EFFECTIVE DATE OF	CC	GP	A-	043 10/22/75	10/23/75-A -			
	THE CONSTITUTION	CC	CW	A-	ORL 10/24/75		10/24/75-A -	STYLE -10/24/75	
	GEN PROVISIONS 10/22/75	CC	S	A-SD1	055 10/29/75	FINAL ACTION	10/30/75-A -	STYLE -10/30/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		
		CC					11/08/75-A -		ART XVI
CP 030	RELATING TO THE	CC	GP	A-	049 10/25/75	10/25/75-A -	10/27/75-DEFER		
	JUDICIARY	CC					TO OCT 28 +		
	GOVT FUNCTIONS 10/25/75	CC					10/28/75-FILE		FILE -10/28/75
CP 031	MEDICAL CARE, LEGAL	CC	CL	A-	052 10/29/75	10/30/75-A -			
	SERVICES & EDUCATION	CC	CW	A-	ORL 10/31/75		10/31/75-A-CWD1	STYLE -10/31/75	
	CIVIL LIB 10/29/75	CC	S	A-SD1	061 11/06/75	FINAL ACTION	11/06/75-A -	STYLE -11/06/75	
		CC	S	A-	067 11/07/75	FINAL ACTION	THIRD READING		

LRG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM.	REP/AM	REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
		CC					11/08/75-A -		ART XIII, SEC 1
CP 032	RE RIGHT TO LIVE IN HEALTHFUL ENVIRONMENT CIVIL LIB 10/29/75	CC	CL	A-	053 10/29/75	10/30/75-A -			
		CC	CW	A-	CRL 10/31/75		10/31/75-DEFER TO NOV 5 WITH DRAFT -		
		CC							
		CC	CW	A-	CRL 11/03/75		11/05/75-A-CRD1	STYLE -11/05/75	
		CC	S	A-SD1	064 11/07/75	FINAL ACTION	11/07/75-A - THIRD READING	STYLE -11/07/75	
		CC	S	A-	067 11/07/75	FINAL ACTION			
		CC					11/08/75-A -		ART XIII, SEC 2
CP 033	RE TRANSITION POWER OF NATIONAL LEGISLATURE GEN PROVISIONS 10/30/75	CC	GP	A-	056 10/30/75	10/31/75-A -			
		CC	CW				11/01/75-A -		
		CC	CW	A-	CRL 11/04/75			STYLE -11/04/75	
		CC	S	A-	060 11/03/75	FINAL ACTION	11/04/75-A - THIRD READING	STYLE -11/04/75	
		CC	S	A-	067 11/07/75	FINAL ACTION			
		CC					11/08/75-A -		ART XV, SEC 3
CP 034	RE IMPRISONMENT FOR DEBT CIVIL LIB 10/31/75	CC	CL	A-	057 10/31/75	11/01/75-A -			
		CC	CW				11/03/75-A -		
		CC	CW	A-	CRL 11/04/75			STYLE -11/04/75	
		CC	S	A-SD1	062 11/06/75	FINAL ACTION	11/06/75-A - THIRD READING	STYLE -11/06/75	
		CC	S	A-	067 11/07/75	FINAL ACTION			
		CC					11/08/75-A -		ART IV, SEC 13
DP 001	RE DISCRIMINATION BASED UPON SEX HEINE, C 07/16/75	CC	CL						
DP 002	RE FREEDOM OF SPEECH, ASSEMBLY, & PETITION HEINE, C +3 07/17/75	CC	CL						
DP 003	RE FREEDOM OF MIGRATION AND MOVEMENT HEINE, C +3 07/17/75	CC	CL						
DP 004	RE ESTABLISHMENT OF RELIGION	CC	CL						

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S COMM.	REP/AM REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
DP 005	RE EXECUTIVE AUTHORITY FOR MICRONESIA HEINE, C 07/18/75	CC GS					
DP 006	RE TRADITIONAL AND CUSTOMARY RIGHTS LUKTUN + 1 07/21/75	CC CL					
DP 007	RE DISCRIMINATION BASED ON SEX & TRADITION LAWS LUKTUN + 1 07/21/75	CC CL					
DP 008	TERRITORIAL LIMITS OF STATE OF MICRONESIA HEINE, C + 2 07/21/75	CC GS CC GP		ORL 07/24/75	07/25/75-RF-GP		
DP 009	RELATING TO EDUCATION WEITAL 07/21/75	CC GF					
DP 010	RELATING TO POWER OF EMINENT DOMAIN FALANRUW + 5 07/21/75	CC GF					
DP 011	LIMIT GOVT TO INTERVENE IN ECONOMY OF NATION WAINIT 07/22/75	CC FT					
DP 012	RELATING TO ESTABLISHMENT OF RELIGION WEITAL 07/22/75	CC CL					
DP 013	RELATING TO IMPOSITION OF CAPITAL PUNISHMENT WEITAL 07/22/75	CC CL					
DP 014	RELATING TO CITIZENS & NATIONALS PHILIPPO 07/23/75	CC GP					

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S COMM.	REP/AM REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
DP 015	RE DISCRIMINATION IN PUBLIC EMPLOYMENT KALLES 07/23/75	CC	CL				
DP 016	ROLE OF TRADITIONAL LEADERS IN EXEC BRANCH LANWI, I 07/23/75	CC	GS				
DP 017	RE PRIVACY & UNREASONABLE SEARCHES & SEIZURE APIS + 1 07/23/75	CC	CL				
DP 018	BAIL AND PUNISHMENT APIS + 1 07/23/75	CC	CL				
DP 019	PROHIBIT SLAVERY AND INVOLUNTARY SERVITUDE APIS + 1 07/23/75	CC	CL				
DP 020	EQUAL PROTECTION OF LAW AND PROHIBIT DISCRIMINA APIS + 1 07/23/75	CC	CL				
DP 021	RELATING TO NATURALIZATION PHILIPPO 07/23/75	CC	GP				
DP 022	PROTECTION OF LOCAL CUSTOMS & TRADITIONS HEINE, C + 2 07/24/75	CC	CL				
DP 023	RE PROHIBITION OF LAND OWNERSHIP BY NON-MICRO WEITAL 07/24/75	CC	GP				
DP 024	RELATING TO NATURALIZATION	CC	GP				

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S COMM.	REP/AM REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
DP 025	RELATING TO CITIZENSHIP BOSSY 07/24/75	CC	GP				
DP 026	AMENDING CONSTITUTION BY POPULAR INITIATIVE KALLES 07/24/75	CC	GP				
DP 027	RE ESTAB OF A MICRO PUBLIC SERVICE SYSTEM APIS 07/25/75	CC	GS				
DP 028	RELATING TO TRADITIONAL AND CUSTOMARY LAWS NIMMES 07/25/75	CC	CL				
DP 029	EST 3 BRANCHES OF GOVT & TRA LEADERS ADV CNCIL MAETY-JOSEPH 07/25/75	CC CC CC CC CC CC CC	GF GS --- A/S A- A/S A-	 005 10/08/75 007 10/22/75	 10/02/75-A - 10/02/75-REFER TO ADMIN SUB PROGRESS-REPORT PROGRESS-REPORT WITH ATTACHMENT		
DP 030	RELATING TO IMPRISONMENT FOR DEBT NIMMES +2 07/25/75	CC	CL				
DP 031	RE TO THE ESTAB OF A BICAMERAL LEGISLATURE WEITAL 07/28/75	CC	GS				
DP 032	CITSHIP OF PERSONS NOT BORN OF MICRO PARENTAGE IRIARTE, M +1 07/28/75	CC	GP				
DP 033	RE ESTABLISHMENT OF A CENTRAL GOVERNMENT IRIARTE, M +1 07/28/75	CC	GS				
DP 034	RE MILITARY SERVICE FOR MICRONESIANS IRIARTE, M +1 07/28/75	CC	GS				

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S COMM.	REP/AM REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
DP 035	SEAT OF CENTRAL GOVT AS NATIONAL PROPERTY IRIARTE, M +1 07/28/75	CC	GP				
DP 036	ACCUSED RIGHTS IN CRIMINAL PROSECUTIONS FRITZ 07/28/75	CC	CL				
DP 037	REGULATION OF INTERDIST AIR/SEA TRANS & HIGHWAY TMAN 07/28/75	CC CC	FI GF				
DP 038	RELATING TO EDUCATION TMAN 07/28/75	CC	GF				
DP 039	RE MICRO CAPITAL & EXEMPTION FM LOCAL CNTRLS ROBERT 07/28/75	CC	GP				
DP 040	RELATING TO PROTECTING ENVIRONMENTAL QUALITY PHILIPPE 07/28/75	CC	GF				
DP 041	RELATING TO CAPITAL PUNISHMENT FRITZ 07/28/75	CC	CL				
DP 042	RELATING TO EDUCATION NIMMER 07/28/75	CC	GF				
DP 043	RELATING TO EDUCATION NIMMER 07/28/75	CC	GF				
DP 044	RE EQUAL PROTECTION AND DISCRIMINATION SCHY +1 07/29/75	CC	CL				

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S COMM.	REP/AM REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
DP 045	PROVIDE TAX POWER FOR NATIONAL GOVT OF MICRO HOINE, C + 1 07/29/75	CC	FT				
DP 046	RELATING TO AMENDING THE CONSTITUTION NAKAMURA, T +1 07/29/75	CC	GP				
DP 047	RE AMENDING CONSTITU-TION BY CON CONVENTION NAKAMURA, T +1 07/29/75	CC	GP				
DP 048	RE OFFICIAL LANGUAGES OF MICRONESIA TMAN +2 07/29/75	CC	GP				
DP 049	RELATING TO TRADITIONAL COURTS NIMES 07/29/75	CC CC	GS GP				
DP 050	RELATING TO TRADITIONAL RIGHTS TO PROPERTY BOSSY, F 07/29/75	CC	CL				
DP 051	RE AID DISTRIBUTION AND TAX POWER OF CENTRL GOV NAKAMURA, T +1 07/29/75	CC	FT				
DP 052	RELATING TO POWER OF EMINENT DOMAIN BOSSY, F +2 07/29/75	CC	GP				
DP 053	RELATING TO THE POWER OF THE CENTRAL GOVT ROBERT 07/30/75	CC CC	GP GS				
DP 054	RE ESTABLISHING A LAND AND TITLE COURT ISMAEL +1 07/30/75	CC CC	GP GS				

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S COMM.	REP/AM REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
DP 055	RELATING TO THE AUDITOR EPERIAM 07/30/75	CC	GS				
DP 056	OWNERSHIP AND INTEREST IN REAL PROPERTY ISMAEL + 1 07/30/75	CC	CL				
DP 057	RELATING TO THE BORROWING POWER & ITS LIMITS EPERIAM 07/30/75	CC CC	GP FT				
DP 058	RE TO CERTAIN AREAS OF TAXATION & PUB SUPPORT EPERIAM 07/30/75	CC	FT				
DP 059	RE ESTABLISHMENT OF A DEPT OF AGRICULTURE APIS 07/31/75	CC	GS				
DP 060	RE ESTAB OF A DEPT OF MARINE RESOURCES APIS 07/31/75	CC	GS				
DP 061	RELATING TO IMPEACHMENT SCNY 07/31/75	CC	CL				
DP 062	RE LEGISLATIVE AUTHORITY OF CENTRAL GOVT ROBERT 08/01/75	CC CC	GS FT				
DP 063	RELATING TO DOUBLE JEOPARDY ROBERT 08/01/75	CC	CL				
DP 064	RELATING TO SELF-INCRIMINATION ROBERT 08/01/75	CC	CL				

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM.	REP/AM REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
DP 065	RELATING TO PROTECTION TO THE ISLAND-DISTRICTS SOKY 08/01/75	CC	GP					
DP 066	RELATING TO OFFICIAL LANGUAGE OF MICRONESIA WEITAL 08/01/75	CC	GP					
DP 067	RELATING TO THE JUDICIARY FRITZ 08/01/75	CC CC	GP GS					
DP 068	RELATIONS WITH FOREIGN STATES & INT ORGANIZATN HARUO 08/01/75	CC	GP					
DP 069	RELATING TO IMMIGRATION PHILIPPO 08/01/75	CC	GP					
DP 070	RELATING TO CONTROL OF TOURISM SIGRAH, T +1 08/01/75	CC	GP					
DP 071	CUSTOMARY OWNERSHIP RE MARINE SPACE IN MICRO HATHEY 08/01/75	CC	CL					
DP 072	RELATING TO MUNICIPAL POWERS BOSSY, F 08/01/75	CC CC	GP FT					
DP 073	RELATING TO FOREIGN AFFAIRS AND NEUTRALITY BOSSY, F 08/01/75	CC	GP					
DP 074	ESTABLISH BOUNDARIES OF DISTRICTS OF MICRONESIA ISMAEL 08/04/75	CC	GP					

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S COMM.	REP/AM REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
DP 075	ESTABLISH A NATIONAL ENVIRON PROTECT AGENCY APIS +3 08/04/75	CC	GP				
DP 076	ESTAB ENGLISH AS OFFICIAL NATL LANGUAGE APIS +3 08/04/75	CC	GP				
DP 077	GOVT STRUCTURE FOR A UNITED DISTS OF MICRO APIS +2 08/04/75	CC CC	GS GP				
DP 078	RELATING TO DISTRICTS RIGHT OF SECESSION HEITAL 08/04/75	CC	GP				
DP 079	RELATING TO SUPREMACY OF MICRO CONSTITUTION FARUC +1 08/04/75	CC	GP				
DP 080	RELATING TO LEASE AGREEMENTS BOSSY, F 08/04/75	CC	GP				
DP 081	RELATING TO NATIONAL CURRENCY TWAY 08/04/75	CC	FT				
DP 082	RELATING TO RIGHTS NAKAMURA, T +1 08/05/75	CC	CL				
DP 083	RELATING TO FUNCTIONS OF GOVERNMENT APIS 08/05/75	CC CC	GP GS				
DP 084	RELATING TO ADEQUATE MEDICAL CARE LANKI, R +1 08/05/75	CC	GP				

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM. REP/AM REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
DP 085	RELATING TO THE RIGHT TO HEALTH CARE LANKI, M +1 08/05/75	CC	GP				
DP 086	RELATING TO LABOR, UNIONS, & RT TO STRIKE LANKI, I +4 08/05/75	CC	GS				
DP 087	RELATING TO FREEDOM OF ATTIRE LANKI, I +4 08/05/75	CC	GP				
DP 088	RELATING TO FREEDOM OF MARRIAGE LANKI, I +3 08/05/75	CC	GP				
DP 089	RELATING TO FREEDOM OF DIET LANKI, I +3 08/05/75	CC	GP				
DP 090	EXEC POWER, ELIGIBILITY & DESIG OF CHF EXECUTV SOUND 08/05/75	CC	GS				
DP 091	RE TO RIGHT TO SPEEDY & PUB TRIAL IN CRIM CASES ALBERT 08/05/75	CC	CL				
DP 092	DECLARE CONSTITUTION SUPREME LAW OF MICRO APIS 08/06/75	CC	GP				
DP 093	TEACHING OF MICRO ENVIRON & ECOLOGY IN SCHLS APIS 08/06/75	CC	GP				
DP 094	RELATING TO AIRSPACE OVER MICRONESIA LANKI, I 08/06/75	CC	GP				

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM. REP/AM REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
DP 095	RE OWNERSHIP & INTEREST IN REAL PROP IN MICRO ALBERT +1 08/06/75	CC	CL				
DP 096	RELATING TO A BILL OF RIGHTS BORJA 08/06/75	CC	CL				
DP 097	RE EMINENT DOMAIN POWERS IN CENTRAL GOVT SONY 08/06/75	CC	GF				
DP 098	RELATING TO IMPORTS AND EXPORTS WAINIT 08/07/75	CC CC	FT GF				
DP 099	RE TC CERTAIN POWERS OF THE LEGISLATURE WAINIT 08/07/75	CC CC	GF FT				
DP 100	RE TC THE PROVISIONS OF THE CONST OF MICRONESIA PAL DELEGATION 08/07/75	CC	GF	PRIMARILY			
		CC	GP	PREAMBLE			
		CC	GP	ARTICLE I			
		CC	GP	ARTICLE III			
		CC	GP	ARTICLE VI B			
		CC	GP	ARTICLE XII			
		CC	GP	ARTICLE XIII			
		CC	GF	ARTICLE XIV			
		CC	GP	ARTICLE XV			
		CC	GF	ARTICLE II			
		CC	GP	ARTICLE VI B			
		CC	GF	ARTICLE VIII			
		CC	GF	ARTICLE X			
		CC	GF	ARTICLE XI			
		CC	GS	ARTICLE V			
		CC	GS	ARTICLE VI A&B			
		CC	GS	ARTICLE VII			
		CC	GS	ARTICLE VIII			
		CC	GS	ARTICLE XI			

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM.	REP/AM	REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
		CC	FT			ARTICLE VI B			
		CC	FT			ARTICLE IX			
		CC	CL			ARTICLE IV			
		CC				10/02/75-A -			
		CC				10/02/75-REFER			
		CC	---			TC ADMIN SUB			
		CC	A/S	A-	005 10/08/75	PROGRESS-REPORT			
		CC	A/S	A-	007 10/22/75	PROGRESS-REPORT			
		CC	---			WITH ATTACHMENT			
DP 101	RELATING TO TAXES ON INCOME WAINIT 08/07/75	CC	FT						
DP 102	RE TO ESTAB CONTROL OF EXPENDITURE OF PUB FUND PHILLIPPO 08/07/75	CC CC	FT GF						
DP 103	RE TO THE PREP & APPR OF THE NATIONAL BUDGET PHILIPPO 08/07/75	CC	FT						
DP 104	RE IMPEACHMENT & RECALL OF ELECTED OFFICIALS APIS +4 08/07/75	CC	CL						
DP 105	RELATING TO NON-CITIZEN EMPLOYEES IN MICRONESIA BOSSY, F +4 08/07/75	CC	GP						
DP 106	RELATING TO QUALIFICATIONS AS LEGISLATORS HELGART 08/08/75	CC	GS						
DP 107	RELATING TO EXERCISE OF TAX POWER PHILIPPO 08/08/75	CC CC	FT GF						
DP 108	RELATING TO GOVERNMENT	CC	GF						

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM.	REP/AM REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
	INDEBTEDNESS PHILIPPO 08/08/75	CC	FT					
DP 109	DIST ECON NEGOTIATIONS WITH FOREIGN NATIONS IRIARTE, M 08/08/75	CC	GP					
DP 110	RELATING TO FORCED MARRIAGES IRIARTE, M + 1 08/08/75	CC	CL					
DP 111	RE TO LAWS AFFECTING TRADITION & CUSTOM STEPHEN + 6 08/08/75	CC	CL					
DP 112	RELATING TO FREEDOM OF RELIGION STEPHEN + 6 08/08/75	CC	CL					
DP 113	RELATING TO THE CAPITAL OF MICRONESIA IRIARTE, M + 1 08/11/75	CC	GP					
DP 114	NATIONAL LEGISLATURE TO ADOPT NATIONAL SYMBOLS APIS 08/11/75	CC	GF					
DP 115	ETHNIC REPRESENTATION IN LEGISLATURE OF MICRO LINES 08/12/75	CC	GS					
DP 116	APPOINTMENT OF JUDGES OF THE SUPREME COURT TACHELICL 08/12/75	CC	GF					
DP 117	RE TO THE ADMISSION OF NEW STATES MAINIT 08/13/75	CC	GP					

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM.	REP/AM	REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
	COUNCIL FOR MICRONESIA TMAN 08/13/75	CC	GF						
DP 119	RE CUSTOMARY & US CASE LAW IN MICRO COURTS TORIBIONG 08/14/75	CC CC	GP CL						
DP 120	RE GOVT OF UNITED REPUBLICS OF MICRONESIA FALCAM +9 08/15/75	CC CC CC CC CC CC CC CC CC	GF GS --- GF GS CL GP --- GS			PRIMARILY PRIMARILY EXECUTIVE SEC 1-4-8 SEC 2-3-5-6-7-9 SEC 9 SEC 10 PARLIAMENT SEC 1-2-3-4-			
		CC CC CC CC CC CC CC CC CC	FT GP CL --- GS GP --- GP ---			SEC 5-7 - SEC 6- SEC 8- JUDICIARY SEC 1-2-3-4-5 SEC 1-2-3-4- AMENDMENT SEC 1- GENERAL			
		CC CC CC CC CC CC CC CC	GP GS --- A/S A- A/S A- 		COS 10/08/75 CO7 10/22/75	SEC 1-2 SEC 3-4-5 10/02/75-A - 10/02/75-REFER TO ADMIN SUB PROGRESS-REPORT PROGRESS-REPORT WITH ATTACHMENT			
DP 121	REPRESENTATION OF MINORITY GROUPS IN CON APIS +1 08/15/75	CC	GS						
DP 122	RELATING TO LOCAL CUSTOMS LANWI, I 08/15/75	CC	CL						
DP 123	RE PRIVILEGES AND IMMUNITIES AND EXTRADITION WAINIT 08/15/75	CC	CL						

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	F/S COMM.	REP/AM REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
DP 124	RELATING TO PUBLIC FINANCE CLTER + 3 08/15/75	CC	FT				
DP 125	DESIGNATION OF NATIONAL LEGISLATIVE BODY SOUNO 08/15/75	CC	GP				
DP 126	RE LAWS UPON EFFECTIVE DATE OF CONSTITUTION SOUNO 08/15/75	CC	GP				
DP 127	RE TO NONRECOGNITION OF LOCAL CUSTOMS & TRADI LANNI, I 08/16/75	CC	CL				
DP 128	RELATING TO NATIONAL DEFENSE IRIARTE, M + 1 08/16/75	CC	GP				
DP 129	RE NEW DIST, BOUNDARIES & ADDING NEW TERRITORY APIS + 1 08/16/75	CC	GP				
DP 130	RELATING TO STANDARDS OF PROFESSIONAL ETHICS MAINIT 08/16/75	CC	GP				
DP 131	RE TO CODIFICATION OF BASIC MICRO TRADITION JOSEPH 08/18/75	CC	GP				
DP 132	RIGHTS OF MICRONESIAN NATIONALS SONY 08/18/75	CC	GP				
DP 133	DENYING USE OF POWER OF EMINENT DOMAIN IN MICRO	CC	GP				

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S COMM.	REP/AM REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
DP 134	RELATING TO FUNDAMENTAL RIGHTS AND PROTECTION MAETY 08/19/75	CC	CL				
DP 135	RE CHAMBER OF CHIEFS IN THE LEGISLATIVE BRANCH STEPHEN +3 08/20/75	CC CC	GS GP				
DP 136	RELATING TO FREEDOM OF NIGHT ACTIVITIES LANAI, I 08/20/75	CC	CL				
DP 137	RELATING TO SECESSION APIS + 6 08/21/75	CC	GP				
DP 138	RELATING TO AMENDMENT OF THE CONSTITUTION APIS + 6 08/21/75	CC	GP				
DP 139	RELATING TO MISCONDUCT LANAI, I 08/21/75	CC	CL				
DP 140	RE TO CONST INTERPRETATION AND THE COMMON LAW BOSSY + 2 08/21/75	CC CC	GP GS				
DP 141	RELATING TO THE DISADVANTAGED EPERIAM 08/22/75	CC	CL				
DP 142	RE TAXATION OF GOVT PROPERTY KALLES +2 08/22/75	CC	FT				
DP 143	PROHIBITION OF SMOKING IN PUBLIC PLACES LANAI, I (REQ) 08/22/75	CC	CL				

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S COMM.	REP/AM REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
DP 144	RE EFFECTIVE DATE OF THE CONSTITUTION TLN 08/22/75	CC	GP				
DP 145	RELATING TO SECESSION IRIARTE, M +1 09/16/75	CC	GP				
DP 146	RELATING TO CHILD LABOR IRIARTE, M +1 09/16/75	CC	GS				
DP 147	RELATING TO PROTECTION OF LABOR UNIONS IRIARTE, M +1 09/16/75	CC	GS				
DP 148	RELATING TO LEASES OF LAND PATHEY +1 09/17/75	CC	CL				
DP 149	RELATING TO REEFS LAGOONS & OCEAN WATERS ROBERT 09/17/75	CC CC	CL GP				
DP 150	RE INSPECTION & SEARCH OF CHIEF EXEC & DEPUTY LANUI, I 09/18/75	CC	GF				
DP 151	RELATING TO LOCAL GOVERNMENT ISMAEL 09/22/75	CC	GF				
DP 152	RE CREATION OF OFFICE OF THE PUBLIC CONSUL IRIARTE, M +2 09/24/75	CC CC	GF GS				
DP 153	LEVELS OF GOVT IN MICRO AND SOVEREIGN IMMUNITY	CC	GF				

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM. REP/AM REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
DP 154	OWNERSHIP OF RIGHTS IN ISLANDS, ATOLLS, ISLETS STEPHEN +2 09/25/75	CC CC	CL GP				
DP 155	RE DIST CONSTI & PROVISIONS FOR TRAD LEADERS STEPHEN +1 09/26/75	CC CC	GS GF				
DP 156	RE IMMIGRATION AND DEPORTATION NWETY 09/26/75	CC	GP				
DP 157	RELATING TO TAXES ON LAND NWETY 09/30/75	CC	FT				
DP 158	EQUAL RIGHT TO EMPLOYMENT & TAXATION THERETO EPERIAM +1 10/02/75	CC CC	CL FT				
DP 159	RELATING TO EMINENT DOMAIN TMAN 10/04/75	CC	GF				
DP 160	RELATING TO AN OMBUDSMAN TACHELIOL +2 10/06/75	CC CC	GS GF				
DP 161	RELATING TO CONTROL OF DANGEROUS DRUGS PHILIPPE +1 10/09/75	CC	GF				
DP 162	RELATING TO EMINENT DOMAIN NWETY 10/13/75	CC	GF				
DP 163	RE LOCATING CAPITAL IN MARSHALL ISLANDS LANWI, I 10/17/75	CC	GP				

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	W/S	COMM.	REP/AM	REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
PET001	ON UNITY, FUTURE STATUS	CC	GF		ORL 07/22/75				
	& ALTERNATE DRAFT CONST	CC	GS			PAGE 1, =2 -			
	PAL DELEGATION 07/18/75	CC	FT			PAGE 2, =4 -			
		CC	FT			PAGE 2, =5 -			
		CC	GP			PAGE 2, =4 -			
		CC	GP			PAGE 2, =6,7			
		CC	GP			PAGE 2, II -			
RES001	CONSENSUS OF CONCON ON	CC	CW		ORL 07/22/75		07/22/75-DEFER		
	SOVEREIGN GOVT OF MICRO	CC					TC 7/28-		
	ISMAEL 07/18/75	CC	---				07/28/75-RF-SPC		
		CC	SPC A-		004 09/29/75		09/29/75-CD1-A		
		CC					09/29/75-DEFER		
		CC					TC OCT 15		
		CC					10/15/75-DEFER		
		CC					TC NOV 6		
		CC					11/06/75-FILE		FILE -11/06/75
RES002	CONCON SELECT & PROVIDE	CC	GP						
	FOR PLT MICRO CAPITAL								
	WEITAL 07/22/75								
RES003	RE NEED TO INSTITUTION-	CC	CL						
	ALIZE TRAD LEADERS ROLE								
	WEITAL 07/22/75								
RES004	DESIGNATE A NAME FOR	CC	GP						
	NEW NATION OF MICRO								
	FALANRUW 07/24/75								
RES005	RELATING TO LOCATING	CC	GP						
	THE CAP OF MICRO IN YAP								
	TMAN 07/25/75								
RES006	CONSENSUS OF CONCON TO	CC	GF						
	ESTAB STRNG CENTRAL GOV								
	ISMAEL +6 07/25/75								
RES007	RE CONSENSUS SUPPORTING	CC	GP						
	FREE ASSOC WITH US GOVT								

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM.	REP/AM	REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
RES008	DELEGATES BF CAUTIOUS OF INFLUENCE RE UNITY HARUO 07/29/75	CC	GF						
RES009	RELATING TO A RECESS OF THE CONVENTION TMAN 07/31/75	CC	CW	A-	ORL 08/01/75		08/01/75-A-CWD1		ADOPT -08/01/75
RES010	RE TO RELOCATING CONCON CN PONAPE AFTER RECESS SAWAICHI + 1 08/06/75	CC	CW	A	ORL 08/07/75		08/07/75-DEFEAT		DEFEAT-08/07/75
RES011	RE TO THE RECONVENING OF THE CONCON CN SAIPAN HEINE, C + 8 08/06/75	CC	CW	A	ORL 08/07/75		08/07/75-A -		ADOPT -08/07/75
RES012	RE TO THE SER OF INTERPRETERS DURING RECESS IRIARTE, M + 5 08/06/75	CC	A						
RES013	EXPRESS DESIRE TO ESTAB FED REPUBLIC OF MICRO HEINE, C 08/08/75	CC CC	GF GS						
RES014	INTERRELATIONSHIP BET MICRO & DEMO TRADITIONS IRIARTE, M +1 08/08/75	CC	GP						
RES015	ROLE OF TRADI CHIEFS IN THE GOVT OF MICRONESIA FALANRUW + 2 08/11/75	CC CC	GF GS						
RES016	RE CONVENTION ADMINISTRATION DURING RECESS TMAN 08/11/75	CC CC	CW	A-	ORL 08/13/75		08/12/75-DEFER 08/13/75-A -		ADOPT -08/13/75
RES017	DISTINCTION BET DRAFT COMPACT & CONSTITUTION IRIARTE, M +5 08/14/75	CC	GP						

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RES018	DESIGNATE PONAPE AS THE SITE FOR CAP OF MICRO APIS + 16 08/14/75 CC GP				
RES019	STYLE PHRASING OF LANGUAGE REF TO DISTRICTS SONY 08/16/75 CC				
RES020	DELEGATES DESIRE RE MSL CHIEFS PARTI IN THE CON IRIARTE, M + 1 08/16/75 CC CC CL	ORL 08/21/75	08/20/75-RF-CL 08/21/75-A -CC1		ADOPT -08/21/75
RES021	DESIGNATE SAIPAN AS SITE FOR PERM CAPITAL LIMES +2 08/19/75 CC GP				
RES022	RELATING TO CURFEW HOURS LANWI, I 08/20/75 CC CL				
RES023	EXPRESS DESIRE OF NON-SMOKERS AT PLENARY SESS LANWI, I (REQ) 08/22/75 CC CL				
RES024	RELATING TO FURTHER RECESSES OF CONVENTION TMAN 09/19/75 CC		09/20/75-A		ADOPT -09/20/75
RES025	RE TO EMINENT DOMAIN POWER IN THE MARSHALLS LANWI, I 09/20/75 CC				
RES026	DECLARE VACANCY FOR DR. PALACIOS SEAT LIMES 09/24/75 CC CC		09/24/75-MOTION WITHDRAWN 09/25/75-A -		
RES027	RE PUBLIC EDUCATION ON	CC GP			ADOPT -09/25/75

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S	COMM.	REP/AM	REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
RES028	INVITE IROIJ TOMEING & LANKI TO ATTEND CONCON TMAN 09/27/75	CC					09/29/75-A -		ADOPT -09/29/75
RES029	RE NAME OF NEW GOVT OF MICRONESIA WILIANDER 09/27/75	CC	GP						
RES030	SENSE OF MICRO CONCON RE SEPARATE ADMIN RASA +7 10/07/75	CC	GP						
RES031	DESIGNATE NAME FOR NEW GOVT OF MICRONESIA GEN PROVISIONS 10/08/75	CC	GP	A-	026 10/07/75		10/09/75-A -		ADOPT -10/09/75
RES032	RELATING TO TRADITIONAL LEADERS OF MICRONESIA NIMWES +2 10/23/75	CC					10/24/75-A -		ADOPT -10/24/75
RES033	REQ CON TO ESTABLISH A TRANSITION COMMISSION GEN PROVISIONS 10/31/75	CC CC CC	--- GP	 A-	 ORL 11/07/75		11/04/75-RF-GP w/ INSTRUCTIONS 11/07/75-A -		ADOPT -11/07/75
RES034	IMPLEMENTATION OF CONST OF FEDERATED STATES FALCAM 10/31/75	CC CC CC	--- GP				11/04/75-RF-GP w/ INSTRUCTIONS		
RES035	NAME OF NATIONAL LEGISLATURE WILIANDER 11/01/75	CC					11/04/75-A -		ADOPT -11/04/75
RES036	CONFLICTS BET CONSTITUTION & PCL STATUS AGREE FALCAM +8 11/06/75	CC					11/07/75-A -		ADOPT -11/07/75
RES037	PERMANENT SITE OF CAPITAL OF FSM NGIRAKED 11/07/75	CC					11/07/75-A -CC3		ADOPT -11/07/75

LEG.NO.	SUBJECT INTRODUCER, DATE INTRO.	H/S COMM.	REP/AM REP.NO.-DATE	1ST READ/ACTION	2ND READ/ACTION	TRANS. TO	DISPOSITION
RES038	RE IMPLEMENTATION OF CONSTITUTION OF FSM GEN PROVISIONS 11/08/75	CC			11/08/75-A -		ADOPT -11/08/75

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Member: Committee on Governmental Structure
Judiciary Subcommittee
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Member: Committee on Civil Liberties, Vice Chairman
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APPENDIX A

July 3, 1975

REPORT OF THE PRE-CONVENTION COMMITTEE
TO THE CONSTITUTIONAL CONVENTION
WITH REGARD TO THE SEATING OF DELEGATES

The Pre-Convention Committee of the Micronesian Constitutional Convention was created under Public Law 5-60, as amended. At its May 21st, 1975 meeting held on Ponape, the Committee received and approved the report of the Credentials Committee dated May 12, 1975. (See attached copy).

In adopting the Credentials Committee report, the Pre-Convention Committee accepted the recommendation that the fifty-seven delegates listed below, elected and selected in accordance with Public Law 5-60, as amended, are entitled to seats in the Convention.

MARIANA ISLANDS DISTRICT

Elected Delegates: District 1 - Jose R. Cruz
2 - Lorenzo LG. Cabrera
3 - Luis M. Limes
4 - Joaquin I. Pangelinan

Appointed Delegate: Senator Olympio T. Borja

Distad and Legislature Appointees: Dr. Francisco T. Palacios
Benjamin T. Manglona

MARSHALL ISLANDS DISTRICT

Elected Delegates: District 1 - John Heine
2 - Langue Kalles
3 - Isaac Lanwi
4 - Mary Lanwi
5 - Carl Heine
6 - Kinja Andrike
7 - Tipne Philippo
8 - Remos Jack
9 - Tom Kijiner

Appointed Delegate: Not Yet Selected

Traditional Leaders: Not Yet Selected

PALAU DISTRICT

Elected Delegates: District 1 - Johnson Toribiong
Santos Olikong
2 - John O. Ngiraked
Jacob Sawaichi
3 - Tosiwo Nakamura

Appointed Delegate: Senator Lazarus E. Salii

Traditional Leaders: Ibedul Gibbons
Reklai Lomisang

PONAPE DISTRICT

Elected Delegates: District 1 - Hirosi Ismael
Tadao P. Sigrah
2 - Kikuwo Apis
3 - Apinel Mateak
4 - Leo A. Falcam
5 - Daro Weital
6 - William Eperiam
7 - Strik Yoma
8 - Heinrich Iriarte

Appointed Delegate: Senator Bailey Olter

Traditional Leaders: Namwarki Max Iriarte
Naniken Heinrich Stephen

TRUK DISTRICT

Elected Delegates: District 1 - Sasauo Haruo
Frank Nifon
2 - Soukichi Fritz
3 - Soiter Meti
4 - Maketo Robert
5 - Chutomu Nimwes
Hans Williander
6 - Tatasi Wainit
7 - Manuel Sound
Iskia Sony
Kotaro Heldard
8 - Tosiwo Nakayama

Appointed Delegate: Representative Chiro Albert

Traditional Leaders: Chief Joseph Kintoki
Mayor Fujita Bossy

YAP DISTRICT

Elected Delegates: District 1 - Luke M. Tman
Samuel Falanruw
2 - Hilary Tacheliol

Appointed Delegate: Senator Petrus Tun

Traditional Leaders: Chief Francisco Luktun
Chief Belarmino Hathey

On June the 23rd, 1975, Judge Soukichi Fritz, Chairman of the Credentials Committee established pursuant to Public Law 6-24, received a petition objecting to the manner in which selections of traditional chiefs were made in the Truk District. Judge Fritz forwarded the petition to the Chairman of the Pre-Convention Committee in a letter dated June 24th, 1975, and received on the 27th of that month. Judge Fritz stated in his letter that he initially received the petition on June the 23rd, 1975.

A majority of the members of the Pre-Convention Committee decided that because adequate notice was given to all persons who might have chosen to object to delegate credentials before the Credentials Committee concluded its work on May the 12th, 1975, the petititon was not filed in a timely manner. The Pre-Convention Committee therefore merely brings it to the Convention's attention by means of this report. The Committee did not enquire into the merits, if any, of this petition because it was not filed within the time period provided by law.

This report is respectfully submitted for adoption by the Constitutional Convention on behalf of the Pre-Convention Committee.

/s/ Tosiwo Nakayama
Chairman
Pre-Convention Committee

CREDENTIALS COMMITTEE
MICRONESIAN CONSTITUTIONAL CONVENTION
P.O. BOX 1051
SAIPAN, MARIANA ISLANDS 96950

May 12, 1975

Mr. Tosiwo Nakayama
Chairman
Pre Convention Committee
Micronesian Constitutional Convention
Saipan, Mariana Islands 96950

Dear Mr. Chairman:

Pursuant to Public Law No. 6-24, the Credentials Committee of the Micronesian Constitutional Convention is charged with reviewing the credentials of each delegate to the Constitutional Convention. The Committee is required to notify each delegate to file their credentials with the Committee at a designated place and to allow written objections to be filed no later than fourteen days after the last date on which credentials may be filed with the Committee.

To satisfy these requirements of Public Law No. 6-24, the Committee issued a news release on April 17, 1975, announcing the formation of and appointment of members to the Committee; the functions, duties, and completion date of the Committee; the last date for filing credentials (April 23) and the last date for filing objections to credentials or to the seating of a delegate (May 7); and the address to which all credentials and objections thereto should be sent (i.e., Chairman, Credentials Committee, Micronesian Constitutional Convention, P.O. Box 1051, Saipan, Mariana Islands 96950). In addition, we sent letters to all District Administrators and Congress district delegation chairmen requesting that they assist the Committee by delivering enclosed copies of the April 17 news release and Public Law No. 6-24 and by assisting each delegate in obtaining and transmitting to the Committee evidence of their status as a delegate. The substance of the April 17 news release was again broadcast over Micronesian News Service on April 22, reminding the delegates and potential objectors of the time requirements established by the Committee for filing both credentials and objections.

Finally, on May 1, Chairman Fritz, in a third news release, issued a reminder to all persons wishing to object to the credentials of any delegate to the Constitutional Convention that they must have their written objections filed with the Committee either delivered personally or postmarked no later than May 7. Each of the three news releases designated the place for filing credentials and objections.

While Public Law No. 6-24 required the Committee to notify all delegates to file their credentials, it did not specify the ways in which the Committee could obtain such credentials. For that reason, Committee staff obtained delegate credentials directly from the Department of Public Affairs, District Administrators and Congress district delegation chairmen. By the credentials submission deadline of April 23, the Committee had in its possession evidence of credentials for all but four delegates to the Convention[1], and by the 10th of May, allowing three days for mail postmarked May 7, the Committee had not received any objections to delegates credentials.[2] Because it did not receive objections to any particular delegate or to the seating of a delegate at the Convention, the Committee considered the credentials of each delegate to determine their sufficiency without the benefit of written objections as contemplated under Public Law No. 6-24, Section 3, (3).

It must be noted that the Committee was not unaware of the suit filed in Palau naming the Chairman of the Pre Convention Committee as co-defendant. The original complaint (Civil Action No. 15-75) requests the Trial Division of the High Court, inter alia, to declare Public Law No. 5-60 null and void as being inconsistent with the Trusteeship Agreement and violative of the Trust Territory Code. Service of the complaint by plaintiffs in Civil Action No. 15-75 does not, however, constitute an "objection" as that term is used in Public Law No. 6-24, for it is a request of the Court as opposed to an objection directed to and filed with the Credentials Committee requesting action by this Committee. In addition, had the plaintiffs filed the objections included in their complaint in the correct manner with the Committee, it would still not amount to an objection as contemplated by Public Law No. 6-24, for the complaint is based on the proposition that Public Law No. 5-60 is invalid, while the Credentials Committee can only make decisions and recommendations based on the adherence to that law. It is not for this Committee to question the validity of the law providing for elected and appointed delegates, but rather, to ensure that only those delegates who have complied with the law are seated at the Convention.

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1 On April 23, the Committee had not received the new Congress delegation selection from Truk District, required after a vacancy occurred following the 1975 Truk Senatorial election, nor the Marshall Islands traditional leader and Congress delegation selections.

2 The Committee was aware of Civil Action No. 15-75 filed in the Trial Division of the High Court involving southwest outer islands of Palau. The Committee's decision not to consider service of the complaint upon the Chairman of the Pre Convention Committee as an objection filed with the Credentials Committee is discussed in detail, supra.

The complaint prays that the court "permanently enjoin Defendant, Tosiwo Nakayama, from taking any further action toward the calling of the Micronesian Constitutional Convention until such time that the Congress cures the Constitutional defect of Public Law No. 5-60." Such "defect" could only be cured by the complete reapportionment of, at the least, Palau District, and, more probably, the entire Trust Territory. The Committee does not consider such a request as an objection "to the credentials of a particular delegate or to the seating of the delegate at the convention," as provided for within subsection (2) of Section 1 of Public Law No. 6-24. The Committee strongly believes that it is not bound to consider all communications it receives as "objections" requiring a hearing under subsection (4) and (5) of the law simply because the law does not define the term "objections."

Evidence used in considering delegate credentials may be found in the files of the Credentials Committee on Saipan. All credentials of the fifty-seven delegates appointed and elected were accumulated prior to the April 23 deadline, with the exception of delegate Chiro Albert who replaces Andon Amaraich as the Truk delegation to Congress selection pursuant to Public Law No. 5-60, Section 4, as amended by Public Law No. 6-24, Section 2. The Committee received delegate Albert's credentials on May 6 and, having received no objections to such credentials, decided that the delay involved in selecting Mr. Albert did not impair the validity of his credentials themselves.

It should also be noted that the Committee has no knowledge of any delegate selections made by the Marshalls' traditional leaders or the Marshalls' Congress delegation. To date, there remain three delegate seats out of a total of sixty which are unfilled. These three unfilled seats are part of the Marshalls' Convention delegation, and we are unable to judge the qualifications or credentials of selections which have as yet not been made.

As a final note, each member of the Committee took no part in the decision to approve his own credentials.

FINDINGS AND RECOMMENDATIONS

Upon reviewing the credentials of each person elected or appointed to serve as a delegate to the Constitutional Convention, the Committee found no evidence which would require the disapproval of such credentials. The Committee therefore approves the credentials of the following delegates to the Constitutional Convention and recommends that they be seated at the Convention.

MARIANA ISLANDS DISTRICT

Elected Delegates: District 1 - Jose R. Cruz
2 - Lorenzo LG. Cabrera
3 - Luis M. Limes
4 - Joaquin I. Pangelinan

Appointed Delegate: Senator Olympio T. Borja

Traditional Leaders: Dr. Francisco T. Palacios
Benjamin T. Manglona

MARSHALL ISLANDS DISTRICT

Elected Delegates: District 1 - John Heine
2 - Langue Kalles
3 - Isaac Lanwi
4 - Mary Lanwi
5 - Carl Heine
6 - Kinja Andrike
7 - Tipne Philippo
8 - Hemos Jack
9 - Tom Kijiner

Appointed Delegate: Not Yet Selected

Traditional Leaders: Not Yet Selected

PALAU DISTRICT

Elected Delegates: District 1 - Johnson Toribiong
Santos Olikong
2 - John O. Ngiraked
Jacob Sawaichi
3 - Tosiwo Nakamura

Appointed Delegate: Senator Lazarus E. Salii

Traditional Leaders: Ibedul Gibbons
Reklai Lomisang

PONAPE DISTRICT

Elected Delegates: District 1 - Hirosi Ismael
Tadao P. Sigrah
2 - Kikuwo Apis
3 - Apinel Mateak
4 - Leo A. Falcam
5 - Daro Weital
6 - William Eperiam
7 - Strik Yoma
8 - Heinrich Iriarte

Appointed Delegate: Senator Bailey Olter

Traditional Leaders: Namwarki Max Iriarte
Naniken Heinrich Stephen

TRUK DISTRICT

Elected Delegates: District 1 - Sasauo Haruo
Frank Nifon
2 - Soukichi Fritz
3 - Soiter Meti
4 - Maketo Robert
5 - Chutomu Nimwes
Hans Wiliander
6 - Tatasi Wainit
7 - Manuel Sound
Iskia Sony
Kotaro Heldard
8 - Tosiwo Nakayama

Appointed Delegate: Representative Chiro Albert

Traditional Leaders: Chief Joseph Kintoki
Mayor Fujita Bossy

YAP DISTRICT

Elected Delegates: District 1 - Luke M. Tman
Samuel Falanruw
2 - Hilary Tucheliol

Appointed Delegate: Senator Petrus Tun

Traditional Leaders: Chief Francisco Luktun
Chief Belarmino Mathey

Respectfully submitted to the Pre Convention Committee.

/s/ Soukichi Fritz, Chairman

/s/ Hilary Tucheliol, Member

/s/ Francisco T. Palacios, Member