



Office of Senator Thomas J. Fisher

Vice-Chairman, Committee on Infrastructure, Economic Development, Simon Sanchez High School, Disability Services, Self-Determination and Historic Preservation, Housing, Public Accountability, and the Guam Buildup • Member, Committee on Rules • Member, Committee on Education, Public Safety, and the Arts • Member, Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning

A Letter to the Guam Bar Association

Those of us who have undertaken the study and practice of law have assumed a special obligation toward the execution of our laws. That obligation, freely undertaken by each of us, requires us to jealously guard the health and vigor of the United States and her laws. The truth of this is demonstrated by the oath we all took upon entry to this Bar. I swore, as did you, that

“I will support the Constitution of the United States, the Organic Act of Guam, the applicable statutes of the United States, and the laws of Guam ...”

The Constitution of the United States is under threat. A present candidate for the Presidency (Donald J. Trump) has by action and intent attempted to overthrow the Constitution and Constitutional order of the Union by impeding and attempting to prevent the peaceful transfer of power upon the expiration of his term of office in January 2021. Trump has repeatedly lied about the presence of outcome determinative voting fraud in the 2020 election, knowing that what he said was untrue. His lies continue to this day.

On and before 06 January 2021, Trump conspired to incite, incited, and abetted armed rebellion against the United States and conspired and acted to continue in office despite a clear obligation to remove himself. This was an assault upon a fundamental tenet of our constitutional union. Article II, Section 1 of the Constitution provides,

“[t]he executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows ...”



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An attempt to prevent the transfer of power constitutes treason in two important ways, first Trump attempted to extend his term of office beyond the allowed four-year term and second, Trump attempted to prevent presidential authority from vesting in the newly-elected president. These acts constitute sedition, fomenting rebellion against the Union and treason against the Constitution and the Union.

Now we are less than one year from an election for the presidency. For 250 years, unlike almost any other nation on earth, the United States has honored an expected, unremarkable and predictable transfer of power. Indeed, even where rivalry devolved to enmity (e.g. Adams and Jefferson) the transfer was never questioned and indeed, until Trump, never threatened.

The fourteenth amendment to the Constitution provides,

“No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof.

U.S. Const. Amend XIV, Sec.3.

As you know, to date the Congress has declined to extend the protections of the XIV Amendment to the Territory of Guam.¹ We must provide the protection

¹ This is so save the second sentence of section 1 of the Amendment; “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.



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for ourselves. Therefore, and in order to prevent those who would destroy the Union from gaining office, I have introduced the following bill before the 37th Guam Legislature. Through the Bill and its enforcement it is my hope to permanently bar any secessionist, insurrectionist, traitor or fellow traveler thereof from appearing on any Guam ballot.²

I hope you will consider this letter, and the Bill, for their intent and not through any lens of partisan advocacy. It is no clear thing that the Union can withstand another assault to its Constitutional foundation. This is a time to act.

Very respectfully,

Thomas J. Fisher

² Your author is well aware that Guam's presidential vote is "straw" in nature. However, our lack of an elector does not mean that we are silenced.



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A Bill

“Section 1. Legislative Findings and Intent. A seminal part of the American experiment is the ever-growing expansion and recognition, with occasional setbacks, of personal and privacy rights of the people. A milestone in that expansion is the adoption of the Fourteenth Amendment to the Constitution of the United States. The Legislature is aware that the United States, in Congress, chose to provide a very limited extension of this Amendment to Guam. Through Guam’s Organic Act (*48 USCA §1421 et seq.*) the protection present in the Fourteenth Amendment is limited to the privileges and immunities, due process and equal protection clauses. *Id.* By this Bill, it is the intent of the Guam Legislature to secure for ourselves and our descendants the protections of the XIV Amendment in so far as is constitutionally possible.

Accordingly, and in order to perfect the security that is ours, the Legislature desires to prohibit from appearance on any ballot for any public election, those who shall have engaged in insurrection or rebellion against the United States or any member of the Union or given aid or comfort to the enemies thereof.

Section 2. There is hereby added a new section § 6110A of Chapter 6, Title 3 Guam Code Annotated which shall provide,

“No person shall hold any office, civil or military, under the Territory of Guam nor appear on any Guam ballot for election to any office civil or military, under the Territory of Guam or the United States, who, having previously taken an oath, as a member of Congress, or as an officer of the United States including the Presidency of the United States, or as a member of any state or territorial legislature, or as an executive or judicial officer of any State or Territory, to support, protect and



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defend the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof.”

Section 3. Severability. If any provision of this Act or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.”