

October 27, 1976

REPORT TO THE CONVENTION
BY THE COMMITTEE ON FINANCE, LOCAL
GOVERNMENT AND OTHER MATTERS

Subject: COMMITTEE RECOMMENDATION NO. 4: CONSTITUTIONAL AMENDMENT

The Committee on Finance, Local Government and Other Matters has explored various possibilities in seeking a consensus on a method for ratifying constitutional amendments. In its recommendation to the Convention, the Committee had proposed ratification by majorities of the votes cast in the Commonwealth as a whole (majority of the votes cast in the case of legislative initiative and a two-thirds vote in the case of proposals by constitutional convention or popular initiative).

As revised in the Committee of the Whole, a single ratification method would be used: approval by two-thirds of the votes cast in each of the three municipalities. The net result of the amended language would allow any one municipality to prevent ratification.

Subsequently, the Committee considered further rewording that would restore the majority vote for proposals by the legislative initiative. The Committee believes that the veto power of the smaller municipalities in the upper house of the legislature is sufficient protection for these municipalities under this method of proposing constitutional amendments. No proposed amendment that failed to pass the upper house would be submitted to the voters; therefore there is no need for the additional protection of majority approval by the voters of each island.

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The Committee also considered revision of the method by which constitutional amendment proposed by constitutional convention or by popular initiative could be approved. The Committee believes that the proposal adopted by the Committee of the Whole presents significant problems because any one municipality could prevent ratification even though the voters of that municipality constituted only a small percentage of the total votes cast Commonwealth-wide. The Committee believes that for this reason the proposal should be reconsidered.

In considering proposed alternatives, the Committee took into consideration the significant problem raised under the United States Constitution of whether changes involving the Constitution of the Commonwealth of the Northern Mariana Islands should be permitted or denied contrary to the will of a clear majority, such as, for example, by a two-thirds vote within two of the three municipalities. Such actions contrary to the views of the majority of the voters, even while authorized by the Commonwealth Constitution, may raise serious problems under the United States Constitution. In Reynolds v. Sims^{*/} the United States Supreme Court stated, "The fact that an individual lives here or there is not a legitimate reason for overweighting or diluting the efficacy of his vote." The Court has repeated in a number of cases the principle that the views of the voters should be accorded as equal weight as possible, and that the failure to do so is a denial of equal protection of the laws. This, in brief, is the principle of "one man, one vote." In addition, there is a basic question, both governmental and political in

^{*/} 377 U.S. 533, 567 (1964).

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nature, of adherence to the principle of majority rule. This question might be raised when the Commonwealth Constitution is submitted for approval by the United States government. There is a strong expectation by the United States and the Northern Mariana Islands that an integrated Commonwealth government is being formed. To deny to the majority of the electorate the right to amend its own constitution might well be viewed as contrary to the concepts of representative democracy and equal voice in the governmental process.

Expectations of Commonwealth solidarity and majority rule should not ignore the separate and special needs of the individual municipalities of the Northern Mariana Islands. These needs are recognized in the Covenant and in the provisions on legislative representation. To accommodate both sets of interests, the Committee has adopted a provision for ratification of proposals resulting from constitutional convention or popular initiative that requires a majority of votes cast Commonwealth-wide and, within such majority, passage by at least two-thirds vote in at least two of the three municipalities.

Recognizing that at some future date the people of the Commonwealth of the Northern Mariana Islands may wish to increase the number of municipalities, the Committee wishes to express its intention that the ratio reflected in the proposed provision (two of the three municipalities) be preserved upon such increase in number.

Respectfully submitted,

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ARTICLE _____
CONSTITUTIONAL AMENDMENT

It is proposed that Section 5(b) of the proposed article on Constitutional Amendment be further amended to read as follows:

Section 5: Ratification of Amendments.

* * * *

(b) An amendment proposed by legislative initiative shall be approved if it receives an affirmative vote of a majority of the votes cast. An amendment proposed by constitutional convention or by popular initiative shall become effective if approved by a majority of the votes cast and at least two-thirds of the votes cast in each of two of the three municipalities.