

November 8, 1976

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

SUBJECT: Committee Recommendation Number Eight:
Local Government

The Committee on Finance, Local Government and Other Matters recommends that the Convention meeting in Committee of the Whole adopt in principle the attached recommendation with respect to local government.

The Committee's approach to local government is an effort to accommodate the desires and needs of individual islands while recognizing the limited population and resources of the new Commonwealth. In the process of its deliberations on this complex subject the Committee met with representatives of the current municipal governments and met jointly with the Committee on Governmental Institutions on two occasions. Many alternative approaches were scrutinized and evaluated from the viewpoint of responsiveness to local needs, efficiency in delivery of services, and economy. The Committee's recommendations include a proposed article on local government in five sections that provides for the office of mayor in Rota, Saipan, Tinian and the islands north of Saipan, specifies his duties, provides for his compensation, creates a Governor's Council of Mayors, terminates the present form of municipal government, and authorizes the legislature to create new agencies of local

government if needed five years after the effective date of the Constitution. As part of the proposals on local government the Committee submits also two sections for inclusion in other constitutional articles, one providing for the enactment of local laws by the representatives and senators from a particular island and the other designed to ensure that Commonwealth services are provided on a responsive and equitable basis to all citizens throughout the Commonwealth.

Section 1: Election of Mayor. This section creates one of the two new institutions which the Convention believes are required to meet the local government needs of the separate islands in the Commonwealth. It provides for a mayor in Rota, Saipan, Tinian and the islands north of Saipan to be elected by the voters in each jurisdiction. Because the official is responsible to the people who elected him rather than to the governor and is not an official of the executive branch of the Commonwealth government, the Committee concluded that the title of lieutenant governor would be inappropriate. The Committee was concerned also about the possible adverse reaction to the authorization of three or four lieutenant governors in the Constitution in light of the small geographical areas and limited population involved. Although the Committee is aware that mayors in the Northern Marianas have heretofore had limited powers (and

prestige), it believes that the title still remains the most appropriate for the newly created position being proposed by the Committee.

Subsection (a) provides for the qualifications of the mayor. The mayor must be a qualified voter of the Commonwealth, a United States citizen or national, at least twenty-five years of age and a resident of the Commonwealth for at least three years. The legislature would be free to specify additional qualifications, such as a period of residency on the particular island involved. The age requirement is the same as for senators in the legislature and the residency is the same as that proposed for representatives. The Committee believes that these qualifications are sufficiently stringent for the office of mayor.

Subsection (b) provides that the mayor has a term of office of four years, the same term as tentatively provided for senators in the legislature. It also provides for filling vacancies by special election if more than half the term remains, on the rationale that the people should have the opportunity to fill the office under such circumstances. If less than one half of the term remains, the legislature would provide a method for filling it, either by appointment or by election. This subsection makes clear that the mayor is subject to recall by the voters. The mayor cannot be removed by the governor, however, since granting the governor such a power would tend

to impair the mayor's effectiveness as an independent spokesman for the island he represents and thereby defeat the purpose of creating such an office.

Section 2: Responsibilities of Mayor. This section spells out the responsibilities of the mayor.

Subsection (a) provides that the mayor shall serve on the governor's council of mayors created by section 4 of the article. As discussed below, it is the Committee's view that this council can be an important mechanism for assuring that the views and separate interests of the individual islands are presented effectively at the highest level of the executive branch of the Commonwealth government.

Subsection (b) requires the mayor to review the adequacy of the governmental services and appropriations provided for the island or islands he serves and to submit any findings or recommendations on these subjects to the governor. This provision is designed to meet the concerns expressed by representatives of Rota and Tinian in particular regarding past inadequate services for their islands. This subsection gives the mayor an important oversight responsibility for Commonwealth services on his island. Although the mayor would not have day to day supervisory responsibilities for Commonwealth services being provided through departments within the Commonwealth executive branch, he would have the authority to ascertain whether in fact such services are

being provided at the authorized level, are being administered according to law, and are meeting the needs of the island's residents. If not, this subsection makes clear that the mayor would have the capacity to voice his dissatisfaction directly and forcefully. In the Committee's view, the very assignment of the power to the mayor will help ensure that department officials will make every possible effort to improve the quality of services and thereby avoid criticism of their programs or personnel by the mayor.

Subsection (c) grants the mayor broad investigatory powers to identify problems of local concern and to make recommendations to the governor or other executive branch officials. In essence, the mayor would serve as an ombudsman for his community, investigating complaints, ferreting out wrongdoing, and proposing new legislative measures or executive actions to remedy any deficiencies. If used aggressively, this power could serve as a powerful stimulant for lethargic representatives in the legislature or in the executive branch.

Subsection (d) guarantees the mayor an important role in the budgetary process. It gives the mayor the right to propose a budget for his island, to review the Commonwealth budget before its submission to the legislature, and to recommend changes in the budget relating to his island. Any proposal made by the mayor relating to the budget must be considered by the responsible Commonwealth official and

rejected only for good cause. In the Committee's view, this last requirement ensures that the mayor's recommendations will not be lightly treated. The Committee recognizes, of course, that the Commonwealth has limited resources to meet the needs of its citizens and that compromises must be made in the development of an overall Commonwealth budget. Nevertheless, the Committee concluded that some mechanism was needed to make certain that the mayor of each island would have an adequate opportunity to press his budgetary recommendations within the executive branch and that such recommendations would be given a fair hearing before the budget was presented to the legislature. The most important protection for Rota and Tinian with respect to the budget, of course, is the requirement that any budget be approved by both houses of the legislature. If the executive branch does not fairly consider the budgetary needs of these islands, it will endanger approval of the budget by the legislature.

Subsection (e) gives the mayor rule-making authority on local matters as defined by law. As discussed below, the Committee concluded that local municipal councils of the kind currently in effect should be abolished. Since such councils do enact rules or ordinances on local matters, the Committee believed it would be desirable to provide for some substitute mechanism for meeting this traditional local need. Granting

such power to the mayor within constraints to be defined by the legislature seemed like an efficient and practical way to provide for local rules on such matters as curfews, hunting seasons and other subjects of exclusively local concern. The Committee believes that it would be difficult to define the scope of this rule-making authority more precisely in the Constitution and for that reason recommends that it be left to the legislature.

Subsection (f) gives the mayor responsibility for expending money for public purposes in his locality pursuant to direction by the legislature or two-thirds of the representatives and senators from the island or islands involved. The Committee's recommendation requires the legislature to designate certain local taxes as available for such purposes before they can be expended. Some flexibility appears desirable because of the need to evaluate the overall tax burden on the Commonwealth's citizens once the territorial income tax provided for in the Covenant comes into effect. Although it is probable that some local taxes (such as license fees or fuel taxes) will be continued, the Committee did not wish to prejudge this issue by providing in the Constitution that such taxes should be continued. The use of the senators and the representatives in the way proposed by subsection (f) reflects the Committee's decision to abolish municipal councils and to provide a substitute mechanism for making appropriations decisions on purely local matters.

Subsection (g) empowers the mayor to appoint and supervise such employees as are provided by law to assist him. The Committee is concerned about the misuse of this authority, since the employment of numerous assistants by the mayors would defeat the economies hoped for as a result of the abolition of the present municipal governments. It also entails the risk of a duplicative bureaucracy which may impair the effective delivery of Commonwealth services within each island. Nevertheless, the Committee recognizes that the mayors may need assistance in the performance of their duties and has concluded that the legislature should be entrusted with the responsibility of ensuring that this authority is used wisely and economically.

Subsection (h) provides that the mayor shall perform such other responsibilities as are specified by law. The Committee wants to provide this flexibility because of the possibility that the mayors may be able to perform other functions in the future. As the Commonwealth develops and new needs arise, the legislature should have the authority to assign other duties consistent with the mayors' role as popularly elected leaders in their communities. If this flexibility is available, it may reduce some of the pressure to create still other agencies of local government in the future.

Section 3: Compensation of Mayor. This section provides that the mayor shall be given an annual salary and reasonable expenses from Commonwealth revenues as provided by law. The Committee concluded that Commonwealth revenues could properly be used to compensate the mayors even though they are not officials of the Commonwealth government, because they are being vested with significant responsibilities under this article. The mayor's salary cannot be decreased during his term of office, in order to eliminate any effort by the legislature to penalize a mayor for aggressive performance of his responsibilities on behalf of his constituents. As to the compensation and expenses of the mayor's assistants, the Committee concluded that these revenues should be raised through local taxes. The Committee believes that this power will be used more economically if the employment of assistants for the mayor must be accomplished through the use of locally raised revenues.

Section 4: Governor's Council of Mayors. This section establishes the second new governmental institution, to meet some of the needs of the separate islands comprising the Commonwealth. It provides that the mayors elected pursuant to section one and the governor shall constitute a council of mayors to advise the governor on local matters. The governor shall preside over the council, which shall meet at least four times each year to consider any matter relating to the relationship between the Commonwealth

and its separate islands that the members place on the council's agenda. It is the Committee's view that such a council can develop into an effective device for ensuring that the governor is aware of local problems and sentiments. Although the governor has many sources for such input, the elected mayors should be able to use this council to present their views on a systematic and regular basis directly to the governor. The proposed provision is deliberately general as to the subjects which can be discussed in this forum; the council's agenda could include budgetary matters, specific complaints regarding the delivery of services, or a legislative program aimed at meeting the needs of one or more islands within the Commonwealth.

Section 5: Other Agencies of Local Government.

Subsection (a) provides that the current chartered municipalities on Rota, Saipan and Tinian shall be abolished on the effective date of this Constitution. This reflects the Committee's basic judgment that preserving the present form of local government in the new Commonwealth is unnecessary, expensive and duplicative. The Committee examined the current local government entities and concluded that services in the new Commonwealth could be provided more efficiently and equitably through a central delivery system rather than through local governments. The Committee also concluded that the agencies of local government created

in the article are sufficient for the immediate future. If the present municipal councils and mayors were to be continued, the Committee believes that it would make little sense to create the new offices and powers provided for in this article. The subsection provides that the local taxes currently being used to support the existing local government and to finance services provided by them should be continued unless the Commonwealth legislature provides otherwise. It is the Committee's view that if such taxes continue to be collected they should be used for the benefit of the community generating the revenues, either at the direction of the legislature or two-thirds of the legislative delegation from the particular island. The subsection also provides that the local rules or ordinances enacted by the existing municipal councils shall remain in effect until superseded by Commonwealth law.

Subsection (b) authorizes a study of local government in the Commonwealth to examine the need for additional agencies of local government. The Committee's recommended provision specifies that the study shall examine the effectiveness of the institutions created by the Constitution and the factors relevant to the creation of new agencies of local government to represent the separate islands or to deliver specific governmental services. The study must be completed within three years of the date it is commissioned. The

Committee concluded that the agencies created by the Constitution deserved a reasonable period in which to demonstrate their capability to meet the needs of the people and that no new governmental institutions should be imposed on the Commonwealth without a convincing demonstration that such institutions are necessary and worth the cost. The Committee is well aware that the resources available to the Commonwealth are limited and that any new agencies of local government would add to the burdens of Commonwealth taxpayers. Subsection (b) is designed to ensure that the legislature will proceed with appropriate deliberation before taking this step.

Subsection (c) authorizes the creation of new agencies of local government after five years with the approval of two-thirds of the qualified voters in the community involved. After this period and the completion of the study provided in subsection (b), the legislature may enact enabling legislation for the establishment of new local governments within guidelines regarding form, method of incorporation, powers, officers and financing. A limitation on more than one municipality in one island is imposed to avoid proliferation of costly and duplicative governmental units. The proposed constitutional article would require any system of local government to assure integration between the new office of mayor and new local units.

The Committee recognizes that it cannot ignore political realities and differences. Established governmental institutions and practices always are difficult to change. We respect the desire of the people of Rota and Tinian to maintain their identity as communities. We respect the needs and interests of Saipan and its communities. And we respect the special requirements of the inhabitants of the northern islands. We have sought to develop a governmental system which reflects these desires while permitting a united and workable Commonwealth.

New local governments may be needed in the future. It may be that a county government system should be instituted, or new municipalities created that build on the extensive American council-manager systems. The Committee concluded that it would be premature and constraining to specify any particular forms of local government in this provision. Any new arrangement should be instituted under two conditions: (1) there must be an adequate opportunity for the new Commonwealth government to do its job before allowing new institutions to be created; and (2) there must be no local governments imposed on the people without their consent.

Section : Local Laws. This section is proposed by the Committee for inclusion in the article on the

legislative branch. It provides that laws relating exclusively to local matters on Rota, Saipan, Tinian or the islands north of Saipan may be enacted by the legislature or by two-thirds of the representatives and senators from the respective island or islands. This provision is designed to provide two means for enacting local laws and thereby fulfill a need previously met by the municipal councils in the Northern Marianas. Regardless of the manner in which the law is enacted, it is a Commonwealth law enforced by Commonwealth executive and judicial authorities. Both means are provided for expedition and to guard against the remote possibility that the legislative delegates from two of the three major islands might try to prevent the third delegation from passing a local law applicable only to its own community. The Committee believes that this authority in the legislative delegations, plus the rule-making authority of the mayor discussed above, will provide for responsive and efficient law-making on matters traditionally reserved for local government.

Section : Commonwealth Services. This section is proposed by the Committee for inclusion in the article on the executive branch. It provides that public services authorized by law shall be provided on a fair and equitable basis to all the citizens of the Commonwealth, that the legislature may require that such services be provided through

decentralized administrative arrangements, and that the governor shall make any necessary recommendation to the legislature to accomplish these objectives. Although the Committee recognizes that there cannot be exact per capita distribution of Commonwealth revenues, this section is designed to assure equity in the budgetary allocations among islands and community groups. It may be necessary and desirable to allocate funds for special or additional services as a means of achieving comparable standards of health, education and other services. But this does not mandate that each geographical area must or should have the same facility, which would be both duplicative and expensive. Representation and assurance of equity in the allocation of funds and services were the principal concerns of the delegates from Rota and Tinian and the suggested language provides a basis for fairness for all parts of the Commonwealth. It also enables the legislature to require decentralized service delivery mechanisms for the Commonwealth government. In this way the difficulties of communication for the outer islands can be reduced without the necessity of establishing separate autonomous municipalities.

The Committee's proposals on local government should properly be treated as a single package designed to provide a practical compromise among the competing objectives

advanced by delegates to this Convention. The Committee believes that the recommended provisions are a meaningful response to the special concerns advanced by the representatives of Rota and Tinian and are still consistent with the objective of a unified and coherent Commonwealth government.

Respectfully submitted,

ARTICLE VI
LOCAL GOVERNMENT

Section 1: Election of Mayor. The qualified voters of Rota, Saipan, Tinian and the islands north of Saipan shall elect a mayor to perform the responsibilities specified in this article for each island or group of islands.

a) A mayor shall be a qualified voter of the Commonwealth, a United States citizen or national, at least twenty-five (25) years of age, a resident of the Commonwealth for at least three (3) years, and shall meet such other qualifications as may be provided by law.

b) A mayor shall be elected at a regular general election for a term of office of four (4) years. A vacancy in the office of mayor shall be filled by special election if more than one-half (1/2) of the term remains and otherwise as provided by law. A mayor may be subject to recall under the provisions of article IX .

Section 2: Responsibilities of Mayor.

a) The mayor shall serve on the governor's council of mayors provided by section 4 of this article.

b) The mayor shall review the adequacy of the governmental services and the appropriations provided by law

for the island or islands he serves and may submit any findings or recommendations regarding these services or appropriations to the governor.

c) The mayor may investigate complaints and conduct public hearings regarding any matter of local concern and submit any findings or recommendations on such subject to the governor and other appropriate agencies of the Commonwealth.

d) The mayor may propose items for inclusion in the annual budget, review the budget before its submission by the governor to the legislature, and recommend amendments in the budget relating to the island or islands served by the mayor. Any proposal relating to the budget made by the mayor shall be considered by the responsible Commonwealth official and rejected only for good cause.

e) The mayor may promulgate rules and regulations on local matters pursuant to authority provided by law.

f) The mayor may expend for local public purposes such revenues as are raised by local taxes designated by law for such purposes provided, however, that these expenditures shall be specifically authorized by the legislature or by two-thirds (2/3) of the representatives

and senators representing the island or islands served by the mayor.

g) The mayor may appoint and supervise such employees as are provided by law to assist in the performance of his responsibilities.

h) The mayor shall perform such other responsibilities as are specified by law.

Section 3: Compensation of Mayor. The mayor shall receive an annual salary and a reasonable allowance for expenses from Commonwealth revenues as provided by law. The salary of the mayor may not be decreased during his term of office. Salaries and expenses for any assistants to the mayor shall be paid by local taxes designated by law for such purposes provided, however, that these salaries and expenses shall be specifically authorized by the legislature or by two-thirds (2/3) of the representatives and senators representing the island or islands served by the mayor.

Section 4: Governor's Council of Mayors. The mayors elected pursuant to section 1 and the governor shall constitute a council of mayors to advise the governor on local matters. The governor shall preside over the council which shall meet at least four (4) times each year to consider any matter relating to the relationship between the Commonwealth and its separate islands as the members place on the council's agenda.

Section 5: Other Agencies of Local Government.

a) The chartered municipality form of local government shall cease to exist on the effective date of this Constitution. Local taxes paid to the chartered municipal governments on Rota, Saipan and Tinian shall remain in effect until otherwise provided by law and shall be expended if authorized by the legislature or by two-thirds (2/3) of the representatives and senators from the island or islands for local public purposes on the island or islands producing such revenues. Ordinances and other rules enacted by municipal councils on Rota, Saipan and Tinian that are consistent with this Constitution shall remain in effect until superseded by Commonwealth law.

b) The legislature shall authorize a study of local government in the Commonwealth. The study shall evaluate the effectiveness of the institutions created by this Constitution in representing the interests of the separate islands and in achieving fair and equitable delivery of services to all the citizens of the Commonwealth and shall review the desirability, costs, benefits, structure and method of financing agencies of local government within the Commonwealth. The findings and recommendations of the study shall be published not later than three years from the date it is commissioned.

c) No additional agency of local government shall be established until completion of the study provided in subsection (b) and for at least five (5) years from the effective date of the Constitution. The legislature may then establish agencies of local government in place of or in addition to the agencies provided for in this article with such powers, elected officers and financing as may be provided by law. Not more than one local government shall be established for Rota, Saipan or Tinian or for the islands north of Saipan. No new agencies of local government shall be established without the approval of two-thirds (2/3) of the qualified voters residing on the island or islands to be served by the agency of local government.

ARTICLE II

THE LEGISLATIVE BRANCH

Section : Local Laws. Laws that relate exclusively to local matters on Rota, Saipan, Tinian or the islands north of Saipan may be enacted by the legislature or by two-thirds (2/3) of the representatives and senators from the respective island or islands.

ARTICLE III

THE EXECUTIVE BRANCH

Section : Commonwealth Services. Public

services authorized by law shall be provided on a fair and equitable basis to all the citizens of the Commonwealth. The legislature may require that such services be provided through decentralized administrative arrangements. The governor shall make any necessary recommendations to the legislature in order to accomplish these objectives.