

SECOND NORTHERN MARIANAS CONSTITUTIONAL CONVENTION
HOUSE OF TAGA
SAIPAN, CM 96950

MEMORANDUM

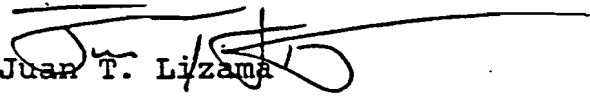
Date: June 25, 1985

Legal Opinion No. 21

To : Attorney General
From : Chairman, Committee on Governmental Institutions
Subject : Request for Legal Opinion on Delegate Proposal
No. 51-85

The subject Proposal calls for a technical amendment: to add the phrase "...section or part..."

Please provide us with your recommendation and rationale for Committee deliberation on this Proposal.


Juan T. Lizama

xc: Con-Con President



OFFICE OF THE ATTORNEY GENERAL
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

5TH FLOOR, NAURU BUILDING
SAIPAN, CM 96950

PHONE: 6207-7111

REXFORD C. KOSACK
ATTORNEY GENERAL

Legal Opinion No. 21

TO: Chairman, Committee on
Governmental Institutions
Second Constitutional Convention

DATE: 7/2/85

FR: Attorney General

RE: Request for Legal Opinion on Delegate Proposal No. 51-85

You have asked for our opinion regarding delegate proposal 51-85 to add the terms "section" or "part" to that legislative action, which if vetoed by the governor, may be reconsidered by the Legislature under Article II, Section 7(c). Insofar as this proposed language would apply to appropriation bills, it would clarify the legislature's power to reconsider not only veto of individual appropriation items, but also aggregations of appropriation items organized into sections and parts.

However, insofar as this language would apply to substantive, as opposed to appropriation bills, it may have some unintended effects.

If applied to substantive bills, the legislature could enact a bill by a simple majority. The governor could reverse the overall effect of a piece of legislation by vetoing a particular section or part of the legislation. The Legislature would have to muster two-thirds vote of each house to restore the original intent and purpose of the bill when it is brought before them upon reconsideration under Article II, Section 7. Is this your intent? If the legislature failed to muster two-thirds vote in each house, the legislation would go into effect even though its effect might be drastically different than as originally enacted by the legislature.

Moreover, this amendment would be inconsistent with Section 203(c) of the Covenant. Section 203(c) provides in relevant part:

Rec'd 7/3/85 - am/cf

The legislative power of the Northern Mariana Islands will be vested in a popularly elected legislature.

The legislative power is the power to make law. These amendments would expand the governor's power beyond merely nullifying a piece of legislation. Instead, the governor, by selectively nullifying sections or parts of a bill, could make law insofar as he could substantially change the tenor of legislation that would become law. For this reason, a court would invalidate this amendment under Section 501 as being inconsistent with Section 203(c) of the Covenant's requirement that the legislative power be granted to the legislative, as opposed to the executive branch.

Joseph A. Kothari
for

REXFORD C. KOSACK