



Third Northern Mariana Islands Constitutional Convention

June 7, 1995

MEMORANDUM FOR THE COMMITTEE ON EXECUTIVE BRANCH AND LOCAL GOVERNMENT

FROM: Legal Team

SUBJECT: Overview of Issues Before the Committee

Under Rule 24(a), the Committee on Executive Branch and Local Government has jurisdiction over the following matters:

1. Executive Branch (Article III)
2. Local Government (Article VI)
3. Code of Ethics (Article XIX)
4. Oath of Office (Article XVII)
5. Official Seal, Flag, Language (Article XXII)

Attached to this memorandum are separate analyses of each of these articles, summarizing the proposals currently pending before the Committee with respect to each and recommending a tentative order in which the issues under each article might be considered by the Committee.

This memorandum considers the order in which the articles under this Committee's jurisdiction might be taken up. Once the Committee agrees on an order and advises the Convention of its intended agenda, the delegates would have an incentive to get any additional proposals to the Committee in time to be considered on its schedule (although the official cut-off date is July 10, 1995).

This Committee will be principally concerned with the first two subjects assigned to it -- the Executive Branch and Local Government. Fifty seven (57) proposals have been discussed with counsel relating to the Executive Branch and eleven (11) proposals have been presented relating to Local Government. Not all of the proposals received by counsel will actually be introduced, and some may be changed before they are introduced. But the existing proposals reflect generally the ideas that delegates and others have had with respect to possible amendments of the constitution, and these ideas are likely to surface in the discussions of the Committee regardless of whether formal proposals are introduced by the delegates. In contrast, counsel is aware as of June 4, 1995 of only two proposals with respect to Code of Ethics, one

proposal relating to Official Seal, Flag, Language, and no proposals with respect to the Oath of Office.

We recommend that the Committee begin its deliberations with respect to Article III on the Executive Branch following the order suggested in the attached memorandum:

1. Section 9(b): Governor's Annual Report
2. Section 10: Governor's Emergency Powers
3. Section 15: Governor's Reorganization Orders
4. Section 21: Boards and Commissions
5. Section 14: Heads of Departments
6. Section 22: Special Assistant for Women's Affairs
Section 23: Resident Executive for Indigenous Affairs
7. Section 18: Executive Assistant for Carolinian Affairs
8. Section 12: Public Auditor
9. Section 3: Offices of the Governor and Lieutenant Governor
10. Section 11: Attorney General
11. Section 9(a): Processing of Budget
12. Section 20: Retirement System
13. New Agencies and Other Issues Relating to the Executive Branch

As is discussed in the attached memorandum, the general approach reflected in the above sequence is to have the Committee consider some of less complex or controversial issues before facing the more difficult issues. This enables the Committee to get some experience in working together and hopefully will ensure some success in reaching agreement on the issues considered early on by the Committee.

The above listing covers all the subjects raised by the proposals known to counsel with one major exception; the list does not include the subject of Section 17 which deals with the delegation of responsibility to the Mayors for delivery of public services and their control over the resident department heads. Because this question essentially deals with local government

entities and the powers entrusted to those entities, we believe that the Committee might wish to turn its attention to Article VI, dealing with local government, and come back to Section 17 of Article III after resolving the basic questions raised by the proposals addressed to Article VI. If the Committee elects to follow this course, we recommend that it deal with Article VI by addressing the local government problem by considering the following questions in the indicated order:

1. Should the Commonwealth have local government entities in all three Senatorial districts or only in Tinian and Rota?

2. If the Committee decides that there should be local government in two or three districts, should it consist of both a Mayor and a Municipal Council?

3. Assuming that the Committee wants a system of local government, what powers should the local government have? Should the powers be specified in the Constitution or left to the Legislature? How should the Constitution define the areas in which the local governments have exclusive responsibility?

4. What revenues should be made available to support the local government and how should they be raised or determined?

5. What responsibilities should local government have in the administration of CNMI law and the delivery of public services authorized Commonwealth-wide by the Legislature?

Once these questions are resolved by the Committee, appropriate language can be prepared to implement these decisions. The last question above, once resolved, will then permit the Committee to return to Section 17 of Article III and amend its language as required to implement the Committee's wishes.

The remainder of the Committee's work deals with the three relatively minor articles assigned to it: Articles XIX, XVII, and XXII. They could be considered in any order and could be considered at any point in the Committee's deliberations when it desired a change of pace.