

MEMORANDUM FOR REG BROWN

July 27, 1995

SUBJECT: Emergency Need for Legal Assistance

Sorry to bother you all, but we do now have the long-anticipated threat of a walk-out that will prevent the Convention from completing its business. We were planning to complete the effort on the 60th day as provided by the enabling act, which is August 3. The act does provide for a 15 day extension, which we might or might not be able to get under the circumstances I will describe below.

The basis issue is this: is there any basis under the U.S. Constitution (or indeed the CNMI Constitution) for challenging the provision of the enabling act creating this Constitutional Convention that defines a quorum as "a majority of the delegates" "provided that at least one delegate is present from each of the three senatorial districts". As you will remember, there are three such districts, Saipan (with 19 delegates), Rota (with four) and Tinian (with four). Based on population alone, this gives vast over representation to Rota and Tinian just on a number basis, since Saipan has more than 47,000 total population, compared with about 2500 for each of the other two islands, and about 9200 registered voters, compared with about 1150 for Rota and 780 for Tinian.

But the problem really is the quorum issue. The four delegates from Rota are now refusing to attend sessions unless the majority capitulates to their views on a local government provision under consideration.. The Saipan people have already compromised a good deal. Is there any basis for maintaining that the Convention can go forward under these circumstances, without a quorum under both the enabling legislation and its rules because of the absence of the four Rota delegates, and still be able to put its product before the people in a referendum.

The Convention has already passed five articles, including several significant ones, but there are another 14 or 15 waiting for review and final enactment, not including the local government issue that divides the group. I am thinking of going forward without a quorum, for political and public relations reasons. But I would like to be able to suggest that there are legal bases for sustaining the amendments enacted by the Convention without a quorum under these circumstances.

I know this is uphill. I think I looked at some aspects of this some time ago, and found very little, if any, readiness on the part of the courts to intervene in, or scrutinize, a constitutional convention created under state statutes. Are there no constitutional limitations that we can call into play? Do the Commonwealth people have no rights here that are adversely impacted by denying them the right to vote on amendments produced under these circumstances? Or do the states basically have unlimited discretion to decide how to amend their own constitutions with the federal courts interested only after the fact if some state amendment is challenged as violating the U.S. Constitution?

Thanks and Regards, HPW

cc: Mr. Helfer.

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Number of pages in this transmission: 2

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**FOR: Reg Brown and Mike Helfer (Please deliver to both ASAP)**

**FROM: HPW**

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MESSAGE

Have a serious problem here on the legal front and need help. Would appreciate anything you can do. Regares.

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