

August 26, 1995

MEMORANDUM FOR THE POST-CONVENTION COMMITTEE

SUBJECT: Suggestions for Post-Convention Political Education

This memorandum outlines some approaches regarding the political education program that will be so important to ensure the ratification of the amendments proposed by the Third Northern Marianas Constitutional Convention. We defer to you and the other delegates as to how best to present the recommendations of the Convention, what groups are likely to be supporters (or opponents) of the proposed amendments, and how much detail the voters want to hear on the subject. We do all know that there will be opponents -- some will focus on the overall product (like Ruth Tigue) and others will concentrate on specific issues of importance to them (eg. local school boards, four year terms for representatives, Article 12 reforms, and local government control over public services.)

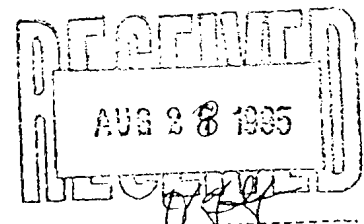
Notwithstanding the wide range of subjects addressed by the Convention and the corresponding range of possible opponents, it seems useful to think a little about an overall approach that all the delegates will feel comfortable in taking as they take part in the political education effort. Each delegate has his or her own style; each group of listeners (or critics) has their own priorities; and new issues will undoubtedly develop as the time for the vote approaches. We think that one possible approach for the Committee to evaluate would focus on two basic subjects: (1) the process followed by the Convention in developing proposed amendments; and (2) the problems addressed by the Convention and the solutions proposed.

THE PROCESS

Despite the extensive coverage of the Convention, voters may not have any clear idea as to how the Convention actually did its work. It seems desirable to start any defense or explanation of the Convention's work with a brief review of how it operated and ended up with the proposals that are now before the people for consideration. We think that these points are among those to be emphasized regarding the Convention's procedures: (1) the representative nature of the delegates as a group; (2) the number and range of proposals placed before the Convention; (3) the non-partisan nature of the Convention's deliberations; (4) the broad consensus achieved on all proposed amendments; and (5) the determination to ensure that the Constitution as amended would serve the Commonwealth for at least the next 25 years and likely for longer. These points might be elaborated upon along the following lines.

1. The Representative Nature of the Group of Delegates

It may be useful to emphasize to the reader or listener that these 27 delegates did represent a real cross-section of the community -- some with extensive government experience



and others from the private sector; some retired workers and some very young delegates; several educators, a lawyer, and others with background in finance; eight women; and four Carolinians. The 27 were elected to office after an extensive campaign in which about 100 candidates competed for the opportunity to serve in the Convention. What needs to be emphasized here is that the voters wanted a representative group to take a fresh and thorough look at the operations of the Commonwealth government and to deal with the many real issues that were concerning the community. Individual delegates can elaborate as to their own experience in meeting and dealing with the other delegates -- from different islands, different age groups, and different priorities -- and coming to respect over time the difference in views and the need for compromise in order to reach a consensus.

2. The Number and Range of Proposals

The important point here is that each delegate was absolutely free to advance proposals for amendments that reflected his or her own priorities. Furthermore, proposed amendments were submitted to the Convention as a matter of courtesy that originated from the Mayors, members of the School Board, the Attorney General, the Governor, interest groups, defeated Convention candidates, and interested individuals. As a result of this process, 620 proposals were put before the Convention -- each to be treated on the merits without regard to who sponsored the suggested amendment. Hopefully, if this point is vigorously advanced, it will go a long way to rebut any suggestion that the delegates were "brainwashed" or dictated to by anyone.

Another point here is that the range of proposals confirms that the delegates were convinced that many problems in the Commonwealth should be addressed by the Convention. There are critics who may take a different view; but the convincing response is that these 27 delegates, with their different backgrounds and priorities, agreed that certain revisions of the Constitution were required. To those who take a different view, you can simply say that the democratic process here produced 27 delegates who as a group disagree with the critic and believed that they were representing their constituents in supporting the amendments that emerged from the Convention. You might also take note of the many proposed amendments that were rejected by the Convention as being "legislative" in nature or otherwise not necessary. In many cases, the Convention expressly declared that the subject at hand should properly be left to the Legislature.

3. The Non-Partisan Nature of the Convention

This point may be useful in some contexts but not in others. Certainly it seems to have been the case that there was no Democratic program or a Republican program that was being pressed on the delegates in the Convention. It is certainly well known that the Governor had a set of proposed amendments that he hoped the Convention would adopt, but it should be equally well known that some of these (such as his views on gambling, an appointed Washington Representative, and the budget approval process) were rejected by the delegates. Some of the Mayors had longer agendas than the Governor, and about an equal

proportion of their proposals were adopted. The Convention distributed all proposals to all delegates, but used outlines of related issues (on which proposals were not attributed to particular sponsors) to decide what was in the best interests of the Commonwealth. It is possible that some former (or current) political leaders will describe the Convention delegates as naive or politically inexperienced and oppose certain amendments on these grounds. We think that criticism should not be very effective, in light of the many delegates who served in high elected or appointed government offices for many years.

4. The Need for Broad Consensus

Two points might be made here. First, many voters may not appreciate that each proposed amendment had to win the support of two-thirds (18) of the delegates. In fact, almost all proposed amendments received 22 or 23 votes. This can be used to reflect the fact that extensive work was done in the committees to weed out proposals that did not have widespread support and to concentrate on those that could get such support. Second, this measure of support -- from such a broad range of delegates -- can be used to demonstrate that the Convention did indeed concentrate on those problem areas generally recognized as needing some significant reform.

If it seems useful, one might add that, unlike the 1985 Convention, there really was no "logrolling" of any significance; the delegates by the time of voting did not for the most part pay any attention to the likelihood that their support of a particular amendment would get them some additional votes for proposals in which they had a strong interest.

5. The Need for a Long Perspective

There may be critics who question the number and scope of the amendments proposed by the Convention; others may suggest that errors have been made that will have to be corrected. Some may compare this Convention unfavorably with the 1985 Convention, although the majority view seems to run in the other direction. Four points might be made here.

First, drawing from American history, one might point out that, after about 10 years experience, the basic governing document was extensively rewritten from the Articles of Confederation to the present Constitution and Bill of Rights. Thereafter the Constitution endured.

Second, the delegates at this Convention believed that many of the specific amendments proposed by the 1985 Convention were either outdated by 1995 or were "legislative" in nature and should be deleted. When and if this point is made, the delegate must be ready to explain some of the amendments proposed by this Convention that might also be described as "legislative" in nature.

Third, unlike the 1985 delegates the delegates in 1995 believed that minor "tinkering"

with the Constitution was not what was necessary. For example, the overwhelming need to reduce the size and cost of the legislative branch called for substantial reforms. So also did the need to ensure the constitutional status of the Commonwealth judicial branch. It was also necessary to deal significantly with the litigation that had arisen with respect to Article 12 -- where problems had developed since the last Convention. In other words, delegates should defend their proposed amendments as necessary to address real problems -- many of which were not apparent at the time of the last Convention. It also might be emphasized that these delegates were able to look at some 18 plus years of experience under commonwealth status during which the community enjoyed a major development boom and then was called upon to live with a downturn in the economic cycle in recent years. In contrast, the 1985 Convention took place after a relatively few years of self-government under the Covenant and before the economic boom got off the ground.

Fourth, the delegates to this Convention disagreed with the judgment of their 1985 predecessors that the Commonwealth should have conventions every ten years. It may be useful to elaborate on this point, in particular the uncertainty and instability that such conventions may generate. This virtually unanimous view led the delegates to want to produce an amended constitution that would stand the test of time, that was internally consistent, that eliminated all outdated provisions, that limited the opportunities to amend the Constitution for some 25 years, and that shaped the institutions of government so that they could function efficiently in the future and operate within constitutional restrictions that addressed important problems such as deficit reduction, limiting the cost and size of government, and developing new institutions of local government.

THE RESULTS

Having spent as much time as seems useful in outlining the process followed by the Convention, advocates for the Convention's proposed amendments will want to speak to specific reforms recommended by the Convention. Which subjects are addressed and in what detail will obviously vary from audience to audience. Regardless of the subject, however, the objectives in the education program should be the same, namely, to persuade the reader or listener that (1) the problem addressed by the Convention was important to the Commonwealth, (2) that the recommended amendment makes sense, and (3) the proposed amendment is far superior to the status quo and will work well over time. The last point is important, because some critics will concede the first two points but still argue that there were better ways to deal with the problem than the one adopted by the Convention. These critics need to be told -- politely but firmly -- that the Convention considered the options and, over the course of 60 days, put together a package of amendments that is internally consistent and will work. The choice now is between the Convention's recommendation and the status quo!

There are many different ways to summarize and defend the work of the Convention. One can do it by individual article, drawing upon the analysis and the delegate's own experience in explaining its purpose and intended operation. A collection of the Post-

Convention Committee's news releases will be helpful in this regard. A similar approach, but slightly different, might try to identify the specific problem that the Convention was seeking to address and to explain the ways in which the proposed amendments might help to solve, or alleviate, the problem. If the Convention delegates can persuade the public that they addressed real and important problems confronting the Commonwealth, the battle for ratification can be easily won because the amendments proposed by the Convention can be readily defended as reasonable and constructive.

There are 10 major problems that the delegates undertook to solve:

1. Deficit Reduction and Prevention

This may be a good place to start in many settings, because there are few voters who will openly approve of continued Commonwealth deficits. The delegates can emphasize the size and importance of existing deficits -- in the range of \$20-30 million according to the Public Auditor -- and the need to address the problem promptly in a time of declining revenues and increased demands for public services. The Convention's proposal in Article 10 is a serious and realistic one; it requires elimination of the deficit within two years, but extends this to three years if the deficit exceeds ten percent of the Commonwealth's anticipated revenues in a year in which the deficit is to be reduced. Once a deficit is determined to exist (by the Public Auditor), the Governor must propose a deficit reduction plan to the Legislature as part of the annual budgetary process and a hiring and salary freeze immediately goes into effect.

The delegates can emphasize their concern that no government employee be fired during deficit reduction efforts, but that reduction in the number of employees through attrition and deferring salary increases may provide a major contribution to the reduction of the deficit. Such measures will put pressure on both the Legislature and the Governor to reduce government spending (or increase revenues) to deal with the underlying causes of the deficit.

This will be criticized as an overly severe measure; it must be defended as necessary if the Commonwealth is ever going to get control again over government expenditures. There is an exception for employees considered necessary for public health and public safety, but only if the Governor and two-thirds of the Legislature agree that such exceptions should be made.

The proposed amendments will be enforceable by Commonwealth executive branch officials, who will be personally liable for expenditures that violate these provisions. It can be expected that the head of the Finance Department will play a major role in enforcing these provisions and one of the Convention's proposed amendments provides that this official, once appointed by the Governor, can be removed only for cause. It also is the case that taxpayer suits are available to enforce this and other provisions of the Constitution.

In addition, the proposed amendments to Section 9 of Article 3, regarding the annual

In addition, the proposed amendments to Section 9 of Article 3, regarding the annual budget process, are designed to encourage agreement on a balanced budget before the fiscal year begins. They also modify the continuing resolution procedure so that it does not enable the government to continue spending at an unrealistically high level based on the past year's budget in the event that agreement on a budget for the current fiscal year has not yet been agreed upon. This represents the Convention's belief that more discipline in the budgetary process, and more cooperation between the legislative and executive branches of government will help to keep new deficits from appearing once the current situation is successfully addressed.

2. Reduced Cost of Government

This is a somewhat more complicated, and perhaps controversial, issue -- in view of the large number of Commonwealth families that have one or more members employed by the government. The basic point to be made here is that unless the cost of government is controlled, taxes on individuals will rise or government services will be reduced. There is no middle ground. Every American jurisdiction that has experienced significant growth in the cost of government has also finally come to large increases in taxes on individuals -- whether by income taxes, sales taxes or property taxes. The Convention delegates understood that there are no long term alternatives. Anyone who thinks otherwise is uninformed or naive or both.

The delegates proposed a number of amendments designed to reduce the size and cost of government in response to what they perceived was a widespread feeling that government in the Commonwealth had gotten too large and expensive. Amendments are proposed that address this problem in the legislative branch, the executive branch, and local government.

Legislative Branch: The Convention has proposed major restructuring of the Legislature to achieve major reductions in its operating expenses. The reduction in size of the Senate, from nine to six, and of the House of Representatives, from 18 to 13, had cost reduction as one of its major objectives. In addition, the Convention adopted a realistic cap, with inflation protection, on all legislative expenditures -- including legislative salaries, office expenses and expenses for the legislative bureau. If necessary to dramatize the point, delegates can point out the projected funding (some \$8 million per year) sought by the Legislature in its Initiative No. 1, still scheduled to go before the voters in November unless voluntarily withdrawn by the Legislature. It also might be pointed out that many of the legislators agreed with the desirability of reducing the size of the house, although we do not recall that any senators agreed with the reduction in the size of the senate.

Executive Branch: The deficit reduction procedure summarized above is an important component at the present time of the effort to reduce the cost and size of the executive branch. The revised civil service system holds out some hope of bringing government salaries into closer balance with the private sector. On this subject, the delegates might emphasize that members of the commission must be from the private sector and that

delegates might also mention that the new civil service system amendments bring this function back within the executive branch and eliminates the ambiguities that prompted costly litigation in recent years.

Local Government: Although ready to enhance and enlarge the responsibilities of local government (see below), the delegates have recommended amendments designed over time to reduce this dependency on Commonwealth revenues by local governments in the Commonwealth. First, a cap on local government employees is proposed; if adopted, this amendment would mean that any employees over the number employed on June 5, 1995 by a particular local government must be paid out of revenues raised locally and not from Commonwealth funds. Second, Commonwealth funding of local government over time will be reduced by the amount of locally raised revenues and, after a period of some six or seven years, Commonwealth funding will be limited to an amount that matches the funds raised locally and, even then, only if the Legislature and the Governor agree that the local governments have made substantial efforts to raise local funds through taxes and other means and to reduce the number of residents employed by local government.

3. More Effective Government

The delegates will want to explain that they (and their constituents) wanted a more effective government as well as one that was less costly. In particular, the delegates wanted less open conflict between the executive and the legislative branches, if possible, on such matters as the annual budget or appointments proposed by the Governor. Several amendments are proposed to accomplish these objectives.

Legislative Branch: Many of the amendments proposed for the legislative branch article address these issues. The recommendation that representatives have four year terms is a good example and one that may prompt more opposition than other proposals regarding the Legislature. The delegates can emphasize the need for experienced legislators, the need to focus on the task of legislating rather than thinking of one's reelection prospects, and the fall back safeguard provided by the more readily available recall option. In addition, the increased funds and enhanced professionalism of the legislative bureau will hopefully enable the legislators to perform their tasks more effectively. Election at large from Saipan, rather than from districts, also is intended to encourage a broader perspective. None of the Carolinian delegates had any concern that election at large would make it more difficult for Carolinians to be elected to the House of Representatives.

The allocation and use of public funds by the legislators ought to be a strong point for the delegates in explaining their proposed amendments affecting the legislative branch, but it may cause some difficulty. We think that the delegates can and should emphasize that the allocation of funds equally to senators and representatives, and without regard to majority or minority status, recognizes the similar needs of all legislators and basically serves the interests

of fairness and stability within the legislative branch. At the very least, it takes away the financial incentives from switching from the minority to the majority; certainly critics would not want to continue a system that encourages coups in the Legislature. As to the prohibition on the use of public funds for personal or political purposes, we leave this delicate matter to your good political judgment. We see it as a major effort to change the style of politics in the Commonwealth; critics may challenge it as naive or unenforceable.

Several amendments can be identified as furthering the objective of increased cooperation, or at least less open conflict, between the executive and legislative branches. For example, the role of the lieutenant governor can be singled out as a step in bringing the two branches somewhat closer together. (Some critics, however, will contend that this threatens the independence of the legislative branch.) Under the proposed amendments, the Governor is also required to give an annual report in person to the people through a joint session of the Legislature, as are other high level officials within the Commonwealth government. Lastly, there are several amendments aimed at eliminating delays in the appointment process. In many instances, the Legislature is given a fixed period of time, usually 60 days, within which to approve a nominee proposed by the Governor; if the Legislature does not act within that time, the nominee is considered confirmed. The Governor, on the other hand, is restricted from proposing a nominee for a position when the Legislature has previously rejected that candidate for the position.

Some amendments are aimed at making the legislative process more open and considered. The requirement that each bill be given two separate readings on two separate days before enactment might be so characterized, as well as the requirement that there be joint public hearings on all revenue related legislative proposals. These can be strongly defended as protecting the public from ill-advised, or too hasty, legislative action and there certainly are recent examples that can be used to justify these limitations on the Legislature's procedures.

Executive Branch: The executive branch article also was the subject of several proposed amendments aimed at more effective government. For example, the Governor under the proposed amendments could remove the attorney general and the secretary of finance only for "cause" — a requirement that the delegates thought would enhance the independence of these two offices in the executive branch. Some of the amendments referred to above, such as those pertaining to an annual report in person, seeking to regulate the budgetary process, and barring the renomination of candidates for office, may also be viewed as minor limitations on the Governor's authority. The Convention brought back within the executive branch article the provisions relating to education and civil service, and deleted several provisions added by the 1985 Convention, such as the specially created offices for women's affairs and indigenous affairs. Even with the retention of the special office for Carolinian affairs, the creation of the new council for indigenous affairs can be explained and supported as a new effort by the delegates to recognize the importance of preserving indigenous languages, customs and traditions in the Commonwealth.

Before some audiences, a summary of these amendments may prompt a question or

criticism suggesting that the Convention favored the executive branch and disfavored the legislative branch. We think this suggestion can be fairly rejected. It is true that more changes to the legislative branch article are proposed than to the executive branch article that look like limitations on existing authority. But we think that it can be emphasized that the Convention delegates wanted a strong and effective legislative branch, well funded and staffed so as to better deal with the executive branch in the budgetary process and otherwise and better able to develop legislative solutions of its own for the Commonwealth's important problems.

In addition, the new authority of the Commonwealth Supreme Court to issue advisory opinions proposed by the Convention, if used wisely, may help to reduce the amount of costly and divisive litigation in the Commonwealth between agencies and officials within the government. In recent years much time, money and effort has been spent in pursuing litigation between the executive and legislative branches, between the executive branch and local government, and between officials within a single branch. Under the Convention's proposal for advisory opinions, such litigation cannot be initiated until the government official involved first asks the Supreme Court to address the legal issues involved. Only if the Supreme Court refuses to consider the case or decides that it should be pursued in the trial court can the litigation go forward.

4. Enhanced Local Government

The Convention's proposals regarding local government will be increasingly important in the years to come. For the first time in the history of the Commonwealth, the Constitution if amended will provide for meaningful local government that can regulate local matters. The delegates have proposed deleting the authority of the Commonwealth Legislature (or individual delegations) to enact local laws applicable to a single senatorial district. Instead, the proposed amendments would provide for a traditional mayor and municipal council local government authorized to raise local revenues and to enact municipal ordinances so long as they apply only to the island or islands governed and are consistent with Commonwealth law. Although the office of the mayor for the northern islands is eliminated, the proposed amendments provide that local government will be extended to the northern islands when the population there equals one thousand resident citizens. The local government provided by the proposed amendments will be important only as the new agencies of local government begin to exercise the powers granted them under the amendments.

As the delegates well know, however, these amendments do not change the allocation of responsibilities as between the Commonwealth government and the local governments on Rota and Tinian regarding the delivery of Commonwealth public services. The political compromise finally agreed to, namely, to leave Section 17 of Article 3 in place without any amendment, may be difficult for the voters to understand or accept. In explaining and defending it, the delegates may wish to emphasize the need for a compromise given the real gap between the delegates on this subject, the enhanced powers of real local government agencies, and the availability of the new power given the Commonwealth

government agencies, and the availability of the new power given the Commonwealth Supreme Court to issue advisory opinions regarding disputes between elected officials in the Commonwealth.

5. Decentralized Education

Virtually every witness who testified in public hearings on education supported a better system of empowering schools and making them accountable for results. There appears to be considerable disappointment with the present system -- with its costs, its bureaucracy, and its lack of measured accomplishment. In addition to emphasizing the failures of the present system, the delegates can stress these points.

First, the proposed system does contemplate a centralized secretary of education reporting to the Governor. The secretary will have responsibility for educational policy throughout the Commonwealth, for setting teacher standards, providing technical support, and developing a budget to submit to the Legislature. The Secretary will maintain high standards.

Second, the local boards will handle those duties that are delegated to them by the Secretary and local areas that are either funded by local revenues or that are not inconsistent with the Secretary's policies. The local boards will not manage the schools; that remains the responsibility of the principals. This is an effort, however, to bring the schools closer to the parents and to give the local community on the three islands an opportunity to influence the education offered their children.

Third, the delegates recognized the experimental nature of their proposals. If after ten years it looks as though the local boards are not serving their intended purposes or another approach seems more desirable, the Legislature will have the authority to adopt another system for administering the educational system in the Commonwealth.

6. Constitutional Basis for the Judicial Branch

The Convention's action regarding the Judicial Branch offers a good example of the need to update the Constitution to reflect changing times. No one could seriously question the need to ensure that the Commonwealth's judiciary have a secure basis in the Constitution. This matter had been extensively studied by both the Legislature and the Supreme Court over the past few years. We do not expect any opposition to the newly proposed Article 5, which we would like to describe as a single proposed amendment.

Two points might be made on this subject. First, constitutionalizing the judicial branch gives it a needed measure of security in the Commonwealth; it is no longer subject to the whims of the Legislature. Second, the Court's budget and rule-making powers protect its independence and ensure that it will be an effective balance to the other branches.

7. Representation in Washington

It was necessary to address issues regarding this office because of an ongoing debate whether this office should be elected or appointed. After hearing from various witnesses, including the incumbent Resident Representative, the Convention concluded that one very important issue needed to be addressed, namely, to make clear that the Commonwealth over the long term wishes to have a non-voting (or eventually voting) member or delegate in the U.S. Congress as do Guam, Puerto Rico, American Samoa and the Virgin Islands. The proposed amendment to Article 5 makes this goal clear for the first time, after nearly a decade of debate on the subject in the Commonwealth.

Given the decision that the primary goal of the Commonwealth is have an elected representative in Congress, it was logical to maintain the elected Resident Representative rather than changing this position to an appointed one as recommended by the Governor. As a result of the hearings, the Convention's analysis provides a division of powers between the Governor and the Resident Representative that should work well in the future.

8. Strengthening Restraints on Land Alienation

After extended public hearings, debate and consultation with all interested parties, the Convention produced a package of proposed amendments that can be strongly presented to the voters as strengthening Article 12.

First, the delegates can emphasize that the proposed amendments make certain that local land owners can give or bequeath their land to their children and grandchildren irrespective of the definition of Northern Marianas descent. Second, the proposed amendments will reach and invalidate all efforts by outsiders and their lawyers to restrict the right of Northern Marianas land owners, after the expiration of an authorized lease, to make an independent and unrestricted decision whether to lease the land again and, if so, to whom and on what terms. Third, the proposed amendments change the rule regarding corporations that are entitled to own land and do so in a way that will enable more local business people to raise funds and develop their land holdings. Fourth, the delegates are proposing amendments that will give the Commonwealth courts more discretion to devise appropriate remedies in the event that a violation of Article 12 is found, and to do so in a way that will not injure innocent parties to the transaction.

The Convention also found fair ways to deal with adopted children and spouses who are not persons of Northern Marianas descent. Under the amendments, adopted children do not become persons of Northern Marianas descent, by virtue of adoption, and are not eligible for homestead programs. If adopted before the age of six, however, they can be given or inherit land from their parents. Spouses not of Northern Marianas descent can inherit land to the extent permitted by the Legislature.

Although this set of explanations may be satisfactory to most listeners, we all

anticipate that there may be some considerable opposition to these proposed amendments. Based on the experience in the Convention, it will be difficult to keep the debate free of personalities and abuse. The debate also can get into legal technicalities that many of the Convention delegates may feel uncomfortable with; those who served on the land committee are probably the best qualified to deal with these contentions. Also, the analysis includes several very specific examples of the kinds of problems that these amendments seek to deal with; it should be used to the fullest extent possible. As other issues develop, we are available to deal with them and expect to be on island for a considerable period of time before the actual vote on ratification.

9. Preservation and Development of Public Lands

The handling of public lands in the Northern Marianas has been on the agenda of every Constitutional Convention and this one was no exception. The priorities here differed from delegate to delegate; some were concerned about the homestead program, others about the pace of development, others about effective exploitation of the public lands, and others about the environment and preservation for future generations. The Convention produced a set of proposed amendments in this area that addresses all these concerns in a very direct and significant manner.

First, the delegates have advanced the concept of "permanent preserves" -- an identified list of beaches, high elevation areas and other locations that should remain free of private development except for very limited purposes. The overriding concern that led to this approach was the awareness of the increased development of public lands over the past 18 years, the use of such lands to entice new investors to the islands, and the risk that 25 years from now future generations might no longer have the open spaces and the public environment to enjoy and pass on to their descendants. Unless the newly created land bureau after hearings takes specific parcels out of the category of "permanent preserves" by December 31, 1997, the land will remain free of development. Although this provision may be opposed by some government officials as restricting their discretion as to how best to foster economic development, the delegates should find some considerable support for this approach among the voters, among other reasons because these restrictions on public land will serve to enhance the value of privately held land.

Second, the delegates created a new land bureau to regulate the public lands. It is within the executive branch, rather than separate as was the case with the former Marianas Public Land Corporation, but has a board of five directors appointed by the Governor with the advice and consent of the Senate. Although responsible to the Governor, the land bureau has many of the powers and procedures of a public corporation. One significant feature relating to the bureau; none of its directors can be government employees. The directors are held to high standards of fiduciary care.

Third, the Convention has proposed limitations on the operations of the bureau aimed at ensuring more openness in its procedures and more safeguards with respect to leases of

public lands. For example, the bureau is required to have public hearings and to solicit competitive bids before entering into a lease of public lands. An annual report is required by the land bureau chief. Although the Legislature still has review authority over leases of particular size or length, it is required under the proposed amendments to accept or reject the lease; it cannot insist on modifications to the lease as a condition for its approval. These and other procedures are responsive to widespread concern about past practices and are designed to encourage more accountability on the part of the land bureau and more public confidence in its decisions regarding public lands.

Fourth, the delegates left the homestead program intact, but recognized that the declining amount of public land meant that the program was not going to survive for many more years if it was confined to grants of land. In fact, opposition to the "permanent preserves" concept may come from those who want all available public lands to be eligible for homestead purposes. The Convention's amendments authorize the construction of housing units on public land that can be used for housing homesteads. The delegates attempted as well to deal with other well known problems, such as the long delays in the resolution of land exchanges.

As is apparent, this package of amendments is very broad and very important. The above may be too much detail for many audiences, but the positive points to be made are obvious and hopefully convincing. If critics complain about the depressant effect of these amendments on economic development, the delegates can emphasize the positive effect on the value of private land, the discretion within the land bureau to take land out of the preserves, other amendments designed to reduce the cost of government, and the need ultimately for the Commonwealth to come to terms with the pace of economic development that it wants, can afford, and is willing to tolerate in light of its present and future costs.

10. Constitutional Amendment and Mutual Consent

The Convention delegates believed that too frequent amendment of the Constitution should be discouraged. For that reason, the delegates have proposed amendments that would delete the Legislature's authority to initiate amendments to place before the voters for approval. In addition, the Convention deleted the requirement added in 1985 that the question whether to have a constitutional convention should be put before the voters every ten years. The Convention proposed instead that the question of a convention should not be put before the voters for another 25 years. However, the device of amendment by popular initiative remains available to deal with any specific needs that should be addressed before the 25 years have elapsed.

The Convention decided to address a problem that neither of the two previous conventions had considered -- how the Commonwealth should express its consent to amendment of one of the provisions of the Covenant that is protected by the mutual consent clause. Because amendment of the Covenant is discussed from time to time in ongoing discussions with the United States under Section 902 of the Covenant, the delegates decided

that some clarity should be provided on this point. As proposed, amendments to these critical provisions of the Covenant must be placed before the people, after consideration and approval by both the Legislature and the Governor. It was the view of the delegates that, because the Covenant was approved by the people in a plebiscite in 1975, any amendment to the arrangement with the United States that required consent by the Commonwealth should also be put before the people for their decision. We do not expect any opposition to this proposal from the voters, although the Governor may think that he and the Legislature should be free to make such decisions.

* * * *

This discussion of ten problem areas addressed by the Convention does not, of course, reach all of the proposed amendments that will go before the voters or that may come up in political education discussions. Some of the items not included above, like the Convention's proposed treatment of legalized gambling, are easy to explain and justify. We are working on a more comprehensive list of the proposed amendments as part of our effort to consider how best to present the amendments on the ballot.

Having covered these ten subjects at more length than anticipated, it is well to remember where we began. The point of this exercise was to emphasize that the issues considered by the Convention were important ones, that the solutions proposed were reasonable and constructive, and that they are certainly far preferable to the status quo. If the delegates can get these points across, ratification of the amendments will follow.

We hope that this memorandum is helpful to the Committee and the delegates in undertaking the political education program. We stand ready to assist in any way possible in this effort.

HPW
DCS