

# Constitution: 'Very important element of self-government'

*(Editor's Note: This is the first in a series of articles analyzing the proposed changes to the Commonwealth Constitution. The Tribune's series will continue until March 1, the day before the special election on the amendments proposed by the Third Northern Mariana Islands Constitutional Convention. This first article provides a historical background to where the CNMI is today.)*

By DAN PHILLIPS

Public debate is heating up over the sweeping changes to the Commonwealth Constitution proposed by the Third Northern Mariana Islands Constitutional Convention.

The people of the CNMI will have the final say on the amendments when they vote in a special election on Saturday, March 2 — less than a month from today.

Voters have many opportunities to educate themselves on the proposed changes, particularly in village meetings scheduled by the post-convention committee. There are also meetings scheduled at CNMI government agencies for government employees.

Although learning about the Constitution and the proposed changes may be a daunting task, perhaps voters will find the job worthwhile. After all, in the words of the Constitution itself, it is the "embodiment of our traditions and hopes for our Commonwealth in political union with the United States of America."

Howard Willens, who served as a legal counsel for the Northern Marianas during the negotiations of the Commonwealth Covenant, during the First Constitutional Convention and during the Third "Con Con", put it simply: "Having a constitution and being able to amend it is a very important element of self-government."

The CNMI's right to self-

government and right to establish a constitution is guaranteed by Article 2 of the Covenant, which required the approval of the U.S. Congress for the CNMI's first Constitution, but not for any subsequent constitutional amendments.

The Covenant mandated that the Constitution provide for a three-branch republican form of government, including a popularly elected governor and a bicameral legislature.

After the Covenant negotiations were concluded in February 1975, Northern Marianas voters approved the Covenant in June 1975.

The first CNMI Constitution was drafted at the end of 1976 by 39 delegates, and then approved by CNMI voters in September 1977. After that, then-U.S. President Jimmy Carter issued a proclamation declaring Jan. 8, 1978, as the effective date of the new CNMI Constitution.

Less than 10 years after the new Constitution took effect, in 1985, a second Constitutional Convention was held and 24 delegates proposed 44 amendments.

When the 44 proposed

amendments were placed before CNMI voters after a less-than-thorough public education effort, all 44 amendments were approved in the election.

After that, once again less than 10 years passed by before the voters were again faced with the question of whether or not they wanted to call another constitutional convention.

In the 1993 general election, CNMI voters decided they did want a third "Con Con", and the stage was set.

It took some time, but the Legislature enacted a law that governed how the convention would be run, including the election of delegates. The election was held in early 1995 and the convention ran from June until August.

As in the first and second conventions, some of the "hot" issues in the third convention continued to be the definition of the relationship between the Saipan-dominated central CNMI government and the local governments on Rota and Tinian, as well as land-related issues and education.

What came out of the third convention were proposals that involved sweeping changes, some slightly differ-

ent that what is currently in the Constitution and some drastically different.

The delegates also supported the approach of placing all of the proposed changes before the voters in the form of 19 packaged amendments, and a post-convention committee was organized to handle public education efforts.

Since then, the post-convention committee has been actively involved in campaigning in favor of the convention's proposals, and has mounted an impressively thorough public education effort.

The public education campaign has been relatively calm, despite some criticism that the post-convention committee should not actively support the proposals.

In contrast, Convention President and post-convention committee Chairman Herman T. Guerrero has said he doesn't feel it is proper for government officials to campaign for

or against any proposed amendment in the context of the officials' jobs.

The bottom line now, as Guerrero has made clear, is for the voters to decide for each proposed amendment whether they prefer the existing constitutional provisions or the proposed changes.

After all, Guerrero said, the convention is over and it is pointless now to argue over what should have been done and how the amendments should have been packaged.

Knowing that the way the proposed changes have been packaged will force voters to "balance the changes" within each amendment and make hard choices,

Guerrero urged all CNMI voters to educate themselves thoroughly before going to the polls on March 2.

*(Next: A look at the proposed Amendment 1, which involves Article I of the CNMI Constitution.)*

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# THE PRESIDENT'S PAGE

By HERMAN T. GUERRERO, CHAIR  
POST-CONVENTION COMMITTEE

In previous articles I have concentrated on the amendments affecting the legislative and executive branches of the Commonwealth government (Amendments 2 and 3). But the delegates of the Third Constitutional Convention spent even more time discussing government at the local level. The delegates were convinced that more meaningful authority could (and should) be delegated to the citizens of Rota, Tinian and Saipan with respect to local matters.

Several of the amendments before the voters on March 2 reflect this preference for local control over matters of critical importance to these three islands. For example, Amendment 13 proposes

new locally-elected school boards as a way of bringing parents closer to the actual administration of the schools that their children are attending. Amendment 14 will ensure that as the Commonwealth's natural resources are increasingly exploited, the local communities will share in the profits. Amendment 15 would require that casino gambling in any of the three islands could be authorized only by a popular initiative.

The most substantial debate about local government focused on Amendment 6, proposing changes in Article 6 (Local Government), and Section 17 of Article 3, which defines the responsibilities of the mayors of Rota, and of Tinian and Aguiguan, regarding the delivery of Commonwealth services and the execution of Commonwealth law on their islands.



Guerrero

This is what the delegates recommended by way of strengthening local government in the Commonwealth.

### Provide for Meaningful Local Government

Under Article 6 of the current Constitution, the mayor and the municipal council in each senatorial district do not have the authority to legislate with respect to purely local matters. That power is given to their elected representatives from each district in the CNMI Legislature. As a first step towards real local self-government, the delegates have proposed in Amendment #2 that this authority be transferred from the CNMI Legislature to the local municipal councils.

Amendment #6 proposes that the municipal councils be enlarged from three to five and that they be given the authority to enact ordinances (or local laws) regarding local matters. Local matters are defined as those that affect only the island or islands served by the particular mayor and municipal council. The mayor and municipal council would function at the local level just as the Governor and the Legislature do at the Commonwealth level — with the mayor given the right to propose ordinances and to exercise a veto power over actions taken by the council. Looking forward, Amendment #6 also authorizes the mayors and municipal councils to create their own departments of local government and to raise revenues from local sources — as has been done on Tinian under the provisions of the casino gambling law.

It is hard to understand why any voter on Tinian and Rota would oppose these proposed changes to Article 6. For the first time, they would enjoy the right of self-government over local matters just as most cities, counties and towns do on the mainland. However, some

objection has been heard from the mayors of Rota and Tinian, who apparently are opposed to the expanded powers that would be given to the municipal councils on those islands. It is up to the voters on March 2 to decide whether they prefer the status quo to the significant expansion of local government that has been proposed by the delegates.

### Reduce the dependence on Commonwealth Funds

The delegates were concerned about the cost of local government throughout the Commonwealth. Millions of dollars are spent every year to support employees of the mayors and the municipal councils. This money is entirely separate from the payment of Commonwealth employees who administer public services on the separate islands and enforce Commonwealth laws and regulations. In light of the growing deficit in the Commonwealth, the delegates felt that something had to be done to reduce this drain on Commonwealth funds. Amendment #6 proposes three reforms to deal with this problem.

First, the delegates propose the elimination of the position of the Mayor for the Northern Islands until such time as the Northern Islands have sufficient population to support their own local government. In order to ensure that the residents of the Northern Islands have a voice in the decisions affecting them, Amendment #6 proposes an Executive Assistant for the Northern Islands who would work in the Office of the Mayor of Saipan and the Northern Islands.

Second, the delegates propose that the number of local government employees paid from Commonwealth funds be limited to the number employed as of June 5, 1996. Unless some such limit was imposed, the delegates were concerned that there would not be sufficient motivation at the local level to foster economic development and to raise revenues from local sources.

Third, Amendment #6 would put a cap on Commonwealth funding of local government employees and encourage gradual reduction of this dependence on Commonwealth funds. The delegates were very sympathetic to their colleagues from Rota and Tinian, who urged that no such restrictions should go into effect soon. As a result, Commonwealth funding can

continue at its fiscal year 1996 level until January 1, 1998 and then over a period of five years Commonwealth funding for local government will be reduced by the amount of revenues raised locally as certified by the public auditor. After this five-year period ends on December 31, 2002, the Commonwealth Legislature can continue to match locally raised revenues to pay for local government employees only after it investigates the situation and makes certain findings that such continued support is fair and appropriate.

### No change in responsibilities of the mayors with respect to Commonwealth Public Services and Laws

The proposed changes discussed above relate to real local government — matters that are only of concern to the particular island or islands involved and are not controlled by Commonwealth laws or regulations. Much of the debate at the Third Constitutional Convention, however, related to the role of the mayors of Rota and Tinian in supervising the delivery of Commonwealth public services on their islands and enforcing Commonwealth laws and regulations on their islands. This controversial issue is currently governed by the provisions of Section 17 of Article 3 (Executive Branch) of the CNMI Constitution, as amended by the Second Constitutional Convention in 1985.

The delegates were all aware of this issue and the litigation between the Mayor of Rota and the Governor regarding the meaning of Section 17. All the delegates wanted to clarify the matter and avoid such costly and divisive litigation. However, they were sharply divided as to how to accomplish this objective. As a result, they agreed that no change to Section 17 could win support from 18 of the 27 delegates as required under the Convention's rules. The issue remains for the courts to resolve — unless over time the mayors and the Governor can reach a political and practical compromise that will make such litigation unnecessary.

The important point here, however, is that dissatisfaction with the current Section 17 has nothing to do with the choice before the voters on March 2 relating to local government. The voters need to keep this fact in mind as they listen to the arguments on both sides concerning Amendment #6.

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