

On My Mind  
8/3/01

It may be premature to worry, but since that won't become clear til next week, and since there is no doubt the issue will arise again in any case - as it has so many times in the past - it seems worthwhile to offer some comment on House Legislative Initiative 12-13, HD1 which proposes to amend the CNMI Constitution by giving municipal councils the power to make and pass local laws - a power now held by members of the legislature.

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In order to appear on the ballot in November, the initiative must be approved by both houses of the legislature by August 5<sup>th</sup>. Though approved by the House, the initiative has not yet passed the Senate, where, reports indicate, amendments will be introduced - which will require the measure to be sent back to the House for approval of the changes. Whether this can be accomplished by August 5<sup>th</sup> is not at all clear.

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The existence of municipal councils has always been problematic. They appear to be without real purpose - their chief function, according to the Constitution, being to advise the Mayor on preparation of his annual budget, and approving the mayor's appointment of resident department heads, where such exist. They serve a two-year term, as do members of the House of Representatives.

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Their purpose is primarily seen as a counter-balance to the office of the mayor, since they are, theoretically, elected on a non-partisan basis, and thus should be able to speak for and represent the interests of local residents regardless of political party, and regardless of the affiliation of the mayor.

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In a population not even as large as a mid-sized city, the existence of a municipal council and a mayor and a two-house legislature and a governor strikes most people as excessive. The CNMI's office of governor and a bi-cameral legislature, however, are mandated by the Covenant. Any change would require negotiation with the government of the United States. But the other layers have been added through the Constitution - an instrument that can be changed by the people of the CNMI themselves.

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Now not only does it appear that the Councils are to be given a function that has, until now, been quite satisfactorily performed by legislators already in office, but amendments proposed in the Senate would increase their number from three to five, and make the positions full-time, at an annual salary of \$35,000 each. Not including any benefits, this already calls for a commitment of more than half a million dollars - money the Commonwealth can ill afford in this time of reduced revenues. What's worse, the Senate amendments would also authorize Council members to hire staff, thus bloating government even more.

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Passing this Legislative Initiative is the height of irresponsibility - on the part of the legislature in the first place, and on the part of the electorate - should it get that far - as well.

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That there is discontent in the conduct of island-level affairs is obvious - particularly in the islands of Rota and Tinian, where there is a perception - not entirely unjustified - that the interests of neither island are being met by either the legislature or the administration. But poorly-thought-out proposals, based on nothing more than wishful thinking, are not the answer. On the other hand, a workable answer might possibly be found if all concerned parties - from mayor and council member to local businessman, from legislator to community member - would sit down together, willing not only to talk, but also to listen, to each other.

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Discussion, in such a group, might start with questions such as: what is wrong with the present system? how many solutions to fixing what's wrong are there? what seem like the best solutions, given present budgetary limits? what, in the present system, does work? can it be made to work better? what problems that are identified could be met by improving what already exists? if change does seem necessary, at what level - administrative, regulatory, legislative, constitutional - should it be made? The group might also want to look at the way mid-sized cities govern themselves - or better yet, the way other multi-island countries govern themselves. Perhaps there is another model that might - either as is, or with slight modifications - be worth considering.

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Should the present legislative initiative fail - and let us hope it does - a working group of some kind should be established to examine the issue of municipal government in general, and municipal councils in particular. The problem won't go away, and it is far better to try to resolve it without the pressure of immediate deadlines.

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Along those lines, it does seem peculiar that only the Tinian Dynasty is being singled out for refusing to use CUC power. What about all the hotels on Saipan that aren't using CUC power either? Once again, it appears that one of the "outer islands" is being picked on, being discriminated against, just as CUC discriminated against both Rota and Tinian when it cut off power to their government offices for non-payment of utility charges, but made no effort to cut off any Saipan government offices - which owe far larger amounts.

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The answer is fairly obvious, but that doesn't make it any more fair. CUC's Saipan generator plant has little, if any, spare power. It would not be able to meet the demand should Saipan's hotels not now on the grid suddenly decide they wanted to hook up. So no one is raising a fuss about the Saipan hotels not on the grid. Tinian, on the other hand, has a new power plant with lots of extra power to spare. In order to meet the costs of operation, CUC on Tinian needs more customers. So it has decided to try force the Dynasty to hook up to the power plant. The problem is that CUC's costs are higher than what the Dynasty now spends to maintain and operate its own power plant.

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To require the Dynasty to buy CUC's more expensive power is not only patently unfair, but it is also poor economics. The Dynasty has struggled to stay afloat in the face of declining tourism traffic, in the face of continuous delay in the promised upgrade of Tinian's airport, in the face of a

slowdown in the Asian economy. But it has continued to operate, to offer as many tourist attractions as it knows how - in order to benefit itself, the island of Tinian, and the CNMI. Obviously, as it gains a stronger foothold in the economy, its contribution to government revenue can also be expected to grow.

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Not having seen CUC's projections on costs v earnings for its Tinian generating plant, it's not clear what premises were used to justify its construction. But if the assumption was that once the plant was finished, the Dynasty would hook up, it would be interesting to know what figures were used in reaching that conclusion. Did anyone really expect that the Dynasty would pay more to use someone else's power than to use its own?

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Clearly, if the Dynasty generators are indeed polluting the air, as the law suit filed this week charges, Dynasty should be required to remedy the situation. But Dynasty should not be forced to use CUC's power plant until and unless all other CNMI hotels are required to do so. Singling out Tinian's hotel is discriminatory.

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Of course, the CUC could also change its attitude that the "outlying" islands be required to meet the costs of utilities provided to them. That makes about as much sense as does expecting only Garapan residents to pay for the cost of building a desalination plant. Just as the entire island of Saipan would benefit from an additional water source and so should share the costs, so the entire CNMI benefits from revenue generated by businesses in Tinian and Rota, and should share the costs of providing them with power.

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Today's <I>Variety</I> reports that American Samoa's non-voting representative to the U.S. Congress has managed to persuade Congressman George Miller to exclude American Samoa from his campaign to bring federal immigration control to the CNMI. Miller, who has long threatened to federalize immigration law in the CNMI, had intended to do the same for American Samoa after reports of garment factory labor problems there grabbed headlines some months ago.

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How is it that a single individual is able to do for American Samoa what professional lobbyists, paid more than a million dollars over the past year, have so far been unable to do for the CNMI? Is the CNMI really getting its money's worth? It would appear not.