

On My Mind

6/02/06

Three branches of government: the executive, legislative and judicial - and an accompanying system of checks and balances - a concept so familiar that it is rarely questioned. Yet all of a sudden, it doesn't make any sense, at least to me. Why is it that the executive branch of the CNMI must take all the budget cuts, and not the other two branches? Don't all three share the same source of funds? Shouldn't all three feel the pinch, when the funds turn out to be insufficient? Shouldn't there be a leader, someone in charge, someone who coordinates all three branches - and all the quasi-or-otherwise-independent agencies?

Apparently there is no mechanism for doing that - for getting all three agencies to work together. Yet clearly that is what is needed. What if the Governor, the head of the executive branch, called the Chief Justice, the head of the judicial branch, and the Speaker of the House and President of the Senate, head(s) of the legislative branch, together for a "summit," if you will, to work out how best to cope with the drastic financial condition of the present economy? Surely there are savings, cuts and perhaps even pockets of cash available in the other two branches that can be used to ease the shortfall? After all, the other two branches make use of all the facilities and services provided by the executive branch - from power and water to police protection and health services. Shouldn't they be willing, if not required, to also cut their costs to keep those facilities and services operational?

The Governor does meet regularly with the legislative leadership, or so we are told. But apparently not for the purpose of getting the legislature to cut its costs. Would it take a declaration of emergency to get that to happen? Couldn't the governor declare a financial emergency? The Constitution allows him to declare an emergency in the case of "other calamity as provided by law;" surely the legislature would not cavil over declaring such an emergency in light of present difficulties? And if nothing else works, how about a united front of executive branch and community members demanding that the other two branches share in financial accountability, in fiduciary responsibilities, and make equivalent cuts to their budgets?

But then, maybe the emergency isn't as dire as some would have us believe. After all, numerous actions have been threatened, and then quietly dropped. No order has yet been issued to raise the settings on office aircons. (Think of all the fuel/costs that would save!) Who is to say that the present threat to the Retirement Fund isn't another such threat that will, eventually, also be quietly dropped?

But if it is as dire as some claim, surely it's time to call upon all three branches of government to work as one, to collaboratively resolve the problem.

Gregorio "Kilili" Sablan's letter to the editor in Wednesday's *Tribune* suggesting that an organization is needed to protect the interests of not-yet-vested government workers is right on. Present vested members are protected by the Constitutional provision that their relationship to the retirement system is a contractual one. But there is nothing to protect non-vested members.

And protection would seem to be sorely needed! At present, the government is required to contribute 24% of an employee's salary into the retirement system. Among other changes being proposed in the switch to a "defined contribution" plan is that this contribution be reduced

to 4%. What a reduction in benefits! And without an increase in salary to compensate, it becomes, in effect, a double cut in pay.

There is no question that the present retirement program needs revision. Far too many too generous benefits have been added by short-sighted, imprudent and irresponsible legislators. Some of those overly generous benefits have already been cut, but more cuts are needed, particularly in the areas of double-dipping, vesting terms, and levels of remuneration. But whether the answer, as is being proposed, is to "cap" the system in its entirety - to just end it, and start over - is open to question.

Ideally, what is needed is some sort of public forum at which information about options and alternatives was presented, so that people could better understand the issues and the pros and cons of various possible approaches to a reasonable and decent retirement system.

Granted, that would not solve the apparent immediate need by the administration for either cash or an improved financial condition (presumably, that is what the proposed \$40 million CUC loan and \$123 million "write-off" would provide). But eviscerating the Retirement Fund in the meantime doesn't really solve anything either - it only puts off until some indeterminate time in the future the solvency of the Retirement Fund itself.

Nor would, contrary to claims by some parties, allowing the unholy J.G. Sablan/Bridgecreek alliance to start operations solve anything either in either the short or the long term. The biggest financial crisis would seem to be between now and the end of the fiscal year. Yet the mining of Pagan could not begin to bring in any revenue in such a short period of time.

In the longer term, allowing the present agreement to go into effect will have a devastating, rather than beneficial, effect on the CNMI. The CNMI is slated to get only 10%, or \$3.50 of the profit for every ton of ash - assuming it garners \$35/ton - while J.G. Sablan gets almost twice as much with 17+%, or \$6, and Bridgecreek gets more than three times as much with 34% or \$12 of the revenue per ton. Moreover, those figures are above and beyond the 37%, or \$13 per ton that J.G. Sablan and Bridgecreek have allocated themselves as "costs" of one sort or another. And as if that wasn't bad enough, if a ton of ash were to sell for more, the CNMI would still only get \$3.50 per ton under the terms of the present agreement - all the rest would accrue to the unholy alliance.

What is it that the CNMI Senate doesn't understand about those figures? How can it sell the CNMI short like that? Don't the Senators - who were again discussing earlier this week a resolution asking the Governor to reinstate the J.G. Sablan/Bridgecreek permit - feel any fiduciary responsibility toward the Commonwealth and its people? Have the pay-offs been that liberal? The demands of loyalty that strong?

David Cohen's urging that the CNMI be fair to investors does not mean the CNMI should cave in to irresponsible and amoral opportunists. It means the CNMI should give any and everyone interested in mining the pozzolan on Pagan an equal chance to bid for the privilege of doing so.

Speaking of being fair to investors, could someone please tell me what is fair - or even reasonable - about requiring that anyone interested in offering post-secondary education in the

CNMI, *before even submitting his or her application*, have already acquired the land, constructed and equipped the buildings - including a stocked library - hired the faculty and published a catalog containing not only goal and mission statements, but also a list of courses, fees, and faculty, but not enroll any students? And then asking him or her to wait two whole months (with an empty campus and an idle faculty) while his/her application is reviewed and a decision made? Those were the terms of proposed regulations drawn up by the NMC Board of Regents and published in the *Commonwealth Register* in February of 2005. After a public comment period, the proposed regulations were, not surprisingly, dropped.

But now, in last month's *Commonwealth Register* these preposterous requirements have reappeared - with only minor changes - as "emergency regulations," purportedly to have gone into effect upon publication, which occurred on May 19, 2006, carrying the signatures of both the Governor and the Attorney General. Neither fair nor friendly, in my book.

The same issue of the *Register* contains proposed amendments to the Rules and Regulations governing the Retirement Fund's Group Health Insurance Program. The comments on the changes are due within 30 days of publication.

Also in this issue is Executive Order 2006-4, which reorganizes the Commonwealth Utilities Corporation, relegating its Board to advisory status - though it is given status as a public utility commission until the legislature provides otherwise. The provisions of the order would, among other things, give CUC the right to set its own wage and salary scales; require that within a year of the effective date of the order power rates be sufficient to recover the costs of operation, maintenance, transmission, generation, delivery of electricity service and debt repayment; authorize different rates for different islands; and require that by January 1, 2008, all services be accurately metered and billed for full recovery of all costs.

Unless specifically modified or disapproved by a majority of the members of each house of the legislature, the order is due to become effective 60 days after submission to the legislature, which apparently occurred May 5th, 2006.

For those who might be interested, there is now a web site on which the progress being made in the EPA/DEQ clean-up of six WWII-vintage fuel tank sites in Tanapag can be followed on a day-to-day basis. The url is <www.epaosc.net/TanapagFuelFarm>. Once there, click on the words "images" and "polreps" (pollution reports) at the top of the web page for pictures and daily reports. The tanks were selected on the basis of their proximity to residences, their content, and the hazards they posed.

The web page is updated on a weekly basis by EPA On-Site Coordinator Michelle Rogow. Work on three of the six tank sites, she reports, is now complete. Work on the sixth site has just started, and work on the other two is on-going. A fascinating process. And a wonderful example of how pooled resources and cooperative attitudes can stretch dollars and, in this case, allow expansion of the original work plan from four to six sites. Moreover, active participation by DEQ in all phases of the work has provided its staff with invaluable experience in conducting large cleanups. Rogow estimates it will take another two weeks - provided things go smoothly - to finish the project.

Movies this week: 6 PG-13's, one PG. Only one "approved" choice for the under-thirteen's. Does anyone care?