

Whelan

April 1976

File - 19A

[Handwritten signature]

1975
03
9

PREPARATION AND ORGANIZATION FOR CONSTITUTIONAL CONVENTION

Preparation for an organization of a constitutional convention for the Marianas depends to a very large extent upon the kind of constitution which is anticipated. If the constitution is to be truly fundamental law, like the U.S. Constitution or some of the states, e.g., Hawaii, Alaska, Vermont --then preparation is fairly easy and organization simple. On the other hand, if the constitution is to be replete with policies (i.e., legislation) then much more is required. Students of state government almost invariably argue for the first type although many state constitutions are of the latter variety.

You cannot escape affecting the nature and structure of the resulting constitution at the stages of preparation and organization. For example, if you conduct extensive studies of educational problems or of development issues you will in all likelihood end up with provisions on such stuff in the document. Likewise if you organize so that you have a "committee" on social welfare you may damn well rest assured a proposed article is going to appear on the subject.

The real question is really not how "pretty" or uncluttered the constitutional document is, but how much it reflects those matters considered by a significant majority of the people of the Marianas to be truly fundamental. Consider it this way: assume that the constitution will be considerably more difficult to change than ordinary legislation. That means that you inevitably must mobilize more popular support, which in turn means you increase the possibility and probability that a minority can block majority rule. Thus whatever is put in the constitution should be able to pass this

test:

"Is the matter of such overwhelming importance, so fundamental to the working of the democratic system in the Marianas, so crucial to the maintenance of the integrity of the government that it should be imbedded in the constitution protected from change by a majority of the legislature, acting in the name of the people."

A good constitution protects the people against some kinds of abuse of power, establishes the basic institutions of government and prescribes the general outlines of their powers, and provides a method for its own change. Beyond these only those matters should be dealt with in any detail which are of overwhelming importance. In the Marianas such matters may be land tenure, natural resources and inter-island transportation, I don't know. (Federal law applicability?)

The constitutional considerations may want to recognize responsibilities without spelling out the details of implementation. For example, the responsibility of the government for providing a quality system of education may be noted without trying to set up the structure of the program for satisfying that responsibility. The latter is a legislative function.

It is hard for a novice on Micronesian matters to make meaningful suggestions. I may wholly misconstrue local needs or customs or seek to apply an inappropriate solution to a problem drawn from American experience. But--logically if we are serious in this business of giving a significant amount of self-government to the islands, then let's leave something for the legislature--composed of the elected representatives of the people--to do. To provide the Marianas with all kinds of completed policies for social and economic develop-

more than to say that in reality we don't trust them to make their own mistakes. (It is of dubious value for us to make them for them)

This is not to argue against intensive and extensive studies of all kinds of social, educational, transportation, welfare, economic development and other problems. They should be done--but in support of the legislature, not the constitutional convention.

CONSTITUTIONAL CONVENTION

Normally a constitutional convention is divided into committees, each with an assigned functional responsibility. For example, a state constitutional convention might be organized as follows, reflecting a view of the final form of the document:

Committees on

Personal Rights

The Executive

The Legislative

The Judicial

Governmental Responsibilities and Legislative Powers

Methods of Amendment

(Others might be added. Water might be so crucial to Arizona as to demand special treatment as natural resources might be to Alaska.)

Some might also be combined, e.g., "Personal Rights" and "Methods of Amendment."

Most conventions also have some housekeeping committees such as those on:

Rules

Budget and Administration

Final Form and Transition

The number and size of committees may be conditioned a bit by the membership in the convention. I suspect that in the Marianas it will be small, about the size of the legislature, necessitating membership on more than one committee. (But certainly no person should chair more than one committee.) Perhaps consideration should be given to a larger ConCon than the legislature, say, 32 vice 16, using the same electoral districts.

1) Suggest a 1 day organizational meeting about one month before convening of ConCon:

- a. Elect officers
- b. Adopt rules
- c. Allow time for organization, e.g., selection of committees

2) Suggest Chairman (or president) of ConCon be given broad powers to appoint and oversee administrative side of things.

3) Suggest some limit on length of ConCon; otherwise can go on excessively long, usually a bad sign.

e.g., - absolute length, say, 2 months with possibility of one 15-day extension upon 2/3 vote of delegates

- authorize payment of delegates on flat rate regardless of length, or pay for only 60 days but place on limit (money will usually be a reverse incentive here).

4) Stages of convention

- a. Committee study stage
- b. Action in committee of the whole
- c. Final Drafting and Plenary Action - each about one-third of total time allotted

5) Good constitutional drafter will be needed

- a lawyer, but not just any lawyer
- will not be needed for full session

-- however, should be on the spot long enough to get full flavor of negotiations, politicking, nuances, etc.-- probably for last three weeks.

6) Public education effort should begin while ConCon in session.

Attachment

12907

- ✓ * Alaska, 1955
- Arkansas, 1969
- Connecticut, 1965
- ✓ * Hawaii 1950, 1968
- ✓ * Maryland, 1967
- * Michigan, 1963
- * Missouri, 1943
- ✓ * New Hampshire, 1948, 1956, 1964 (limited)
- * New Jersey, 1947
- New Mexico, 1969
- New York, 1967
- ✓ * Pennsylvania, 1967
- Rhode Island, 1951, 1955 (limited) 1965 (unlimited)
- Tennessee, 1953
- ✓ * Louisiana, 1973
- ✓ * Texas, 1974

* More interesting ones.

HOW TO ORDER

Write the number of copies desired opposite each title. Fill in your name and address below and mail this entire folder to the League. Another copy of the publications list will be sent you with the pamphlets. Remittance (check or money order; or stamps for less than \$1) should accompany your order. Add 50¢ for postage and handling.

NATIONAL MUNICIPAL LEAGUE
47 East 68th Street, New York, N. Y. 10021

I enclose \$..... for the publications marked in this list. (NOTE: For special delivery service, add 80¢ to your remittance and check here)

NAME
(Please Print or Type)

STREET

CITY

STATE ZIP



NATIONAL MUNICIPAL LEAGUE
47 East 68th Street New York, N. Y. 10021

NML 1974
NATIONAL MUNICIPAL LEAGUE
47 East 68th Street, New York, N. Y. 10021

PUBLICATIONS

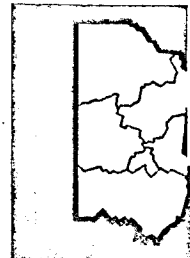


FAIR AND EQUAL DISTRICTS:

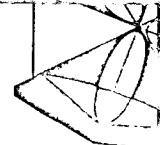
A How-To Do It Manual
On Computer Use

JAMES H. WEAVER

MODEL
MUNICIPAL GENERAL OBLIGATION
BOND LAW

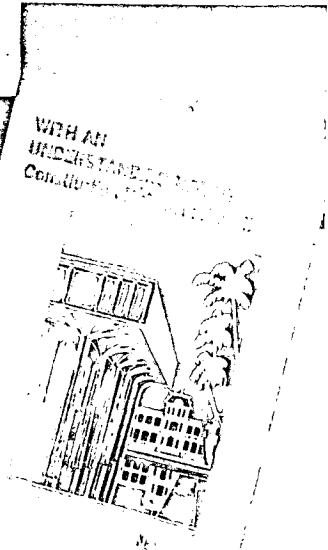


MODEL
CITY CHARTER

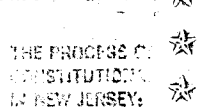


CHANGING PATTERNS
OF
APPORTIONMENT

NATIONAL MUNICIPAL LEAGUE



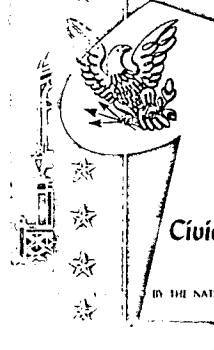
WITH AN
UNDERSTANDING OF
CONSTITUTIONAL
CONCEPTS



THE PROCESS OF
CONSTITUTION
IN NEW JERSEY

CITIZEN
Association

MODEL
STATE CONSTITUTION
OF NEW JERSEY



How to
WIN
Civic Campaigns

BY THE NATIONAL MUNICIPAL LEAGUE

✓✓ **Staff and Services for State Legislatures.** Improved methods and services in use to strengthen and upgrade state legislatures. 40 pages (1968) **1.00**

✓✓ **State Legislatures in American Politics,** edited by Alexander Heard. Background volume prepared for 29th American Assembly. 182 pages (1966) **1.95**

LEGISLATIVE APPORTIONMENT

Apportionment in the Nineteen Sixties. State-by-state analysis, population figures and maps of all legislative and congressional districts. 450 pages, hard cover, loose-leaf, mimeographed (1967, revised 1971) **7.50**

Conflicts Among Possible Criteria for Rational Districting. Collection of papers dealing with computer implementation of Supreme Court decisions. 71 pages (1969) **2.00**

Court Decisions on Legislative Apportionment. Reproductions of major decisions since Baker v. Carr.

(Volumes I, II, III, VII, VIII, XI and XII are out of print.)

- Volume IV, 110 pages (1963) **6.00**
- Volume V, 161 pages (1963) **8.00**
- Volume VI, 157 pages (1963) **8.00**
- Volume IX, 140 pages (May 1964) **7.00**
- Volume X, 182 pages (1964) **9.00**
- Volume XIII, 168 pages (1965) **8.50**
- Volume XIV, 171 pages (1965) **8.50**
- Volume XV, 173 pages (1965) **8.50**
- Volume XVI, 182 pages (1965) **9.00**
- Volume XVII, 138 pages (1965) **7.00**
- Volume XVIII, 160 pages (January 1966) **8.00**
- Volume XIX, 127 pages (January 1966) **6.50**
- Volume XX, 118 pages (January 1966) **6.00**
- Volume XXI, 221 pages (April 1966) **11.50**
- Volume XXII, 265 pages (June 1966) **13.50**
- Volume XXIII, 263 pages (June 1966) **13.50**
- Volume XXIV, 149 pages (July 1966) **7.50**
- Volume XXV, 306 pages (August 1966) **15.50**
- Volume XXVI, 131 pages (November 1966) **6.50**
- Volume XXVII, 185 pages (March 1967) **9.50**
- Volume XXVIII, 204 pages (March 1967).... **10.50**
- Volume XXIX, 226 pages (October 1967).... **11.50**
- Volume XXX, 127 pages (May 1968) **6.50**

- Volume XXXI, 214 pages (May 1968) **11.00**
- Volume XXXII, 170 pages (August 1969).... **8.50**
- Volume XXXIII, 104 pages (July 1971) **5.00**

The Effects of Reapportionment on the Connecticut Legislature: Decade of the Sixties, by I. Ridgway Davis. 40 pages (1972) **1.50**

Fair and Equal Districts: A How-to-Do-It Manual on Computer Use, by James B. Weaver. 139 pages (1970) **3.50**

Legislating Reapportionment in New York, by Richard Lehne. 52 pages (1971) **2.00**

Legislative Redistricting by Non-legislative Agencies. A symposium on how apportionment and districting commissions have worked, with the constitutional provisions of the states utilizing this method. 70 pages (1967) **1.50**

Metropolitan Representation: State Legislative Districting in Urban Counties, by Malcolm E. Jewell. 52 pages (1969) **1.50**

Multi-Member Electoral Districts—Do They Violate the “One Man, One Vote” Principle, by John F. Banzhaf, III. Reprinted from *The Yale Law Journal*. 30 pages (1966) **.50**

Pennsylvania Reapportionment: A Study in Legislative Behavior, by Robert Heath and Joseph H. Melrose, Jr. 120 pages, mimeographed (1972) **1.50**

Reapportionment and the Federal Analogy, by Robert B. McKay. Analyzes comparison of U.S. Congress with state legislatures, with excerpts from court opinions and political science literature. 20 pages (1962) **.50**

Reapportionment of the New York Legislature: Impact and Issues, by Richard Lehne. 64 pages (1972) **1.50**

REDIST: Program Description and User Manual. A computer program for nonpartisan districting. 74 pages (1967, revised 1969) **5.00**

Selected Bibliography on Legislative Apportionment and Districting, by Ruth C. Silva and William J. D. Boyd. 19th century to present. 62 pages, mimeographed (1968) **2.00**

Shape of the Future, by Richard Lehne. Reprinted from *National Civic Review*. 8 pages (1969) **.25**

STATE CONSTITUTIONS

State Constitutional Convention Studies

✓ **The Politics of the Rhode Island Constitutional Convention**, by Elmer E. Cornwell, Jr., and Jay S. Goodman. 96 pages (1969) 2.50

✓ **Constitutional Revision in Pennsylvania: The Dual Tactic of Amendment and Limited Convention**, by George D. Wolf. 72 pages (1969) 2.50

✓ **Magnificent Failure: The Maryland Constitutional Convention of 1967-1968**, by John P. Wheeler, Jr., and Melissa Kinsey. 256 pages (1970) 5.00

✓ **The Process of Constitutional Revision in New Jersey: 1940-1947**, by Richard J. Connors. 219 pages (1970) 4.00

✓ **With an Understanding Heart: Constitution Making in Hawaii**, by Norman Meller. 156 pages (1971) 3.00

✓ **Constitution Making in Missouri: The Convention of 1943-1944**, by Martin L. Faust. 186 pages (1971) 3.00

✓ **The City and the Constitution: The 1967 New York Convention's Response to the Urban Crisis**, by Donna E. Shalala. 144 pages (1972) 3.00

✓ **Political Paradox: Constitutional Revision in Arkansas**, by Walter Nunn and Kay G. Collett. 200 pages, mimeographed (1973) 2.50

✓ **Revision Success: The Sixth Illinois Constitutional Convention**, by Samuel K. Gove and Thomas R. Kitsos (Summer 1974) 3.00

✓ **Thirty Years of State Constitution Making: 1938-1968**, by Albert L. Sturm. 173 pages (1970) 2.50

✓ **Constitutional Conventions: The Politics of Revision**, by Elmer E. Cornwell, Jr., Jay S. Goodman and Wayne R. Swanson. 96 pages (approximate) (1974) 3.00

also - Alaska study done & is at printing stage - Vic Fischer is author

✓✓ **Model State Constitution**. 128 pages, sixth edition (1963, 1968 revision) 2.50 ✓

✓✓ **Salient Issues of Constitutional Revision**, edited by John P. Wheeler, Jr. 172 pages (1961) 3.00

✓✓ **The State Constitution: Its Function and Form for Our Time**, by Frank P. Grad. Reprinted from *Virginia Law Review*, 45 pages (1968) 1.00 ✓

✓✓ **State Constitutions: The Shape of the Document**, by Robert B. Dishman. 58 pages (1960, revised 1968) 2.50 ✓

✓ **How to Study a State Constitution**, by Charlotte Irvine and Edward M. Kresky. 26 pages (1962) 1.00

✓✓ **The Constitutional Convention—A Manual on Its Planning, Organization and Operation**, prepared by John P. Wheeler, Jr. 78 pages (1961) 2.50 ✓

✓ **Constitutional Convention Rules**. Rules of 19 state constitutional conventions from 1943 to 1969. 303 pages, mimeographed (1970) 5.00 ✓

✓ **A New York Constitution Meeting Today's Needs and Tomorrow's Challenges**, by Jack B. Weinstein. An unofficial draft constitution with rejected 1967 proposed New York constitution as appendix. 309 pages, mimeographed (1967) 3.00

✓ **A Selective Bibliography on State Constitutional Revision**, compiled by Balfour J. Halévy and Libby H. Guth. Prepared by Legislative Drafting Research Fund, Columbia University. 177 pages, mimeographed (1963, with 1967 supplement) 3.00

✓ **The Drafting of State Constitutions: Working Papers for a Manual**, by Frank P. Grad. 305 pages, mimeographed (1967) 3.00 ✓

STATE LEGISLATURES

✓✓ **Essays on Unicameralism**, edited by Page Elizabeth Bigelow. 65 pages, mimeographed (1972) 1.50

✓✓ **The Sometime Governments: A Critical Study of the 50 American Legislatures**, by the Citizens Conference on State Legislatures. Written by John Burns. Published by Bantam Books. 382 pages (1971) 1.95

Citizen's Conference on the Legislature (Kansas City)
Advisory Commission on Intergovernmental Relations
Committee for Local Development
Council of State Governments

1150 17th Street, N.W.
785-5610

Attached general report.

W. Brooke Graves, Major Problems in State Administration Review
Chicago: Public Administration Service, 1960.

12912

Suggested Materials To Be Gathered for Con Con

See items on NML list as marked.

- 1) ✓ - for library
- 2) ✓ - for each delegate

See items in Oceana Publications brochure (Capt. Scott's office).

Get printed records of the following Con Cons:
(Secretary of State probably best contact; should not cost anything).

Alaska ?
Hawaii
Illinois
Michigan
Montana ?
Texas
Puerto Rico ?

Get background materials prepared in :

Alaska (mimeo)
Hawaii
Illinois
Maryland
Pennsylvania
Florida
Texas
Virginia
Puerto Rico

Also review "citizen's guides" prepared in a number of states, sometimes by a government or semi-government commission (as in Texas) or by a private group (like the League of Women Voters) in others.

League of Women Voters a superb source of background and educational materials on constitutional revision. That organization is usually the first to get interested in the cause, the first to start agitating, the first to publish. I suggest contact with national office -

1730 M Street, N.W.
296-1770

That Office should have information concerning the particular state organizations which have useful background publications. These would be good substantively as for form.

Other organizations which have done work and have general or specific publications: