

MEMORANDUM FOR THE
PRE-CONVENTION COMMITTEE

Subject: Organization and Procedures of the
Northern Marianas Constitutional Convention

This memorandum is designed to assist the Pre-Convention Committee [hereinafter referred to as the Committee] to make recommendations to the full Convention concerning its organization and procedures. The memorandum discusses (1) the need for procedural rules; (2) the decision whether to create committees and, if so, how many; (3) public hearings conducted by the Convention or its committees, if any; (4) the number and duties of the Convention's officers; (5) quorum and related voting requirements; (6) limitations on debate; and (7) a general discussion of considerations bearing on the adoption of procedural rules. A set of draft procedural rules is attached (as Tab A) for the Committee's consideration.

I. THE NEED FOR RULES

The district law creating the Constitutional Convention requires the delegates to "adopt [their] own rules of procedure."^{*/} This statute affords the delegates

*/ NORTHERN MARIANA ISLANDS DIST. LAW 4-205, Act No. 347-1976 § 9(c) (1976) [hereinafter the Enabling Act].

broad discretion in fashioning their rules: any procedural regulation may be enacted provided that it is "not . . . inconsistent" with the statute.^{*/}

In preparing rules for the Convention's consideration, the Committee undertakes a task crucial to the eventual success of the Convention. Such rules are the foundation for the efficient dispatch of the Convention's duties. Equally important, procedural guidelines, if properly drawn, assure each delegate of an adequate opportunity to voice his views not only before the Convention but also within any committees established by the Convention.

II. COMMITTEES

The Committee must decide whether to recommend that the Convention be divided into committees and, if so, their number and responsibilities. The delegates' eventual resolution of these issues will largely determine the Convention's productivity.

Four principal alternatives pertaining to committee structure are available. First, the Convention need not have any committees. Second, committees with specified areas of concern may be established. Some of these committees would be charged with formulating proposed

^{*/} Id.

provisions for several articles of the Constitution. The fewer of these substantive committees that are created, the larger will be the field of responsibility of each. Even if no substantive committees are created, the delegates may create a "housekeeping" unit whose tasks might range from devising a daily agenda for the Convention to coordinating the drafting of constitutional language.

Third, the Convention might establish only a committee of the whole. This committee would consist of all of the delegates. It would, however, function like a committee, with the opportunity for different procedural rules and quorum requirements than those governing the sessions of the Convention. Fourth, the Convention may operate through both a committee of the whole and committees with limited assignments.

Structuring the Convention into substantive and housekeeping committees would permit every delegate to study a limited number of subjects carefully instead of trying to gain a mastery over all the topics that come before the Convention. Establishing committees might result in a portion of the delegates carefully scrutinizing each problem area, rather than every delegate giving inadequate attention to all proposals. If the committees operated efficiently and if the Convention accepted the

recommendations of most of the committees without extensive debate, the Convention could complete its work more quickly by using committees. Because the Convention must complete its work within 50 consecutive days, this is an important consideration. Presumably for these reasons, most recent state constitutional conventions have used several substantive committees (usually between 6 and 10) and a few house-keeping committees.

In the context of the Northern Marianas Constitutional Convention, the use of committees, especially more than three substantive ones, might cause substantial problems. If more than three committees are used, each delegate will probably have to serve on more than one committee and the benefits of careful scrutiny and expeditious action may be lost. Further, the use of committees could slow the process of considering and reaching decisions on complex issues because after a committee studied an issue, the full Convention might desire to consider for itself what the committee had already reviewed. Finally, should a committee structure be recommended, additional time will be needed for the Convention officer or group empowered to assign delegates to committees to complete its task.

III. PUBLIC HEARINGS

The mission of the delegates to the Convention is to represent responsibly the needs and aspirations of their constituents. Public hearings during the course of

the Convention may be useful in this regard. Providing direct communication with the people, hearings may disclose popular sentiment as to the fundamentally important issues confronting the Convention. Sessions with the public might also stimulate support for the Constitution ultimately approved by the Convention and submitted to the voters.

On the other hand, as already has been discussed, the Convention must conduct its business in a relatively short period of time. Public hearings, especially those held outside of Saipan, would probably require a recess that would consume time the delegates might better spend at sessions of the Convention discussing the issues and formulating proposed constitutional provisions.

If the Committee regards these disadvantages as dispositive, it should recommend a rule against public hearings. The contrary conclusion would require an examination of alternative forms of public hearings. In weighing these choices, the Committee ought to consider which option or combination of options will most minimize the disadvantages associated with hearings.

First, the number of public hearings by the Convention as a whole or by its committees, if any, could be limited. A variation of this approach would be

the specification of when public hearings may occur. The rules could provide, for example, that hearings will be permitted at one or more of three points in the Convention's term: at the beginning, as soon as the issues have been presented and when the delegates' opinions may still remain largely unformed; midway through the Convention's existence, when the delegates have disposed of a number of issues as to which there is no substantial disagreement and are familiar with the various points of view on the remaining issues; or late in the Convention's life, when various draft provisions on a limited number of difficult issues may be all that remain to be considered.

Second, the rules might permit public hearings to be held whenever the Convention or a committee directs. This approach would provide considerable flexibility. If the Convention reached a consensus on most issues it could defer any public hearings until it reached a subject where such hearings were thought to be useful. If no hearings were required then no recess would be declared.

Third, the rules could restrict the sites of public sessions. By limiting such meetings to Saipan, for instance, the time and expense of travel by the delegates and Convention staff would be avoided.

In addition to hearings designed to obtain the views of citizens, some conventions have used hearings to inform the delegates and the public regarding the issues under consideration by the convention. This has often involved assembling a panel of experts on a particular subject. Saipan's location and the Convention's limited funds probably render extensive use of this type of hearings impractical. However, the Convention does have access to some consultant assistance and one or more hearings of this kind could be arranged in early November if the Convention believed it of possible benefit to the delegates and to the public at large.

IV. OFFICERS OF THE CONVENTION

The resident commissioner will serve as acting president until the delegates choose a presiding officer. Soon after the Convention convenes, the delegates should select permanent officers. The delegates must select, from among their membership, a president, and may select such additional officers as they deem necessary and appropriate.*

*/ Enabling Act § 9(B).

A sound decision with respect to what offices to create requires a review of the functions of convention officers. The Convention should not have officers merely for ceremonial reasons. Officers are needed to guide the convention toward its ultimate goal; to ensure full discussion of important issues; to maintain order; to manage proceedings on the convention floor; to assign delegates to committees and appoint committee chairmen; to coordinate the work of committees; to suggest compromises when necessary; to supervise the staff and consultants of the convention; and to preserve records and certify official documents. With competent officers assuming these tasks, the delegates can concentrate on their primary responsibility: drafting a Constitution for the Commonwealth.

The goal of promoting maximum organizational efficiency should determine the Committee's recommendations as to what offices will be created under the rules. The Convention rules should define responsibilities and establish clear lines of responsibility. The Convention may want to concentrate many functions and responsibilities in a small number of officers.

This part of this paper first discusses the office of Convention president and then discusses other offices that other constitutional conventions have used.

A. President

Convention rules with respect to the presidency might deal with its functions, method of selection, successor in case of absence or vacancy, and removal.

1. Functions

The delegates will want to consider the extent of authority to be vested in the president.^{*/} The

^{*/} H. Vernon Eney, the president of the Maryland constitutional convention of 1967-68, has observed:

[O]ne of the principal matters of debate before the Convention at this organization session was the extent of the authority to be vested in the president. Various procedures were suggested both with respect to employment of staff and appointment of committees, but finally full authority was conferred upon the president in both these matters except that he was directed to confer with the two vice-presidents as to appointments of committees and with the committee chairmen as to committee staff appointments.

Address of H. Vernon Eney, State Constitutional Revision Conference, School of Law, University of Washington, June 13, 1968.

president should preside at sessions of the Convention and of the committee of the whole and should exercise the usual powers and perform the usual duties of a presiding officer. These include calling the Convention to order and opening business each day, and preserving order and decorum on the floor of the Convention. The president might also have certain powers with respect to debates. Presidents of constitutional conventions generally designate what delegate shall speak; when two delegates try to speak at once the president usually names the delegate entitled to speak first. The president also monitors the debate in order to confine the delegates to the question under discussion. Presidents of constitutional conventions generally decide questions of order. This power may be made subject to appeal by the Convention. The president also should certify by signature all official documents of the Convention.

In most constitutional conventions, the president also has the power to appoint delegates to committees and to designate committee chairmen. The delegates must decide if the president shall exercise this power alone, or if this power should be subject to procedural restrictions. Possible restrictions include requiring the president to confer with other Convention officers or with the Convention as a whole concerning appointment of committee members and

chairmen. For example, the rules of the constitutional convention of Maryland of 1967 stated:

The President, after consultation with the Vice-Presidents, and after giving due consideration to the requests of the various delegates, shall appoint a chairman and the members of all committees.*/

At that Convention, each delegate furnished the president with a biographical resume and a letter indicating the delegate's first, second and third choices for committee assignments.**/

The Convention rules also might require that each committee represent a geographical cross section of the entire Convention. Although the president should probably not serve as a regular member of any committee, the rules might make the president an ex officio member of all committees, several committees or of one committee. This kind of designation helps facilitate coordination of the work of the Convention's committees. The number of committees on which the president serves as an ex officio member might depend on the number of other officers the Convention has. For example, if there are one or several vice presidents, the Convention might divide ex officio committee assignments among the president and these other officers. On the other hand, the Convention might decide that the vice president or vice presidents should serve

*/ Md. Constitutional Convention, Rules ch. I, rule 5.

**/ Address of H. Vernon Eney, State Constitutional Revision Conference, School of Law, University of Washington, June 13, 1968.

as regular members of committees. In that case, the president should probably serve as an ex officio member of all committees. This will also depend on the number of committees the Convention creates.

As a delegate, the president may vote on all issues, casting the last ballot. In order to enter a floor debate, however, the president generally must step down after appointing someone to preside temporarily.

2. Method of selection

The president of the Convention should be elected by a roll call vote of the delegates. Election may be either by majority or by an extraordinary majority of the delegates. An extraordinary majority requirement would ensure that the president has broad support among the delegates. On the other hand, if more than two delegates are nominated for the president's position, any candidate who receives a simple majority of the delegates' votes will probably have such widespread approval.

3. Absence and vacancy

Should the president be temporarily absent from the Convention or permanently unable to preside due to

death, resignation or other reason, a replacement must be chosen. Most constitutional conventions designate a vice president to substitute for the president in case of temporary absence. The Convention may, however, want to provide for a permanent replacement of a president who is absent for more than a specified number of days. The alternatives with respect to a permanent replacement for the president are to designate before a vacancy occurs another Convention officer to replace the president or to provide for election of a new president. The first alternative is advantageous if the vice president is elected by all the delegates like the president. If, however, there are several vice presidents and each one represents a different geographical constituency, this alternative is less advantageous. Election of a new president allows the delegates to choose their new leader. The leadership role that the president must perform argues for this alternative and the rules of most recent constitutional conventions have provided for election of a new president should the incumbent be unable to continue in office.^{*/} If there is an election for a new president, the same vote required for electing the first president should probably be required for electing a succeeding president.

^{*/} E.g., N.Y. Convention, Rules, rule 1, § 2.

4. Removal

The rules of most recent constitutional conventions do not provide a means for the removal of a convention president. Because the Convention runs for a relatively short period of time and the delegates can override any decision made by the president, removal provisions are unnecessary.

B. Other Convention Officers

Other officers may be necessary to help the president coordinate Convention activities, to help supervise Convention staff employees and consultants, to attend to the Convention's clerical and custodial needs, to maintain order on the Convention floor and to preserve Convention records.

The issues for decision by the Committee include what offices aside from the president should be recommended, whether delegates or non-delegates should fill these offices, the method of selection of these officers, and whether officers should report directly to the president.

Possible offices that the Committee might recommend include one or more vice presidents, a secretary, a chief clerk, a parliamentarian, a sergeant-at-arms and an historian.

The offices could be filled by election by the delegates, appointment by the president, or appointment by the president subject to the advice and consent of the Convention. The rules may provide that an extraordinary majority vote of the delegates is necessary for the election or approval of these officers.

1. Vice presidents

Vice presidents usually assist the president in the performance of his duties. Although they do not generally have formal duties, vice presidents can assist the president by serving as floor managers or as liaison members of committees. A vice president also may act as an interim presiding officer in case of the president's temporary absence or inability to preside.

The Convention must decide how many vice presidents to have. Because the vice president can help the president run the Convention and can serve as a successor to the president in case of temporary absence, it is advisable to have at least one. The Convention might decide to have two vice presidents, one from each of the main islands other than that of the president. This approach would have the disadvantage of associating the president with a particular island at the expense of the president's impartial leadership role. If the Convention seeks

geographical representation of the three largest islands among the officers of the Convention, then it might decide to have three vice presidents, one from each of the islands. Each vice president would provide a liaison between the delegates representing his island and the president of the Convention.

If there is more than one vice president, and if a vice president is to serve as president in case of temporary absence of the president, then the Convention must decide which vice president shall so serve. This could be done by vice presidents choosing lots, designating the highest vote getter if the vice presidents are selected in a single election, or by holding separate elections for each vice presidential post with the precedence of the posts established before the election.

Vice presidents may be elected by the delegates in the same manner as the president^{*/} or may be appointed by the president.^{**/} If vice presidents are chosen to represent each of the three main islands, another possibility is to let the delegates from each island select one of their membership as a vice president. The first

^{*/} E.g., Hawaii Constitutional Convention, Rules, Rule 1 (1968).

^{**/} E.g., N.M. Constitutional Convention, Rules, ch. II, § 4 (1969).

alternative has the advantage of giving the vice president a popular base in the Convention. The second alternative has the advantage of allowing the president to select vice presidents with whom he can work easily. The third alternative offers the best way of ensuring that each island will have a direct link with the Convention leadership.

Vice presidents may either be treated the same as other delegates with respect to committee assignments or might serve as ex officio members of committees on which the president does not serve as an ex officio member. If there is only a small number of committees, it might be better to allow the vice presidents to serve on committees and perhaps even to act as committee chairmen.

Replacement of vice presidents in case of temporary absence or permanent vacancy should be consistent with the method by which those officers were originally chosen. If the president appoints vice presidents, then he should appoint successors. If delegates elect vice presidents, then they should elect successors. If each island selects a vice president, then each island should select a successor.

2. Secretary

The secretary normally supervises the administrative, clerical and custodial activities of the Convention. The secretary might be assigned to maintain all

the records of the Convention, prepare the daily calendar for sessions of the Convention, and prepare and circulate the schedules of all committee meetings. The secretary also might supervise the work of Convention staff personnel.

The first decision for the delegates with respect to the secretary is whether the secretary should be a delegate. The exacting duties of the secretary argue against the secretary's also serving as a delegate.^{*/} For example, the secretary of the Maryland convention was a non-delegate appointed by the president.^{**/} The rules of the Alaska constitutional convention (1955) stated that the secretary "need not be a delegate"^{***/} The rules of the Hawaii constitutional convention (1968) required election of a secretary, but allowed the secretary

^{*/} The National Municipal League does not think a delegate should also serve as secretary:

The position is of immense importance and prestige but the duties are so exacting as to prevent the holder from serving effectively as a delegate except, perhaps, in a narrowly limited convention.

J. Wheeler, THE CONSTITUTIONAL CONVENTION: A MANUAL ON ITS PLANNING, ORGANIZATION AND OPERATION p. 40 (1961)

^{**/} Id.

^{***/} Alas. Constitutional Convention, Rules ch. I, rule 2 (1955).

to delegate all except a few formal responsibilities to the chief clerk.^{*/} The New Mexico constitutional convention (1969) did not have an officer called the secretary. The duties generally associated with the convention secretary were assigned to a chief clerk appointed by the president.^{**/}

If the secretary is a delegate, then the Convention might limit the secretary to largely ceremonial duties. In such cases an executive director or a chief clerk is usually available to assume the secretary's duties.^{***/} A non-delegate secretary might eliminate the need for an executive director or chief clerk. The secretary could act as chief clerk, supervise Convention staff, supervise care and control of the Convention hall and Convention rooms and equipment, ensure that the Convention has necessary equipment and supplies, and act as Convention historian.

^{*/} Hawaii Constitutional Convention, Rules, rule 1, 13 (1968).

^{**/} N.M. Constitutional Convention, Rules ch. II, rules 4, 12 (1969).

^{***/} Address of H. Vernon Eney, State Constitutional Revision Conference, School of Law, University of Washington, June 13, 1968.

To avoid burdening the Convention president with administrative duties, the Committee might recommend that the secretary, as chief administrative officer, be appointed by and report directly to the president while all other staff members and employees of the Convention report directly to the secretary. For example, at the Maryland constitutional convention of 1967, the chief of staff and all other non-delegate officers except the parliamentarian reported directly to the secretary.*/

3. Parliamentarian

The Convention should have a parliamentarian who is familiar with rules of order and who reports to the president. Although the president should have the power to decide all questions of order, a parliamentarian should be available to consult with the president. As an employee of the Convention, the parliamentarian should probably be appointed by the president. This appointment might be made subject to approval of the vice presidents. Procedures for replacing the parliamentarian should comport with the method of his selection.

*/ The other non-delegate officers included a chief clerk, a reading clerk, a journal clerk, a sergeant-at-arms and a chief of pages. Address of H. Vernon Eney, State Constitutional Revision Conference, School of Law, University of Washington, June 13, 1968.

4. Sergeant-at-arms

The sergeant-at-arms is the chief police officer of the Convention. Like the parliamentarian, the sergeant-at-arms should report to the president and probably should also receive his appointment from the president.

5. Historian

The delegates might want to preserve all proposals, reports of committees and all other records, books, documents and papers of the Convention. Although the Convention might want to hire a separate employee with the title of historian to perform this function, the secretary of the Convention might be able to do this job.

V. QUORUM AND RELATED VOTING REQUIREMENTS

A quorum is the number of delegates that must be present for the Convention to transact business or adopt any motion. The enabling act specifies that:

A quorum shall consist of twenty-eight (28) delegates, provided, however, at least one delegate from each chartered municipality must be present; AND PROVIDED FURTHER that if the Resident Commissioner exercises his discretionary authority and does appoint additional members from the Municipality of Saipan as provided in Section 2(A)(1) of this Act, the quorum shall be increased by the number of additional appointees.*/
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*/ Enabling Act § 9(D).

The rules of the Convention must adopt this definition of a quorum.

The rules of the Convention also must specify the vote necessary for the Convention to pass any motion, adopt any proposal or to take any other action. The enabling act provides that no constitutional provision shall be approved by the Convention except by the affirmative vote of not less than three-fourths (3/4) of the delegates present at the time of the vote.^{*/} This leaves the Committee free to make any recommendation with respect to all other votes the Convention will take.

The alternatives pertinent to such votes are to require a majority of the delegates present or an extraordinary majority for approval of the matter before the Convention. The first alternative has the advantage of facilitating the Convention's progress. Because of the enabling act's requirement of a three-fourths vote to adopt a constitutional provision, extraordinary majority requirements at earlier stages might only unnecessarily impede the Convention's progress. On the other hand, requiring extraordinary majorities at all stages would ensure that no provision receiving final consideration would lack a consensus of support.

^{*/} Enabling Act § 9(C).

Most recent state constitutional conventions have had a rule allowing a majority of the delegates present to transact business and pass motions except where specific rules required a vote of a greater number of delegates.^{*/} Decisions requiring extraordinary approval might include: challenges to the seating of delegates; election of Convention officers; adopting changes in the Convention rules; ending debate by moving the previous question; motions for reconsideration of a closed question; and replacing officers no longer able to serve.

Simplicity argues in favor of adopting the same rules for committee procedures as those applicable to the Convention.

VI. LIMITATIONS ON DEBATE

The Committee might recommend that the Convention adopt certain limitations on debate in order to ensure that the Convention proceeds expeditiously with its work and does not spend undue time on one matter at the expense of other equally important matters. These limitations should not impede the complete discussion of any important matter. They should, however, prevent unnecessary discussion and delay.

Each delegate should be allowed to speak on

^{*/} E.g., N.J. Constitutional Convention, Official Rules, rule 12 (1966); N.M. Constitutional Convention, Rules ch. I, rule 2 (1969).

questions before the Convention. The rules may regulate, however, the number of times a delegate may speak on any single question and the amount of time a delegate may speak on any single question.^{*/}

For example, at the Maryland constitutional convention of 1967 no delegate could speak more than once on the same question without leave of a majority of those present and voting, unless the person was the mover of the matter pending or the chairman of the committee that reported the matter, in which case the delegate was "privileged" to speak twice.^{**/} At that convention, no delegate could speak more than 15 minutes on a question without being required by the presiding officer to yield the floor. Committee chairmen or vice chairmen presenting a committee report were exempted from this requirement, as were the "chief spokesmen" for a minority report of a committee. An affirmative vote of a majority of the delegates present and voting could suspend the time limit for a particular delegate.

^{*/} Md. Constitutional Convention, Rules ch. III, rule 20 (1967).

^{**/} Id., rule 21 (1967). A delegate could speak more than once before the committee of the whole. Id., ch. V, rule 38.

The Committee might recommend the Maryland approach or might prefer to allow delegates the opportunity to speak more than once. For example, at the Alaska convention held in 1955 delegates could speak twice on one motion, but only once until all delegates had had the opportunity to speak on the same motion.^{*/} The rules of the Hawaii convention of 1968 allowed delegates to speak twice on a single question, no longer than 10 minutes the first time and no longer than five minutes the second time, and not more than once until all delegates had the opportunity to speak initially.^{**/} At both the Alaska and Hawaii conventions, a delegate who wished to speak in violation of the rule limiting debate might obtain leave of the Convention to do so. In addition, the rules of the respective conventions permitted the delegate in charge of a proposal to close the debate following the third and final reading of the proposal.^{***/}

A second kind of limitation of debate allows any delegate, prior to discussion of a proposal by the

^{*/} Alas. Constitutional Convention, Rules, rule 38 (1955).

^{**/} Hawaii Constitutional Convention, Rules, rule 41 (1968).

^{***/} Alas. Constitutional Convention, Rules, rule 38;
Hawaii Constitutional Convention, Rules, rule 41.

committee of the whole, to propose a limit on the time of the debate and consideration of the proposal by the committee.^{*/} This rule can have the additional qualification that proponents and opponents of a proposal shall have equal time for discussion of a proposal before the committee of the whole.^{**/}

A third means of limiting debate is available. The rules may impose a schedule on the Convention. This schedule would require the Convention to complete certain activities by specified dates. The Convention might, for example, allot two days for the election of officers and adoption of rules. In addition, if the rules call for committees, delegates would receive their assignments during this period. The succeeding two weeks could be devoted to a discussion of the briefing materials furnished to the Convention. The delegates then might turn to discussing tentative proposals and making tentative decisions. This stage of the Convention's activities should not extend longer than two weeks. At the conclusion of this

^{*/} N.J. Constitutional Convention, Rules, rule 30 (1966) (chairman of the standing committee in charge of proposal has prior right to propose time limit).

^{**/} Md. Constitutional Convention, Rules ch. V, § 39 (1967) (chairman of committee on calendar and agenda has prior right to propose time limit).

period, no further delegate proposals could be offered.^{*/}
At this point, the Convention would have consumed about half of its term. Accordingly, the rules would require it to draft preliminary proposals, discuss and review those proposals, and reach decisions on suggested constitutional provisions, allotting about three weeks to these tasks. The final week of the Convention's tenure would be set aside for the final consideration and approval of the Constitution to be proposed to the people.

VII. RULES OF PROCEDURE

The Northern Marianas Constitutional Convention, like any other deliberative body, will need a set of procedural rules to govern the activities of the delegates on the floor of the Convention. In considering what sort of rules to adopt, the Convention should bear in mind the three principal purposes of rules of procedure. First, the rules must permit full consideration of the proposals the Convention examines. This is not to say that all ideas must be given equal time, no matter what their merit, but only that the rules should make possible full discussion of

^{*/} The rules of several state constitutional conventions have imposed deadlines for the submission of proposals and for action or resolution. E.g., Conn. Convention, Rules, rules 20, 23 (1965).

matters deemed worthy of it. The second objective of a set of rules is to focus debate. Groups can usually deal effectively with only one matter at a time; the rules must provide a framework that permits the delegates to prevent the interjection of extraneous subjects and the use of delaying tactics. Finally, procedural rules are needed to provide a means of ending debate. In view of the great number of issues with which the Convention must deal, it is imperative that no subject be given more time than it requires. Accordingly, there must be ways of closing discussion on particular subjects and barriers to re-opening discussions once closed, in order to prevent the Convention from being forced into frequent reconsideration of matters thought to be settled.

There are two basic alternatives facing the Convention in the matter of rules. The delegates may opt for a very complex existing system or choose instead a simpler procedure which they devise themselves.

Use of a system such as Robert's Rules of Order offers two main advantages. First, the system exists. No time need be spent in devising a new body of rules. Second, such systems provide resolutions for unlikely procedural complexities. Under these rules, there would be a way of dealing with virtually anything that may arise.

The disadvantages of such a system, however, are important. First, although no time need be spent devising a complex system, a great deal of time will be required for the delegates to master it. Robert's Rules, for example, is 594 pages long^{*/} and cannot be used without a full-time parliamentarian to decide what procedures are appropriate for a particular situation. Second, such sets of rules offer many opportunities for intentional delaying tactics through a delegate's insistence upon the observance of procedural technicalities. Finally, it must be observed that many of the contingencies covered by an elaborate set of rules are not likely to arise, while the disadvantages of using such a set are inevitable. If the Convention were likely to be confronted with a very complex parliamentary situation, it might be reasonable to suffer through the delays that will occur because of the rules in order to have a means of dealing with the situation. But if the Convention does not anticipate overly involved debates, the time spent in the use of complex rules would be wasted.

Simple rules avoid the disadvantages discussed above. Furthermore, if the Convention draws its own

*/ See H. Robert, ROBERT'S RULES OF ORDER, NEWLY REVISED (S. Robert ed. 1970).

rules, it can provide for the particular problems it is likely to face in a way not possible if it uses complex rules designed for different sorts of deliberative bodies.

In the belief that the Convention would prefer to frame its own procedures, a suggested set of rules is attached.^{*/} They provide for orderly debate without either imposing formalities the delegates must waste time mastering or providing openings for delaying tactics. These rules have also been drafted to assist the Committee's consideration of the various organizational and other issues discussed in this memorandum. After discussion and revision in light of the Committee's tentative decisions, a proposed set of rules could be presented to the Convention at its initial organizational session.

Wilmer, Cutler & Pickering

October 8, 1976

^{*/} Chapter VI, § 29 of the draft rules would, however, refer the Convention to Robert's Rules of Order should a parliamentary problem not addressed by the draft rules arise.