

# MEMO

**To:** Howard Willens/Deanne Siemer  
**From:** Bernard Zimmerman  
**Subject:** Walk out by Rota Delegates  
**Date:** July 28, 1995

Grace and I have the following thoughts on how to deal with the walk out by the Rota delegates.

## Under the Enabling Act

1. Declare the seats vacant under Section 9 of the Enabling Act and fill the vacancies with the remaining four unsuccessful candidates. Tom Aldan thinks that one or two of them will be cooperative. There is no definition of vacancy in the Act. However, we can argue that the purpose of the Act is to "provide for a constitutional convention." The delegates swore an oath to uphold the constitution, which provides an amending process in Article 18, and to faithfully execute the laws, including the enabling legislation. By refusing to attend they are violating their oath and have forfeited their seats.

2. We can initiate proceedings to hold them in contempt of the convention under Section 16 for exhibiting disrespect and otherwise interfering with the operation of the convention. This subjects them to a fine of \$1,000 or imprisonment for not more than one year, or both. This will obviously not produce a quorum but the threat may get them to appear voluntarily.

## Under the Constitution

Article 18, Section 2, provides for a constitutional convention. It has no requirement for a quorum or for any procedure that would permit Rota to disrupt the work of the convention. The convention can, therefore, declare the Enabling Act unconstitutional to the extent that it conflicts with Article 18 and with the wishes of the people expressed in their vote last year to have a convention. To the extent the Act permits Rota delegates to prevent the convention from completing its work, it becomes a disabling act, contrary to the wishes of the people in calling for the convention. Arguably, it conflicts with the one person - one vote rule by denying the voters an opportunity to vote on the work of the convention.

## Under the Convention Rules

Under Rule 51, Quorum Calls, a call of the convention may be ordered if there is an absence of a quorum. The roll of the convention shall be called by the secretary and absentees noted. The sergeant-at-arms may, upon motion, be dispatched after the absentees. In such case, a list of the absentees shall be furnished by the secretary to the sergeant-at-arms, who shall bring

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such absentees to the floor of the convention with all possible speed. In case the sergeant-at-arms shall require assistance, the president, upon motion, may deputize as special assistant sergeant-at-arms any person properly qualified.

A handwritten signature in black ink, appearing to be the initials 'DS' or similar, written in a cursive style.

cc: Maya