



# Third Northern Mariana Islands Constitutional Convention Pre-Convention Committee

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## REPORT OF THE PRE-CONVENTION COMMITTEE TO THE THIRD NORTHERN MARIANAS CONSTITUTIONAL CONVENTION

Under the provisions of the enabling legislation (Public Law 9-18), the Pre-Convention Committee was charged with the responsibilities of (1) specifying the actual date for convening the Convention; (2) drafting proposed rules of procedure for consideration by the Convention on its opening date; (3) ensuring that accommodations, facilities, equipment, and staff support for the Convention are arranged and in proper order; and (4) doing such other things "as are necessary and proper to prepare for and facilitate the work of the Convention." The Pre-Convention Committee hereby submits its report to the Convention summarizing its implementation of these responsibilities and making certain recommendations for consideration by the Convention. The Pre-Convention Committee organized three subcommittees: Rules, Legal, and Administrative Arrangements. This Report summarizes the work and recommendations of each Subcommittee and concludes with a section reviewing other activities of the Pre-Convention Committee.

### Rules of Procedure

As an essential part of its effort to draft appropriate Rules of Procedure for the Convention, the Rules Subcommittee reviewed the rules used in the First and Second Constitutional Conventions, as well as those used by the Commonwealth Legislature. Based upon its assessment of those procedural precedents and aided by experienced counsel, the Subcommittee has prepared a draft set of Rules for the Convention's consideration on its first day. Earlier drafts of the Rules were circulated to all delegates to the Convention; major substantive issues were discussed at length within the Pre-Convention Committee and with the delegates as a group; and a version in (hopefully) final form has been distributed to the delegates for their consideration and adoption after the Convention convenes. The Pre-Convention Committee recommends that the Rules of Procedure submitted to the Convention be adopted in their present form.

Because of the enabling act's provisions, the Pre-Convention Committee decided that it would be prudent to recommend an amendment to the law permitting the adoption of interim rules that would govern the election of a president by the Convention before it was required to adopt a complete set of procedural rules. Such an amendment of the legislation was requested of the Legislature, which responded promptly and favorably by enacting Public Law 9-40. The Pre-Convention Committee has considered and approved interim rules that should provide an appropriate basis on which to elect the president after the Convention convenes on June 5, 1995. The Committee recommends that the Convention adopt these interim rules for this limited purpose.

### Legal Subcommittee

On recommendation of the Legal Subcommittee, the Pre-Convention Committee retained Howard Willens and Deanne Siemer as lead counsel for the Convention. They will head the legal team; make assignments of lawyers to support the Convention, its committees, and its delegates; provide necessary legal opinions; prepare draft constitutional language and supporting analyses; and assist the Committee on Organization and Procedures in guiding the activities of the Convention. They

were selected after consideration of many other proposals by counsel because of their professional credentials, past experience in the CNMI, and their willingness to work on a subsistence basis without any charge for their professional time.

The Pre-Convention Committee also approved the recommendation of the Legal Subcommittee to hire three additional lawyers to work with lead counsel: Maya Kara, Bernard Zimmerman, and former Chief Justice Jose Dela Cruz. Ms. Kara is a government employee with five years' experience as counsel to the Commonwealth Legislature and is being made available on loan from the Legislature. Mr. Zimmerman has been a partner with the firm of Pillsbury, Madison & Sutro in San Francisco for many years and has broad experience in matters of constitutional law; he has agreed to work for the Convention for subsistence basis plus reimbursement for travel and supplies for the duration of the Convention. Chief Justice Dela Cruz's credentials and reputation are well-known to the Convention delegates; he too has agreed to work for a subsistence level of compensation.

The Pre-Convention Committee also directed that local practicing lawyers who expressed interest in working with the Convention be interviewed by lead counsel. As a result of this process, seven local lawyers submitted proposals on a fixed fee basis to assist the Convention with respect to specific areas of its work. After reviewing the results of this process, and in light of the uncertain status of additional funding for the Convention, the Pre-Convention Committee decided to authorize lead counsel to have further discussions with certain of those candidates to alert them to the funding situation and to negotiate the best possible terms for their retention assuming that funds were made available to the Convention that could be used for this purpose.

The Pre-Convention Committee approved the arrangements made by the Legal Subcommittee to authorize lead counsel to hire CNMI law students to assist the legal team as law clerks. It is hoped that two or three of these students will be available to work for wages competitive with student stipends offered by other local employers. In addition, the Committee authorized the hiring of support personnel for the legal team -- one secretary and one administrative assistant. Both of these individuals have agreed to work for subsistence compensation and travel costs.

The Pre-Convention Committee recommends that the Convention approve the arrangements that have been made for counsel and supporting staff to assist the Convention in its work.

#### **Administrative Arrangements Subcommittee**

The Pre-Convention Committee decided that the Convention should begin on Monday, June 5, 1955, at 10:00 a.m. After consideration of several alternative sites, the Committee decided on recommendation of the Administrative Subcommittee to use the facilities offered by the CNMI House of Representatives. The Pre-Convention Committee recommends that these arrangements be confirmed by the Convention and that, at the earliest possible date, the Convention formally convey to the House of Representatives the Convention's appreciation for the generosity and good will reflected in the House's offer of the use of its facilities for this extended period of time.

Considerable effort was directed by the Administrative Subcommittee towards the formulation of an appropriate budget for the Convention and the obtaining of such additional funds as are necessary for the Convention's successful operations. Supplemental funding in the amount of \$300,000 has been approved by the Legislature for the Convention, but the Governor has not yet acted on this legislative proposal. The broad categories for which these funds would be used are set forth in the attached report from the Subcommittee. The Pre-Convention Committee recommends that the Convention make every effort to secure approval of this supplemental

appropriation and that the Convention allocate these funds (once they become available) as recommended by the Pre-Convention Committee.

Acting on the recommendation of the Administrative Subcommittee, the Pre-Convention Committee has made arrangements to ensure that the Convention would be properly staffed by well-qualified administrative personnel and that its proceedings would be professionally recorded by competent court reporters. Details regarding these decisions are set forth in the attached report of the Subcommittee. The retention of two professional court reporters is of special importance because these experienced reporters will apply for the first time in a constitutional setting the modern technique of real-time reporting to cover the Convention's plenary sessions. The Pre-Convention Committee recommends that the Convention confirm these arrangements.

### **Other arrangements**

The work of the three subcommittees whose reports are attached constituted the bulk of the work of the Pre-Convention Committee. Their accomplishments were due in large part to the able and dedicated leadership of their chairs: Delegate Seman for Rules, Delegate Camacho for Legal, and Delegate Hocog for Administrative Arrangements. All of us are indebted to them for their contributions.

In addition, the Pre-Convention Committee devoted considerable time and effort to programs designed to assist the delegates to prepare for their new responsibilities. The Committee distributed voluminous material relevant to the Covenant and previous constitutional conventions, pertinent law review articles and other publications, and the lengthy briefing materials prepared for the First Constitutional Convention.

The Committee also scheduled several meetings of all delegates for reports on the subcommittee work and for briefings by lead counsel. Some of these briefings provided historical perspective aimed at helping the delegates more fully understand their mission; others dealt with such basic issues as the distinction between "constitutional" and "legislative" matters in the constitutional context. These briefings often led to considerable discussion regarding the issues that would be faced by the delegates once the Convention begins.

Under the auspices of the Pre-Convention Committee, a seminar was held for the delegates on May 31 and June 1, 1995. Four panels of experts were convened to discuss such topics as the overall mission of the Convention, the legislative branch of government, the executive branch of government, and land issues. The committee of delegates chaired by Delegate Lillian Tenorio successfully persuaded many of the Commonwealth's most distinguished and knowledgeable political leaders and experts to address these four areas of concern. The seminars were well attended by the delegates and produced a lively exchange of views on these critical subjects.

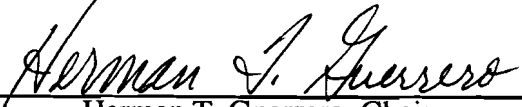
Throughout this preliminary period, the delegates have been encouraged to submit their ideas for constitutional change to counsel for review and discussion. About two-thirds of the delegates have submitted more than 250 proposals. This process has had two objectives: to assist the delegates in evaluating their proposals, and to facilitate the deliberations of the Convention.

Finally, the Pre-Convention Committee has made every effort to solicit the participation of the public in this important event. Letters have been written to government agencies to obtain their views; the Attorney General submitted a very useful response to the Committee's request for assistance; and an announcement was published requesting proposals from the public. Proposals made by the Governor, the Legislature, and the Judiciary have been put before the delegates as a

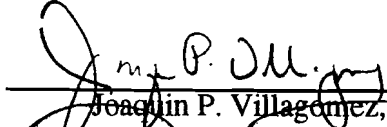
courtesy to these branches of our government. The Committee recommends that the Convention continue to emphasize the desirability of full public participation in the proceedings of the Convention.

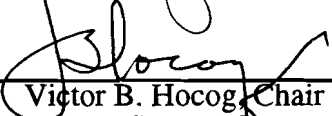
It has been an honor to serve on the Pre-Convention Committee. We would like to express our thanks to the delegates for their hard work and good humor during the pre-convention period and for assisting the Committee in completing the tasks assigned to us by Public Law 9-18.

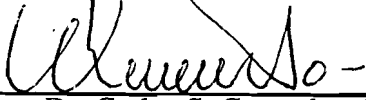
Respectfully submitted,

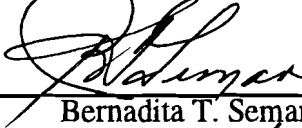
  
Herman T. Guerrero, Chair

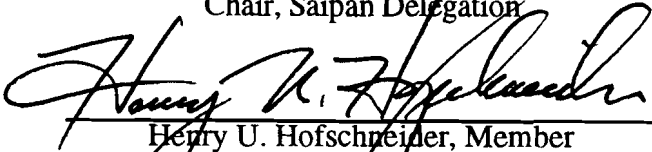
  
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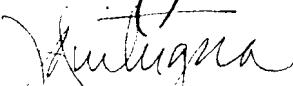
  
Victor B. Hocog, Chair  
Administrative Support Subcommittee

  
Dr. Carlos S. Camacho, Chair  
Legal Subcommittee &  
Chair, Saipan Delegation

  
Bernadita T. Seman, Chair  
Rules Subcommittee

  
Henry U. Hofschneider, Member

  
James M. Mendiola, Member &  
Chair, Tinian Delegation

  
Justo S. Quitugua, Member &  
Chair, Rota Delegation