

Minutes of the Executive Committee
of the Constitutional Convention

Date: September 4, 1969

Members Present: Antonio M. Palomo
Jose C. Quintanilla
Betty S. Guerrero
Jose R. Rivera
Howard G. Trapp

Meeting was called to order at 6:00 p.m. at Headquarters.

The subject of reducing the number of members required to constitute a quorum of the Executive Committee was raised. Discussion and a motion followed.

Motion by Mr. Jose R. Rivera:

The number of members required to constitute a quorum of the Executive Committee shall be reduced from five to four.

A vote was taken and the motion passed unanimously.

It was brought to the attention of the Committee that a Mr. Frank Grad, author of a publication entitled "The State Constitution: Its Function and Form For Our Time," and a Professor at Columbia University in New York, is due to arrive on Guam in the near future. It was suggested that we might contact him regarding his possible willingness to act for a short time as a consultant to the Constitutional Convention.

The subject of selecting a legal counsel to the Constitutional Convention was raised. The several candidates were renamed and discussion followed. Two motions resulted:

Motion by Mr. Jose R. Rivera:

The Constitutional Convention will hire Mr. Gayle immediately and starting December 1, 1969, we will also hire Mr. Bordallo to assist, for the duration of the Convention.

A vote was taken and the motion was defeated.

Motion by Mrs. Betty Guerrero:

The Constitutional Convention will hire Mr. Gayle immediately, according to the proposal contained in his response to the invitation, to serve for the duration of the Convention.

A vote was taken and the motion passed.


Both motions were voted on by secret ballot and it is noted that Howard G. Trapp abstained from all discussion and voting on both of the motions.

Financial Statements of the Constitutional Convention for the months of July and August, 1969, together with a summary of all encumbrances still outstanding from the present time until the 30 May, 1970, were distributed to all members present. It was suggested that the members have a week or so to look over these statements, and they will eventually be submitted to the Ad Hoc Committee. It was suggested that an additional Budget be prepared, since the aforementioned financial statements reflect only the barest minimum operating expenses.

The next meeting of the Executive Committee will be held on Tuesday, 9 September, 1969, at 11:30 a.m., in the Headquarters Office.

The meeting was adjourned at 7:00 p.m.

APPROVED BY:


ANTONIO M. PALOMO, President

Recorded by,


Marillin Huff


BETTY S. GUERRERO, Secretary

TRAPP, GAYLE & BENSON

LAWYERS

HOWARD G. TRAPP
ANDREW M. GAYLE
RICHARD H. BENSON

PEREZ BROS. BUILDING
POST OFFICE BOX 3367
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TELEPHONE 777-9891

August 6, 1969

Mr. David D. L. Flores,
Executive Director,
First Constitutional Convention
of the territory of Guam,
Perez Bros. Building,
Agana, Guam 96910.

Dear Mr. Flores:

In response to your letter of the 1st *instant*, I am pleased to submit a proposal to act as counsel to the Constitutional Convention, said proposal being in the form of a draft retainer agreement, a copy of which is forwarded herewith.

With respect to my professional qualifications and background, I undertook my undergraduate work at Harvard College, graduating with an AB degree in 1952; after two years in the service, I entered the law school of the University of California at Berkeley, graduating with a LLB degree in 1957. A JD degree was subsequently conferred upon me. I was admitted to practice before the Supreme Court of the state of California in December of 1957, and at the same time I was also admitted to practice before the United States Court of Appeals for the Ninth Circuit, San Francisco, California, and before the United States District Court for the northern district of California. I was admitted to practice before the courts of Guam in August of 1958, and I am still in good standing in said courts. I have been engaged in the private practice of law since taking the California Bar examination in 1957, with the bulk of my practice taking place here in Guam following my admission in 1958. However, I have also practiced in California for roughly one year, and was engaged in the state of Alaska by the Alaska Legislature during the first session of the legislature following statehood in 1959 for a period of approximately six months. I am a member of the Guam Bar Association, the State Bar of California, and the American Bar Association, and am a past president of the Guam Bar.

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I have been engaged in bill-drafting since 1957, drafting ordinances for the city of Benicia in that year, and drafting bills and resolutions for the 4th, 5th, 6th, 7th, 8th, 9th and 10th Guam Legislature and for the First Alaska State Legislature. In my capacity as counsel to the Guam Legislature and the Alaska Legislature I have engaged in a number of legislative committee investigations. I have also worked briefly with certain special committee investigations undertaken by the California State Legislature. Accordingly, I have written a great many reports of such legislative studies and investigations. I am retained as counsel by the Guam Housing and Urban Renewal Authority and by the Guam Power Authority, two autonomous instrumentalities of the government of Guam, and I have prepared formal written opinions similar to reports for both these organizations.

I am now parliamentarian of the Tenth Guam Legislature and was also parliamentarian for the Ninth. In addition, I gave advice on parliamentary questions in the other legislatures in which I participated as counsel. I have served as parliamentarian of two conventions of the Democratic Party of Guam and of conventions of the Guam Women's Democratic Association. These conventions have been governed by Robert's Rules of Order. Also, up until the 6th Guam Legislature, when "Mason's Manual of Parliamentary Procedure" was adopted, Robert's Rules of Order governed the procedure in the Guam Legislature. I am thus quite familiar with these Rules.

To conclude, following my graduation from the University of California law school I have specialized in legislative and other governmental counseling, all of which experience should stand me in very good stead in rendering legal advice to the Constitutional Convention. When I was in Alaska, I had the privilege of working closely with several of those who had participated in the Alaska Constitutional Convention that drew up the state constitution just prior to statehood. This Alaska Constitution is a remarkable document, being considered quite advanced and being drafted with the advice and assistance of a number of political scientists operating out of the Council of State Governments and similar organizations. It was a very interesting experience to see how this brand new constitution worked out in practice.

As to the enclosed draft contract, please treat it as no more than a draft, and feel free to make any changes you or the members of the convention feel appropriate if

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the general proposal itself is acceptable. The draft is based on the contract I now have with the Legislature and I think covers the scope of work set out in the description of the position that you included in your letter. Note that the contract is an individual one with me personally and not with the firm of Trapp, Gayle & Benson. This is the same arrangement that I have with the Guam Legislature and dates back to the time I was a member of the firm of Arriola, Bohn & Gayle when Mr. Arriola was in the Legislature, thus necessitating an individual rather than a partnership contract. It is also the same type of contract I have with the Guam Housing and Urban Renewal Authority wherein Mr. Richard Benson, one of my partners, is a member of the Board of Commissioners. I would therefore respectfully suggest that its acceptance by the Constitutional Convention would not constitute an improper conflict of interest, especially since the Convention has no control over its own purse strings and must accept whatever the Legislature chooses to appropriate.

Finally, I am grateful for the opportunity to offer my services for this position which strikes me of one of very great interest, especially to one such as myself who has worked so closely in the fields of study to be taken up by the Convention. In the event you or any members of the Executive Committee would like to discuss with me personally my proposal, I would be glad to meet with you at any time, and I might suggest that such a meeting would be very useful and informative.

Very truly yours,


ANDREW M. GAYLE

Enclosure

TRAPP, GAYLE & BENSON

LAWYERS

HOWARD G. TRAPP
ANDREW M. GAYLE
RICHARD H. BENSON

PEREZ BROS. BUILDING
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August 15, 1969

Mr. David D. L. Flores,
Executive Director,
First Constitutional
Convention,
Perez Bros. Building,
Agana, Guam 96910.

Dear Mr. Flores:

Mr. Gayle has told me that in the course of his interview last night by the Executive Committee of the Convention concerning his application to be counsel to the Constitutional Convention, a major question was whether his duties as legislative counsel would ever prevent him from attending a session of the Convention. I am writing in order to assure you that, as his partner, I could be present at such session in his place.

As you consider this suggestion, it seems appropriate to mention my qualifications and background: I meet all of the professional qualifications set forth in your description of the position. I was admitted to practice before the highest court of the state of South Carolina in 1957 and practiced continuously before all courts, including the United States District Court for the Western District of South Carolina, until I left South Carolina in 1966 to come to Guam. I was admitted to practice before the courts of Guam in 1966 and have practiced continuously before them since then. I am in good standing in both the state and federal courts of South Carolina and the District and Island courts of Guam.

My experience since 1957 has been in the general practice of law with a major portion of the time being devoted to trial work. Because of my general practice and the trial work, I feel that I am experienced in the

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drafting of bills in that through adversary proceedings I have had a great deal of experience in determining what are workable and effective bills and whether they accomplish the purpose the legislature had in mind. In earning my way through law school I was employed for 1-1/2 years as research assistant to Paul G. Kauper, J. D., Professor of Constitutional Law at the University of Michigan Law School in Ann Arbor. This position gave me the opportunity to thoroughly ground myself in constitutional issues and gave me most valuable training in constitutional law under an outstanding and well-known authority in the field. I have a knowledge of Robert's Rules of Order and would be prepared to act as a parliamentarian. I have carefully read paragraph five of the duties and responsibilities of the position and, if required by Mr. Gayle's absence, I would always be available for, and most interested in undertaking them.

Very truly yours,

Richard H. Benson

RICHARD H. BENSON.

RHB:slr