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A CONSTITUTION FOR GUAM: PROJECT RAINBOW

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## PREFACE

There is a general agreement on Guam today with respect to the need for reforms in our government and the political environment. The decision to call a Constitutional Convention to draft a charter for Guam to replace the out-dated and one-sided Organic Act-made "for" nor "by" the people of Guam-was a response by the U.S. Congress and local legislative official to the popular clamor for reforms. What needs to be determined now are the kinds of reforms and the methods to be used to bring them about in the form of provisions in the soon-to-be-written Guam Constitution.

Constitution-making is one approach to the problem of ensuring orderly change in the structures and institutions through which the goals of society are achieved. A basic assumption in this approach concerns, on the one hand, the relationship between institutions and formal patterns of authority; on the other, man's behavior. Although man's behavior is admittedly influenced by a number of factors--political, economic, social and cultural--the constitutional and legal framework of government, nevertheless serves to constrain individual actions and decisions. Those on Guam hopeful of reform through the coming Constitutional Convention assume that if certain provisions of the Constitution are provided for, the behavior of public officials, bureaucrats, and citizens who would be operating within the framework of the Constitution will be influenced in time in terms of better public service or citizenship qualities. This assumption admits the possibility of adopting particular patterns of authority relationships which may induce public officials to use political power in a more responsible manner.

The question may also be asked: Would a Guam Constitution lead to greater and more meaningful participation of the people in the local political and governmental processes? Will it lead to a reduction of any existing inequalities on the Island and to a just, humane and efficient administration of the laws? Will it lead to the attainment of a better society for the people of Guam?

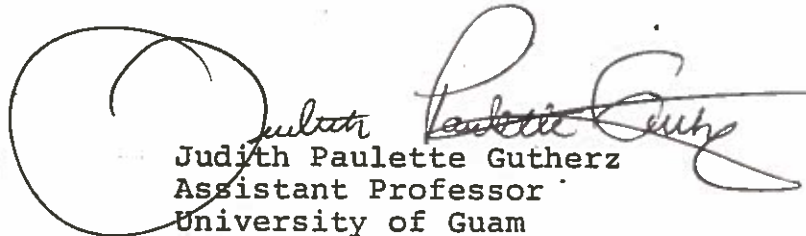
The pessimists among us probably will answer "NO" since they will consider the Constitutional Convention a futile effort, particularly in the light of the last Convention held a few years back where nothing concrete materialized. Those possessing a positive outlook, on the other hand, do accept the possibility of a better Guam through Constitutional means. We share this view and regard the Constitutional Convention as an opportunity to promote meaningful changes in the political and governmental system, changes that hopefully will allow us to speed-up the pace of the Island's overall development in economic, social and cultural terms. There is no assurance, however, that a Constitution will lead to meaningful changes in our society. A Constitution of our very own may simply hold out the promise of a better day to come; that is, unless the people of this Island help make the document truly LIVE via their everyday actions.

T A B L E   O F   C O N T E N T S

- I.        GUAM: HISTORY, ECONOMIC DEVELOPMENT, SOCIAL  
          AND CULTURAL CHANGE
- II.        GUAM TODAY: GOVERNMENT STRUCTURE, ECONOMY, MILITARY,  
          AGRICULTURE, FISHERIES, TOURISM, EMPLOYMENT
- III.       POLITICAL STATUS OF GUAM: TOWARDS SELF-GOVERNMENT
- IV.        THE GUAM-FEDERAL RELATIONSHIP AS IT PERTAINS TO THE  
          DRAFTING OF A NEW CONSTITUTION
- V.        HISTORY OF THE UNITED STATES CONSTITUTION
- VI.        A CONSTITUTION FOR GUAM: POINTS TO CONSIDER
- VII.       EFFECTIVE CITIZEN PARTICIPATION IN THE CONSTITUTIONAL  
          CONVENTION
  
- APPENDIX I    ---        PROPOSED CONSTITUTION OF GUAM
- APPENDIX II   ---        CON-CON SAMPLE SURVEY
  
- FOOTNOTES

A constitution is supposed to serve as the basis for a government--it outlines the framework of government, the institutions through which it operates, and the rules governing the functions of such institutions. It is therefore a system of devices through which political power is divided between the government and the governed and among the officials who act under rules and through machinery that effectively control what they do. We, on Guam, have never had a Constitution before. Even the writing of such document will require the participation of all the people, and the execution of their desires via specific provisions to be included therein. But, it must be realized that the Guam Constitution will be but an instrument of constitutionalism and that its ultimate promulgation certainly will not guarantee the solution of the problems of the Island. In the final analysis, it is only the people of this Territory who will determine the fate of the political order.

This research project represents the work of some very dedicated students who were enrolled in the Public Administration and Public Policy Class (PA402) of the University of Guam during the Spring term 1977. The students chose topics related to Constitution-making and worked throughout the semester in preparing their papers. It is therefore hoped that this student project will encourage others to also get involved in the making of the Guam Constitution. The citizenry should do no less!



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## CHAPTER I

### GUAM: HISTORY, ECONOMIC DEVELOPMENT, SOCIAL AND CULTURAL CHANGE

#### GUAM NATIVES AND THEIR CONTACT

The history of Guam has been the by-product of colonialism since the island's first contact with western civilization. Since this contact the modern technology and revolutionary new ideas were introduced, bringing a wide range of change upon the natives, the Chamorros. Guam as a victim of colonialism was first administered by Spain until 1898. Guam since has been a territory of the United States except for a short period of time during World War II. It is this paper's contention that the typical revolutionary changes that were integrated into the islanders' livelihood were undoubtedly based on the conquerors' foreign policy, seldom with the welfare of the islanders in mind.

Before the foreign possession of Guam, there is an indication that the race of people who inhabited it for the first time were the ancient Chamorros. These seafaring people immigrated from Indonesia and reached the Mariana Islands after roaming the Western Caroline Islands prior to 1000 B.C.<sup>1</sup> Their cast system and class distinction played an important role in their survival. Any bureaucratic system, in order to survive, has as its main factor the division of work, so that in hunting and food gathering the work is distributed for effectiveness and responsibility within the social structure.



## CUSTOM AND SOCIAL STRUCTURE

Consciousness of one's rank in society contributed to the cooperative effort among themselves and the maintaining of respectful manners which ensured fair treatment. Each clan and members knew their positions and disregard of others' rank would mean infringement upon their tabu values. The Chamorri were typical noblemen who possessed the rank of high chiefs. However, certain privileged members of the Chamorri were known as Matua.<sup>2</sup>

Traditionally, those who fell under Matua classification were the natives who controlled the wealth of this island. Owning abundant land or having a skill such as building canoes or in navigation and warfare brought about the recognition of this high class within the society. Usually, their less competent relatives were the Atchaot, who performed the same social functions as the Matua. The members of the lowest class were called Manachang.<sup>3</sup> The deprived lowest class did not have access to public roles. Restriction was placed upon their desires. Becoming a part of the nobility rank was never attainable for them regardless of the nature of their ability and regardless of their relationship and kinship ties, they were considered if "their barbarity was not in keeping with the great esteem they had for their nobility. For nothing in the world would one of their chiefs... marry the daughter of a plebeian, even if she were very rich and he very poor". Formerly parents killed sons who married daughters of low class family,<sup>4</sup> wrote a source.

According to the accepted social behavior of the Chamorros, it was the kinship group, usually from the female's side, that brought couples together. As a traditional practice they shared one single property, stayed in the same village and, of course, shared the product of their work. They lived under the basic principle of "what is yours is mine", as contrasted to modern living condition. This was more or less like their un-written constitution.

This type of economic behavior of closely knit people led to competent and mature relationships until this highly functional system was upset when outside contact brought in a unique manner of behavior. When, Magellan, reputedly discovered the islands on March 6, 1521, sudden changes occurred and a new set of foreign customs began to be reinforced. The Chamorros' view of others and their cultural perceptions, plus the Spaniards' demands for food and other items at the time of discovery, led the natives to take a canoe. To them, it was a reward for what they had given away. However, they were called a sign of contempt by the foreigners, all for that single misunderstanding. Of course, these explorers were ignorant of the Chamorro outlook on life. A witness of their culture said, "those islanders had such a horror of homicide and theft that surely a great injustice was done to their country by giving them the name of (Robbers' Islands), their always existed among them such trust that they never closed their houses, they were always open, and no one ever stealed anything from his neighbor.<sup>6</sup>"

The presence of the Spanish people in the Marianas and on this island marked the introduction of guns and genocide under Legaspi, who controlled the island in the mid 16th century, was an added surprise to the natives. More likely, teaching the natives about religion seemed to be the main objective and concern of the Spanish settlement. The Jesuits indirectly played an important role in upgrading agriculture and in teaching the original Chamorros how to raise cattle. Physical assaults on the missionaries were horrible and some of them were martyred. These missionaries include the one killed in Saipan in 1670 and Padre Diego Luis San Vitores, who died two years later because the natives believed the water poured on the infants' head was poison, a misconception of the ceremonial baptism of the sick ones who happened to die later. This opposition to Christian successes during this era became more severe under the influence of Choco (a Chinese), a Buddhist whose ship was wrecked here and the Kakahna, the Chamorro priests. Rebellion between the Spanish soldiers and the natives erupted but eventual peace came about under the priests' control.

#### AGRICULTURE AND ECONOMIC GROWTH UNDER SPAIN

During the middle of the 18th Century, the Spanish administration became tyrannical. Monopolization and restriction on the ownership of cattle raising and husbandry by the natives limited on their rights. Church direction was no longer effective and the condition of farming and cattle raising became bad.



In 1828, Dan Ramon de Villalobos, the next governor, began to take care of the problem. Improvement in planting crops had his support, and by implementing it he encouraged the plantation of rice at Atantano Valley. Economically, under his administration's effort, the condition of the treasury was suddenly improved when crops began to be available on market, along with a pottery production. Road and bridges were provided along with completion of the island's first land survey<sup>9</sup>. In order to resolve poverty, subsequent administrators continued the formerly laid out objectives, such as the installment of storage facilities. Graneries was introduced into the island's inadequate economy. A factory for the production of sugar was planned and, though it failed, was at least an attempt at improvement of the economy.

#### LABOR PROBLEMS

Unfortunately, in the midst of its struggle for improvements, labor emerged as the Spanish Administration's main problem. The natives at that time didn't have the appropriate skills to do husbandry or manufacturing tasks. This meant that importation of husbandmen from the outside had to be arranged. As a result of an agreement between Don Pablo Perez, who became the next governor, and the Captain General of the Phillipines, prisoners were brought in to assist in resolving labor shortages.

In 1851, worsening hardship and poverty could have been resolved. Unfortunately, a revolt by the prisoners ruined the effort.

Those prisoners who survived the rebellion were sent back to the Phillippines. Next, Japanese farmers were imported, but still the Government was ineffective in solving the farming problem. Poor pay and forced labor led to chaos in their management of affairs.

#### INFLUENCE OF AMERICAN PERIOD

The United States Administration began in 1898, when possession of this island was acquired from Spain as the price of its defeat in the Spanish-American War. The "Cormoran" affair marked the first entrance of U.S. on the Island. The main objective of this administration was basically the improvement of health, toward the concept of democratic government. As a first step, formulation of policies, in order to implement law and order, were enacted. On August 7, 1899, the prohibition of intoxication for non-residents was enacted as Order No. 1 under Governor Richard Leary, the first American who held such a position on the island. Order No. 2 initiated the prohibition of the importation of intoxicants unless licensed and authorized by the Governor.<sup>11</sup>

Economically, those without a trade would have at least twelve hens and would plant fruits and vegetables for a living. At the same time, collection of taxes were imposed for major improvements, including the taxing of Tuba. As the community became developed, the first hospital (called Maria Schroeder Hospital), a Post Office, some public schools along with a private one run by Miss Rosa Custino, a daughter of a Guamanian whaler, were provided.<sup>12</sup>

Under Captain George L. Dyer, the next governor, the apprenticeship system, mainly to train Guamanians and to settle the problem of labor, was put into effect, and the first Department of Public Health and a Police Force were established. But, during this year, prices became higher and higher. Japanese dealers controlled the economy and owned most of the stores.<sup>13</sup> And when the rice crop failed, demands of foreign assistance were made to Manila. However, the export trade was also monopolized by these Japanese businessmen, who increased the prices on goods like Kerosene, cigarettes and other living necessities. In order to loosen the control over trade by such monopolization, commercial freight was encouraged as the solution. Commercial policies were encouraged to end such economical chaos and in 1909, the American dollar replaced the Mexican and Philipino peso, contributing to the effectiveness of businesses.

At this time, local people began to enlist in the Insular Patrol, known as peace officers, and began to hold positions in other fields. As for politics, some of them were temporarily appointed to the first Guam Congress, established by Governor Roy C. Smith. As long as he was pleased with the behavior of this Congress, these advisors could remain in their positions. Finally, but not until the United States entered World War II, Guamanians were allowed to enlist in the U. S. military to join American soldiers stationed on this island during the war years.

### INFLUENCE OF JAPANESE PERIOD

On Monday morning, December 8, 1941, the Japanese bombed Guam without any advance warning. Japan easily acquired the island catching the Americans unprepared. The island was defenseless and American rule was extinguished over the island. The islanders were threatened and tortured and some died heroically, assisting in the hiding of American soldiers. Often times local people were forced to work without compensation or pay, usually in the installation of large guns or the improvement of military bases. Yet, the only concern of the Japanese administration was the improvement of military facilities for defensive purposes. However, they did try to set up an educational system with a school but it immediately failed. The Japanese attempted to bring major innovations for human development purposes.

### U. S. NAVY RECLAIMS ISLAND

After the fall of this autocratic type of government, the United States repossessed the island, governmental services and economic stability assumed high consideration by the Navy Department. The economy changed from agricultural subsistence to a money economy because most of the people turned from farming to the jobs available for them from the government. The Navy condemned most of the good farm areas. In the meantime, the appropriation of money for loans through the Navy's Bank of Guam encouraged businessmen to improve their trade and improve the effectiveness of their stores. Later, the Bank of Guam was sold to the Bank of America in 1950, and other military businesses were converted into civilian firms. The selling of local goods such as Aggag, (woven articles), ornamental apparel, and women's purses made from shells

improved the economy. Gradually, belts, bracelets, and earrings made locally were exported to the mainland, Hawaii and the Philippines.

#### IMPROVEMENT IN POLITICS

Politically speaking, the residents began to have a voice in their internal matters in respect to representation in Government. Judging from the Second Guam Congress in 1931, the local people wanted to have more power and control over their legislature; in fact, there occurred a realignment of the balance of power among the three branches. The Guam Congress was made up of the House of Council and the House of Assemble, who were considered as Commissioners and were elected for the first time in Guam history. But this process of representation was unsuccessful and the body was dissolved when Governor Root addressed the democratic action of the Guam Congress by saying, "The scheme of having the Commissioners elected by the people was not a successful one.. the Commissioners basically were employees of the Government and are agencies through which the Governor is able to demand certain things of people of districts...as long as the commissioners were elected they were inclined to the wishes of the people rather than the desires of the Governor". This is an indication of how un-democratic the government was during that period. This problem was resolved by the Organic Act of Guam in 1950, when the legislature members became elected instead of appointed servants.

#### CHANGE IN CULTURE

Because of many technological changes, the culture changed to the extent that intermarriage with other nationalities occurred.

In the late 1940s, many people from the Philippines and the United States who had extensive experience in construction were brought in. The labor problem was not resolved, but this did lead to an increase in population. Interaction between the local people with Americans led to an assimilation of the old Chamorro into a new modern Chamorro. There was no the traditional clan kinship. Instead of following the mother's side, the descendants of the early Chamorros today follow the father's side by obtaining his family name. People now tend to live independently, no longer sharing the same property like their ancestors did. Respect for the old has diminished on the part of the young who, having gone to schools, have adapted Western values through the American system of education that is being offered to them.

In direct and intimate contradiction to their original culture, the Guamanians after the war were "overwhelmed by the influx of countless numbers of outsiders who brought with them new techniques, new ideas, and abundance of cash. Many changes followed in their wake. The bull cart was replaced by the jeep; the once obedient child, in order to escape parental authority, went to live with his cousin; and the other can become the most popular symbol on Guam. Guam became indeed an outpost of democracy - a frontier area having all the aspects of the wild and woolly West,"<sup>15</sup> a writer concluded. Perhaps, the term Chamorro is no longer a term for the people in general, even if they are in fact identified as Guamanians. Guamanian is the official name in indication of residency, but Chamorro is used now to indicate who are the speakers of such language. Not every citizen of Guam may be considered to be a Chamorro.



But there is a reawakening of Chamorro pride and once again the Chamorros on Guam are beginning to see themselves as one people with the Chamorros of Rota, Tinian and Saipan.

## CHAPTER II

### GOVERNMENT

The Organic Act of Guam established the island as an unincorporated territory of the United States. It created a legislature with full legislative powers; established a District Court of Guam with jurisdiction in matters arising under both federal and territorial law; enacted a bill of rights for the people of Guam, and granted them United States citizenship. The Department of Interior was assigned the Supervision of the Government of Guam's relations with the federal government. The legislature created by the Organic Act is a unicameral body of 21 members, who are elected biennially and, beginning in 1978, by district.

In 1972, Guam was authorized to elect a non voting delegate to the United States House of Representatives. The delegate was Antonio B. Won Pat who was elected in 1972 and has held it ever since. He is the Guam legislature's official representative in the nation's capital and as its the Government of Guam and members of the public on matters relating to federal legislation and progress.

### GOVERNOR AND LIEUTENANT GOVERNOR

The Governor and the Lt. Governor are elected by the majority of the people who are eligible voters. They are jointly elected on a same ballot which is applicable to the office of the Governor and the Lt. Governor. In 1974 the term of the governorship was extended from two years to four.

The Lieutenant Governor shall have such executive powers and perform such duties as may be assigned to him by the Governor. <sup>4</sup>

#### EXECUTIVE

The Organic Act, as amended, provides for executive power of Guam to be vested in a Governor who is elected every four years. The Governor shall have general supervision and control of all the departments, bureaus, agencies and other instrumentalities of the executive branch of the Government of Guam. He shall be responsible for the faithful execution of the laws of Guam and the laws of the United States applicable to Guam. He may grant pardons and reprieves and remit fines and forfeitures for offenses against local laws. He may veto any legislation as provided in the Organic Act. He shall appoint, and may remove, all officers and employees of <sup>5</sup> the executive branch of the Government of Guam.

#### LEGISLATIVE

The Organic Act further provides that the legislative power and authority of Guam shall be vested in a Legislature, consisting of a single house not to exceed twenty one members and elected <sup>6</sup> by district.

#### JUDICIARY

The Organic Act also stipulated that the Judicial authority of Guam shall be vested in the District Court of Guam and in such court or courts as may have been or may hereafter be established by the laws of Guam. The District Court of Guam shall have the jurisdiction of a district court of the United States in all causes arising under the Constitution, treaties, and laws of the United States.

regardless of the sum of value of the matter incongroversy, shall have original jurisdiction in all other causes in Guam, jurisdiction over which has not been transferred by the Legislature to other court or courts established by it, and shall have appellate jurisdiction as the Legislature.

#### COURT

The judges are responsible for the administration of local justice. Their objective is to effectively and expeditiously administer the business of the court.

The judge chamber is headed by the Chief Judge who is responsible for prescribing the order of business in the Island Court, distributing the business of the Court and overseeing and directing the activities of the officers of the Court. The Island Court judges together with other officers designated by law form the judicial Council which is the policy-making body of the Judicial Branch of the Government of Guam.

The clerk's office is responsible for receiving and recording all complaints, petitions and information filed with the Court and reviewing same for compliance with rules and procedures of the Court; issuing summons, subpoenas, order to show cause, citations, bench warrants of arrest and notices, scheduling trials and hearings; preparing synopsis of all orders, judgements and decrees made by the Court; receiving court fees, fines, costs and other charges; preparing dockets on all cases and maintaining the judgement book; assuring the safety of all books, papers and records filed or deposited with the court; preparing reports and summaries of court activities; and performing other related functions necessary to facilitate the administration of justice.

The Court Reporter is responsible for recording verbatim the proceedings held in open Court. The court room deputy calls out cases, swears in witnesses, prepares a brief of the hearing and marks evidences presented before the court. The bailiff serves as Court Crier, maintains order in the Court, calls witnesses and provides such other services as may be required by the judge.

The Marshall's Office is responsible for serving and recording summons, notices, bench warrants, order to show cause , warrants of arrest, citations, subpoenas, order to execute judgement, writs of execution and others. It is also responsible for the payment of jury fees and other jury cost when so ordered by the Court. It escorts the jury during court recesses and provides security. It is also responsible for the safety of prisoners and the preservation of order in the court room.

#### COMMISSIONER

The original Government of Guam Code of Law enacted by P.L. 1-88, 1952 provided for the election of commissioners in each of the nineteen municipalities. The five largest municipalities--Dededo, Tamuning, Sinajana, Barrigada and Agat--also have assistant commissioners. According to the government code, the commissioner or the assistant commissioner is the direct administrative representative of the people residing in the area from which he is elected, and as such he shall perform the following tasks:

1. Cooperate with members of the Department of Public Safety and other law enforcement agencies in the maintenance of peace, order and tranquility in the area.

2. Enforce such sanitary and health laws and regulations as are or may be prescribed by the Government of Guam.
3. Maintain a census of all residents of his jurisdiction, which shall list the name, age, address, occupation, and citizen identification number of each resident of his jurisdiction.
4. Cooperate with all officials of the Government of Guam in order to promote health, education, peace and economic and social welfare of the people of his jurisdiction.
5. Make monthly written reports to the chief commissioner of Guam covering conditions in his jurisdiction with recommendations for the betterment thereof.
6. Cooperate with the juvenile court in performing such duties of supervision over minors as may be requested by that court.

While the commission's duties seem many, his actual authority is quite limited. According to current law each commissioner is empowered to (a) act as the executive head for the administration of the laws of Guam in his jurisdiction, (b) act as a peace officer in his jurisdiction, (c) fine violators of sanitary and health laws and regulations in an amount to exceed ten dollars. The last item, the ability to levy a ten-dollar fine, is the only specific power the Commissioners seem to have.



## ECONOMY

Guam's civilian economy did not grow appreciably prior to 1962. The normal flow of commerce and trade was limited by Navy security clearance for all visitors, ships, and aircraft, including those of U.S. origin. Lifting of this security clearance under President Kennedy in 1962 finally allowed Guam to enter the world of commerce and enabled the island to begin its long journey toward economic development.

In November of the same year, the awesome winds of typhoon Karen devastated most of the island. Responding to this disaster, in 1963 the U.S. Congress appropriated \$45 million to rebuild the island. In 1968, another \$30 million was later appropriated to continue the construction of much needed public facilities. Largely the result of a prosperous construction industry, Guam's boom began and continued through the late sixties and early seventies.

An affluent Japan created a growing travel market. Because of its convenient location and tropical climate, Japan tourists flocked to the island, bringing money into the economy and generating a broad range of visitor-related industries.

Recent efforts have been directed at diversification of the economic base, particularly the development of fisheries and agriculture in order to achieve a higher degree of selfsufficient, reduce inflationary pressures, and provide an expanded employment base. Continuing efforts in agriculture and fisheries development and relaxation of visa requirements into Guam should also contribute toward an enhanced investment climate.

However, a narrow economic base and an import-oriented economy have combine to render Guam dependent upon the United States and Japanese economies. As a result, external economic conditions such as inflation and the energy crunch easily become added problems to those with which island leaders are already concerned.

Banks exercised more caution in real estate loans and anxiously watched for foreclosures. Hotels found themselves stuck with an unprofitable low occupancy rate. Business receipts fell, and Government of Guam tax revenues, which are dependent on business receipts, inevitably joined the decline, leaving numerous government projects programs without funds.

Through fortitude and perseverance, Guam struggled through one of its worst economic years and in the process learned many valuable business lessons. It became clear that more imagination, definitive priorities, and stronger goal orientation are required to enhance productivity in government. Private businesses have folded because of loose management and over extension which could have been afforded by a once favorable economy.

#### MILITARY

The incredible growth of tourism has not detracted from the military's economic significance to Guam. By far the largest "industry" on the island, combined military spending amounted to nearly \$200 million annually in recent years. In short, the military continues to be a major employer, landowner and spender on the island. The military continues to have a profound impact on the patterns of public and private investment.

According to Defense Department officials, military expenditures on Guam totaled \$216.9 million in 1975. About 72% or \$157.2 million went for salaries of some 10,000 military personnel and nearly 6,000 civilian employees.

Total cash payments by the Department of Defense including payroll, construction, purchases of goods and services increased 18% from \$183.5 million in 1974 to \$216.9 million in 1975. Cash payment increased about 51% in the four-year period ending June 30, 1975. On the basis of replacement cost and conservation land values, total military assets on Guam have been estimated at \$2 billion to \$6 billion.

In addition to direct military expenditures and capital investment, about \$18 million has gone to Guam in 1975 in the form of income tax reversions authorized under the Organic Act. This amounts to some 30% of all income taxes paid to the Government of Guam. This sum, however, is expected to increase by an additional \$700,00 in 1976 when income taxes from USS Proteus begin to revert to Guam. These taxes were not previously returned to the island due to a confusion in legal interpretation.

In 1975, taxes on salaries of employees at Naval installations alone amounted to about \$10.5 million. There were about 5,550 million employees locally hired on Guam. Approximately 4,300 of these were employees of the Navy. Of this number, 314 or 7% were hired from the U.S. mainland. The number of statesides hire Navy employees has decreased over the last five years from 673 to 314.

A significant portion of the military payroll was spent in the local economy. Last year alone, the military payroll was \$97.4 million, of which \$53.8 million or 55% was Navy pay. The payroll for civilian employees was \$59.9 million, of which \$40.1 million or 67% was paid to Navy employees. More than 4,000 of these students were military dependent children. In 1975, about \$2.9 million in federal impact funds were paid to the Government of Guam because of the presence of these children and the children of the employees.

#### AGRICULTURE

Considering both total volume and production capacity, agricultural progress in 1975 was spotty and generally showed little gain over the previous year with an increase of 12%; pork production recorded the highest gain with a total output of some 831,000 pounds in 1975. Beef production fell 10% to 166,000 pounds, and represented the worst performance. Poultry production increased slightly. Poultry meat increased from 244,000 pounds in 1974 to about 258,000 in 1975, while egg production increased 2.6% during the same period to 2.5 million dozens. Fruit and vegetable production in 1975 also showed a modest gain of 7.6%, up 265,000 pounds from the previous year's yield of 3.8 million pounds.

Those statistics underscore the economic potential yet to be harvested from this sector of the economy and has encouraged renewed interest in the island's natural productive capacity.

Government assistance is being made readily available to all who may have an interest in agriculture and fisheries. Public lands have been earmarked for short and long-term leases. Long-term land leases of up to 50 years, renewable every 10 years, are available to qualify individuals desiring to engage in the commercial production of fruit, vegetables, or ornamental plants, poultry, livestock, and fresh-water fisheries. An added incentive under this plan is the rental exemption provided during the first five years of active occupancy. Annually renewable land-use permits are also available and provide ample opportunities for home gardening. A 16-acre maximum area is also allowed under the long-term commercial agricultural land lease program, with only a one-acre maximum provided under the shorter term land use permits.

Subsidized equipment services, seed stock, low-interest loans and crop insurance are among the many other incentives accessible to the interested entrepreneur. A federally funded loan program administered by Guam Economic Development Authority can extend low-interest, farm loans subject to federal appropriation, while local loan funds, also available through GEDA, offer up to \$10,000.

#### FISHERIES

The island's fishing industry took several positive turns in 1975. A fishing company formed by Vietnamese refugees suggested under the Pacific Tuna Development Foundation that potential for a viable fish industry exists on Guam.

The Vietnamese Fishing Company, operated by refugees, has been catching red snapper, red siph, parrot fish, barracuda, porgy, tuna, and mackerel. The company's catches have found a readily available outlet, showing consumer preference for fresh fish.

The Pacific Island Development Commission created the Pacific Tuna Development Foundation in order to develop tuna fishing in the Pacific. According to government biologists, Guam is ideally suited for a highly productive aquaculture industry. High, year-round temperatures provide a climate that is conducive to rapid growth rates in many species.

The economic potential of a fishing industry on Guam closely parallel those in agriculture. Exportation of fish will have to remain in abeyance pending the availability of land near the island's Commercial Port for cannery and refrigeration facilities.

Interest in the island's inshore fishing continues to remain high. Fish and Wildlife biologists observed some 27,000 persons spending over 9,000 man-days in some form of inshore fishing. Based on these observations, the biologists estimate that about 153,000 pounds of fish were harvested from Guam's reefs.<sup>13</sup>

#### TOURISM

Guam as a tourist destination is a relatively recent phenomenon. The inauguration of the first direct scheduled flights between Guam and Japan on May 1, 1967 could be considered the beginning of tourism on Guam. Since the visitor industry is based largely on Japanese tourists, Japan's economic growth and her lifting of various restrictions in the mid sixties on Japan citizens traveling abroad also contributed greatly to the development of Guam's visitor industry.



As a major industry, tourism suffered a significant setback in 1975 as the flow of arriving visitors declined during the year. Hoteliers and a number of tour agents began to seek various measures to counter the adverse circumstances. In spite of the current slump, however, many still believe in the fundamental soundness of the industry as a cornerstone of the island's economy. At the turn of the decade, initiation of the direct airline service between Japan and Guam stipulated a tourist flow which grew at an incredible rate. The rapid increase in the number of visitors gave rise to similarly rapid development in the real estate market, entertainment, services, and other visitor related industries.

Until tourism became a viable economic reality, the U.S. military sustained Guam's economy, spending millions of dollars in defense-related activities. The developing tourist industry, however, has broadened Guam's economic base, created a demand for new employment skills, induced higher material expectations, and made the island a more interesting place.

#### EMPLOYMENT

As part of the global recession, Guam also experienced a serious unemployment problem. Guam's employment climate deteriorated from the superheated economic condition between 1969 and the last quarter of 1974. During this four-to-five year period, employment expanded from less than 25,000 to more than 39,000. Employment during this period paralleled the growing gross receipts.

The positions in the construction industry reached nearly 8,000 while the service industries 4,000. Public sector employment peaked at a high of 15,900 during 1975. Federal employment was reduced by the elimination of 350 positions at the Navy's Ship Repair Facility. At the same time in the manufacturing industry, a substantial number of jobs were endangered when U.S. Customs ruled that garments produced by some of the island's textile firms did not meet the requirements for duty-free into the United States.

In mid-1975, the Bureau of Labor Statistics conducted its first unemployment survey. According to their statistics, there were 2,360 jobs and an unemployment rate of 8.3%. The figures presented by the study indicated that the unemployment rates were: part-time workers, teen-agers, household heads, married men, and veterans.

It is the intent of government to continue to develop human resources with the philosophy that the general populace should reap the gains of economic development through not only an increase in per capital income but an increase in knowledge and skill levels which would be more rewarding to the individual. As Guam's economy expands, the need for an educated and trained work force will increase.

## CHAPTER III

### ORGANIC ACT

The Organic Act was given its name "Organic" mainly because it is the legal document used to "organize" the structural form of government on Guam.

The Act established a civil government on Guam consisting of three branches: executive, legislative and judicial. It is external affairs with the United States were required to be supervised by a civilian department or agency of the government of the United States.<sup>1</sup> This supervision was assigned to the Department of the Interior in 1949 by President Harry Truman.

When the Organic Act was signed in 1950, Guam became an unincorporated territory of the United States. Its people became U.S. citizens, having guaranteed the basic rights under the U.S. Constitution,<sup>2</sup> as well as other parts of the U.S. Constitution.

Twenty-Seven years since the signing of the Organic Act, Guam is being governed by the Act both in its internal and external affairs. Any changes in the Organic Act must be made by the U.S. Congress, rather than the people of Guam themselves.

#### POLITICAL STATUS

Pressure is now going on for a change in the political status of Guam, a change that can alter the political arena or our Island called for by the desires of the people. This delicate and complex matter will involve a lengthy process but leads Guam to its future political status.

The public was given the chance in last year's plebiscite ending any speculation in which political status Guam should take.

It was the most significant event ever given the people of Guam in regards to Guam's political future.

#### UNINCORPORATED STATUS

Guam is now an unincorporated territory of the United States. This status has denied Guam and its people certain Constitutional provisions as compared to that of an incorporated territory or State, which are allowed full rights under the U.S. Constitution.

Under the statute of the Organic Act, Guam is more or less dependent on the United States. Stemming from Congressional action, the Act is subject to change by Congressional whim, rather than by the people themselves. It is to this condition that Guam must seek more of an autonomy so that it can make itself more responsive to local needs.

The concept of unincorporated territory is "being governed" rather than self-governing. In errect, "We are a possession of the United States without a government.<sup>4</sup>

A change over from an unincorporated status to an incorporated status may or may not be beneficial. Regardless of its effects, one way that Guam can inject the incorporated status is by drafting its own Constitution. Thus, it will become self-governing and the delimitation on federal and local laws can be defined.

#### INCORPORATED STATUS

Becoming incorporated would mean a big difference to that of an unincorporated status. Guam would have a stronger legal government by having its own Constitution, and it would steer the Island in the right direction to a change in political status such as a statehood.

We would fall under the full context of the U.S. Constitution, thus making the people of Guam eligible to vote in the national election. Best of all, we could attain the flexibility that Guam would need to adjust accordingly to its local affairs.

#### CONCLUSION

Guam's political status is not self-governing but a territory governed by the United States. This is based on the Organic Act approved for Guam to be used to govern the Island. We all know that the Organic Act is a compact outlined by the U.S. Congress creating the Civil government of Guam. This model is used as a guideline on Guam in coping with its relation to the United States and local affairs. Any change in the Organic Act must be made by the U.S. Congress.

The scope of the Act has been relevant for the last one or two decades. As the years go by, we begin to recognize that some sort of change or revision must be emphasized. To cope with an ever-changing time and economy, we need the flexibility to heal or remedy the situation.

Based on past surveys made on island, Guam wants to keep its close association with the United States. It's in the area of local entities that Guam seeks some kind of autonomy in order that it can remedy its internal affairs. Once granted the flexibility it seeks, Guam can be in a position to better answer its people's needs.

The political status or a change in political status would be a nightlight on Guam. The main core of participation should come from the people. The people should be ultimately informed and express their will in formulating any status or change of status for the island.

CHAPTER IV  
A BRIEF ANALYSIS  
OF THE  
GUAM TERRITORIAL-FEDERAL  
RELATIONSHIP AS IT PERTAINS TO THE DRAFTING  
OF A NEW CONSTITUTION

INTRODUCTION

As American citizens residing on Guam, an unincorporated territory of the United States, how should our relationship with the federal government be, and through what instrument should such relationship be perpetuated and perpetuated? Also, how should this relationship be expressed and what should be expressed? This Chapter will attempt to induce some recommendations which hopefully would be considered when a Constitution for Guam in the upcoming historical Constitutional Convention would be formulated and drafted in final form. However, prudence in providing a safeguard for the present and future can only come about by being knowledgeable of the kind of relationships Guam experienced in the past. Only then can the delegates to the Convention be better able to prepare and to effectuate a mutually acceptable transaction concerning the proper and just relationship between Guam, a state government, and "Uncle Sam", the federal government, bringing our island into as close a relationship as we can as those enjoyed among the fifty (50) States within the federal system but with as few of the irrele-



vant requirements as possible. All these can come about only be being aware of what we are and are not entitled to and, perhaps, asking through a Constitution for them.

Political interest started to brew much more keenly after World War II than ever before. With the permission of Governor Charles A. Pownall, a Rear Admiral in the U. S. Navy, the people of Guam were allowed to elect members to Congress which was allowed limited lawmaking powers. On July 13, 1946, an election was held for forty-six (46) seats in the House of Council and House of Assembly, and a year later, August 7, 1947, Acting Navy Secretary John L. Sullivan issued a proclamation, later to be known as the Interim Organic Act, which gave some powers to change laws to this Guam Congress. The Governor had a veto power, but his veto could be overridden by a two-thirds vote of the members. If a measure was overridden, however, the Secretary of the Navy could still veto any measure absolutely. Nonetheless, the action was significant because it gave the Guamanian people for the first time since 1898 a way of omitting the absolute power of naval governors.

Though the relationship between the Guam Congress and Governor Pownall was friendly most of the time, an incident involving the requested appearance of a civil service employe before one of the congressional committees in which he refused to appear, and in which he was backed by Admiral Pownall, caused

an indefinite adjournment of the Guam Congress. As a result, the Governor removed all the members from their seats. This incident not only caused bad publicity against the Navy nationwide, but was the major reason for transferring Guam to the control of the Interior Department and for the passage of the Organic Act of 1950. 1/

#### PRELUDE TO U. S. CITIZENSHIP

It is important, before discussing the Organic Act, to relate as a singular issue the facts behind the U. S. citizenship issue, a significance Chapter in the history of Guam which serves as a poor example of territorial-federal relations; the U. S. Congress later rectified the situation it had caused by inaction in the first place.

As early as 1902, Governor Seaton Schroeder recommended to the Navy Department that action be taken to define the political status of Guam and its people. As early as 1925, when eleven (11) members of the House of Representatives of the U. S. Congress stopped by Guam for two (2) days, this matter was brought to their attention by Governor Price and members of the appointed Guam Congress. But despite promises by the U. S. Congressmen, no action was taken in Washington. Again in 1929, then Governor Bradley followed up the subject in his recommendation for legislation to confer citizenship to Guamanians, and four (4) years later in 1933, a petition for American citizenship was sent to President Franklin Roosevelt

which, as a result, Senator Ernest W. Gibson of Vermont introduced a bill in the U. S. Senate. The bill never got out of committee.

In 1936 Guam sent two (2) Guamanians to Washington to ask for citizenship again, and in 1937 Senator Gibson again introduced a bill with Sen. Tydings of Maryland as sponsor. This time the bill got out of Committee and was approved by the Senate, but failed in the House of Representatives because of opposition by the Navy Department! Not until 1950 after World War II, after the strategic importance of Guam was more defined for national interest was U. S. citizenship granted, after twenty-five (25) years of attempts! After the war, even the Navy took the side of the Guamanians, especially after the patriotism and loyalty of Guamanians seen during the Japanese occupation.

After a study of two (2) years concerning the granting of U. S. citizenship, and for the establishment of a civil government, the measure was again delayed in Congress and it was not until the incident with Gov. Pownall that the Organic Act came about. 2/

#### PASSAGE OF THE ORGANIC ACT

Guamanians became U. S. citizens with the passage of the Organic Act in August 1, 1950. Guam became more than naval base: It became an unincorporated territory of the United States with a civil government comprised of three (3) branches

of government, the executive, legislative and judicial. Further, the relationship between Guam and the federal government was to be supervised by the Department of Interior. The Act also established Agana as the seat of Government. Lastly, the Act provided the people of Guam with a bill of rights similar to the U. S. Bill of Rights guaranteeing the freedom of religion, freedom of speech, and freedom of the press. It also declared the right to a speedy trial and that no one could be deprived of his life, liberty, or property without due process of law.

In the matter of the application of federal laws to Guam which is an important part of territorial federal relations. Section 25 (b) of the Organic Act stated:

Except as otherwise provided by this Act, no law of the United States hereafter enacted shall have any force or effect within Guam unless specifically made applicable by the Act of Congress either by reference to Guam by name or by reference to possessions. The President of the United States shall appoint a commission of seven (7) persons, at least three (3) of whom shall be residents of Guam, to survey the field of Federal Statutes and to make recommendations to Congress of the United States within twelve (12) months after the date of enactment of this act as to which statutes of the United States not applicable to Guam on such date shall be applicable to Guam, and as to which statutes of the United States applicable to Guam on such date shall be declared in-applicable. 3/