

Senator A. R. Unpingco  
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Page 2

part, by joint resolution. As so approved or modified, the constitutions shall be submitted to the qualified voters of the Virgin Islands and Guam, respectively, for acceptance or rejection to island-wide referendums to be conducted as provided under the laws of the Virgin Islands and Guam, respectively, (enacted after the date of enactment of this Act) [October 21, 1976]. Upon approval by not less than a majority of the voters (counting only the affirmative or negative votes) participating in such referendums, the constitutions shall become effective in accordance with their terms. [Emphasis added]

As you will note in Section 5 referring to the action that may be taken by Congress, the section includes the following language: "Congress has approved the constitution, or modified or amended it, in whole or in part".

In the portion of the section referring to approval by the voters the section contains the language, "the constitutions shall be submitted to the qualified voters." If Congress had intended to grant to the voters the same power to approve the constitution in whole or in part it would have so indicated by the same language it used when referring to the action that can be taken by Congress. In construing this section, it can be concluded that the Congressional intent was that once the Congress acted on the constitution then the Guamanian voters must act on the whole document and may not vote in a piecemeal action on various portions of the constitution.

In addition to construing the language provided within the statute authorizing Guam and Virgin Islands constitutions, one can look to procedures of other jurisdictions who have adopted constitutions. The usual procedure for adopting a constitution involves approval or rejection of the entire constitution and not piecemeal action. Referendums on articles or sections are sometimes held in jurisdictions which already have a constitution and are considering amendments to the basic document or an entirely new constitution. However, we are unaware of a situation where the initial act of adopting a constitution involves a referendum on each article or section of the document.

In conclusion, the voters must either adopt or reject the entire constitution.

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