

More political changes sought

Aside from the amendments to allow elective governorship and non-voting delegate to the U.S. House of Representatives, Guamanians sought other fundamental changes in the Organic Act. This reflected their growing frustration over federal constraints, the relationship between Guam and the federal government, and the inability of Guamanian and federal officials to address and resolve what has been generally referred to as "political status issues."

The first constitutional convention

As time went by, Guamanians, especially those in political leadership positions, found certain provisions of the Organic Act "either outdated, inappropriate, or unenforceable."¹ Both Governor Manuel F. Leon Guerrero and the Ninth Guam Legislature took matters in their own hands and in August, 1968, approved Public Law 9-244. Introduced by Democratic Senator Richard F. Taitano, its chief sponsor, the act authorized Guam's first constitutional convention for the purpose of reviewing the provisions of the Organic Act and recommending modifications to Congress and the President of the United States. Speaking to the convention later, Senator Taitano told delegates that in passing the law authorizing the convention, the Legislature did so with the conviction that the citizens here in our Territory are prepared to shape their own destiny.²

Forty-three convention delegates

Elected to the convention were forty-three delegates: Tomas F. Mendiola and Howard G. Trapp from Agana; Rufo L. Calvo and David S. Terlaje from Agana Heights; Jose C. Quintanilla, Charles F. Toves, and Joe Nededog from Agat; Jose B. Santos and Vicente M. Angoco from Asan-Maina; Pedro A.E. Manibusan, Joaquin G. Blaz, Jesus S. Camacho, and Jose L. Cepeda from Barrigada; Franklin J. Quitugua and Pilar C. Lujan from Chalan Pago-Ordot; Joe T. San Agustin, Betty S. Guerrero, Enrique L.G. Untalan, and Jose M. Garrido from Dededo; also Jose P. San Nicolas and Malcolm H. Merrill, Jr., from Inarajan; Lorenzo T. Siguenza and William A. Flores from Mangilao; Theodore Nelson, Jose R. Rivera, and Juan M. Tuncap from Mongmong-Toto-Maite; Gregorio M. Borja and Joseph B. Cruz from Santa Rita; Francisco R. Santos, Joaquin VE Manibusan, and Frank G. Lujan from Sinajana; Jose S. Lizama and James S. Brooks from Talofof; Antonio M. Palomo, Adrian C. Sanchez, Robert F. Leon Guerrero, and Joseph F. Ada from Tamuning; Tomas T. Aguon from Umatac; Antonio A. Calvo and Juan G. Blas from Yigo; and Lorenzo C. Leon Guerrero and Francisco B. Aguon from Yona.

The forty-three elected delegates met for the first time on June 1, 1969.

Officers

Elected as convention officers were: President Antonio M. Palomo, Vice President Jose C. Quintanilla, Secretary Betty S. Guerrero, and Treasurer Jose R. Rivera; also Joe T. San Agustin as assistant vice president for executive affairs, David S. Terlaje, assistant vice president for legislative and judicial affairs, and Howard G. Trapp as assistant vice president for procedural affairs.

Makeup of delegates

Among the delegates were two women: Pilar C. Lujan and Betty S. Guerrero; three Statesider-Guamanians: Malcolm H. Merrill, James S. Brooks, and Howard G. Trapp. The youngest delegate was Joseph F. Ada at twenty-six and the oldest were Lorenzo T. Siguenza, sixty-five, and Enrique L.G. Untalan, sixty-two. A relatively young group, most delegates were born in the thirties. One delegate, Juan M. Tuncap, died while in office. He had no replacement.

Committees, sessions, propositions

Convention delegates divided themselves into fifteen committees and an executive committee comprised of the elected officers. In addition to numerous committee meetings, public hearings throughout the island, the delegates held forty-four plenary sessions where they debated sixty-three propositions in the form of proposed amendments to the Organic Act. Of the sixty-three propositions, ten were defeated, twenty-three were placed in inactive category, and one was approved and later repealed as being redundant.

Propositions adopted

The first proposition adopted was one which would repeal a section of the Organic Act prohibiting transactions in marijuana. Sponsors felt that this section belonged to territorial legislation rather than in the Organic Act. The second proposition adopted was a proposal by Lorenzo T. Siguenza to include within Guam's bill of rights the right to an unpolluted environment. In a related proposition also introduced by Siguenza and two others, Robert Leon Guerrero and Francisco B. Aguon, the delegates approved a proposal to require the conservation and protection of natural resources, scenic beauty and the development and improvement of agricultural land.

Also adopted was the proposition to add a new section to the Organic Act to authorize political subdivisions in the Territory. This was pressed by village and municipal commissioners who

“voiced dissatisfaction with the present system of local government, with little power or money being granted to the commissioners.”

The delegates adopted a proposition to keep health under the purview of the governor. They also adopted a proposition giving the governor the responsibility for education, but “subject to the laws of Guam.” The delegates rejected the idea of an elected board. They felt that “an elected board without the power to tax would be useless.” They also proposed amendment to the Organic Act to include institutions of higher learning under the purview of the governor.

Delegate Joseph Ada’s proposition “to grant to the voters of Guam the rights of initiative, referendum, and recall,” was adopted. Also approved was proposition introduced by Joaquin Blaz “to remove the limitation on public indebtedness of Guam but to require that no public indebtedness be incurred without the consent of the people of Guam by way of referendum.”

The convention adopted several propositions relating to the legislature, the governor, and related political matters. One proposition would establish within the legislature the office of ombudsman, introduced by Gregorio M. Borja. Another would “require the legislature to confine each bill except appropriation bills to one subject matter and to limit appropriation bills to appropriations only.” Introduced by Joseph F. Ada, supporters of the proposition “felt that this would add to the clarity and responsibility of the legislative process and eliminate the presence of unrelated ‘riders’ attached to otherwise necessary bills.” Another proposal, introduced by the executive committee, would direct the legislature to provide for the election of senators from districts. One proposition would guarantee primary election for all elected offices.

Under the Organic Act Congress had the right to annul laws passed by the territory at any time. The delegates adopted a proposition to amend the Organic Act to provide “that all laws enacted by the legislature shall be reported by the governor only to the Congress of the United States and that Congress may annul such legislation within one year after its enactment.” While no law of Guam had ever been annulled by the Congress under the Organic Act provision, the possibility that Congress might overturn long standing legislation was a cause of concern. “This injects an unreasonable uncertainty into the legislative process,” the committee which proposed the amendment said.

The proposition, introduced by Gregorio Borja and Joseph B. Cruz, on the qualifications for governor generated considerable debate both within the convention and in the village public hearings. In the public hearings especially, many Guamanians spoke out in favor of restricting the governorship to residents of Guamanian birth and ancestry. Delegates found such language to

be blatantly discriminatory and opted to provide a requirement of twenty years of United States citizenship and ten years of consecutive residence in Guam. The convention also adopted a proposition by Frank G. Lujan and Francisco R. Santos “to require financial disclosure by all elected officials.”

Two propositions touched on land. One introduced by Joseph Ada would strengthen and clarify the rights of the people to just compensation in case of condemnation. “In the background of much rancor and disappointment on the part of persons whose land was condemned in the years following World War II, there was general public feeling that the right to just compensation in such cases must be spelled out and emphasized,” said the committee which handled the proposition. Another adopted proposal, introduced by Jose Nededog, would include within the jurisdiction of the territory of Guam all submerged lands surrounding the island.

Other propositions adopted by the convention included one introduced by Joseph Ada to guarantee the right of the people of Guam against invasions of privacy; a proposal by James S. Brooks to establish a civil rights commission; and a proposition to provide that the government comptroller be appointed by and under the supervision of the United States and to provide that the salaries and all other expenses of the office be paid by the federal government rather than from income tax monies due Guam under Section 30 of the Organic Act.

Lastly, the convention adopted a proposition calling for constitutional convention every ten years, its adopted propositions subject to ratification or rejection by the voters of Guam.

No follow-up

The final session took place on June 29, 1970. Delegates affixed their signatures to the document. The signed document was transmitted to the Congress for its consideration. Except perhaps for the granting of a non-voting delegate to the U.S. House of Representatives and the amendment to have the Interior Department fund the annual operating budget of the federal comptroller’s office, the Congress took no immediate action on the other recommendations of the convention. Part of the reason for the lack of Congressional action on the entire document was the failure on the part of island leaders to follow-up the work of the convention. The campaign for the first elected governorship dominated the island scene for all of 1970, leaving no one to pursue the work of the convention with Congress.

In later years, some of the propositions adopted by the First Constitution Convention found their way into the Organic Act of Guam. Guam’s first non-voting delegate to Congress, Congressman Antonio B. Won Pat, adopted some propositions into his own

Congress authorized constitutional convention

Meanwhile, the U.S. Congress put the finishing touch on a bill co-sponsored by Guam's Congressman A.B. Won Pat. On October 21, 1976, it passed enabling legislation, Public Law 94-584, which authorized the legislatures of Guam and the Virgin Islands to call constitutional conventions in their respective jurisdiction to draft constitutions for local self-government. The act was not what Guam's political status leaders were looking for, but they were willing to give it a try.

Except for the role which Congressman Won Pat played in the passage of the legislation, the Act had absolutely no input from other leaders of Guam. Its restrictive provisions became embroiled in controversy as soon as they were known. It was clear that Congress wanted no part in allowing the people of Guam to exercise their right to self-determination. While "recognizing the basic democratic principle of government by the consent of the governed," and authorizing Guam and the Virgin Islands "to organize governments pursuant to constitutions of their own adoption," Congress restricted the two territories to drafting their constitutions "within the existing territorial-Federal relationship."

Section 2(b) of the Act placed further restrictions. Said the Act:³

(b) Such constitutions shall --

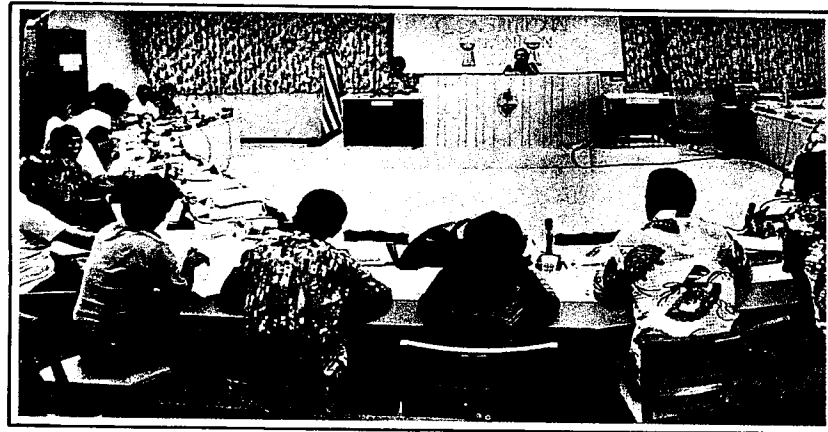
(1) recognize, and be consistent with, the sovereignty of the United States over the Virgin Islands and Guam, respectively, and the supremacy of the Constitution, treaties, and laws of the United States applicable to the Virgin Islands and Guam, respectively, including, but not limited to, these provisions of the Organic Act and Revised Organic Act of the Virgin Islands and the Organic Act of Guam which do not relate to local self-government.

(2) provide for a republican form of government, consisting of three branches: executive, legislative, and judicial;

(3) contain a bill of rights;

(4) deal with the subject matter of those provisions of the Revised Organic Act of the Virgin Islands of 1954, as amended, and the Organic Act of Guam, as amended, respectively, which relate to local self-government.

Self-determination proponents and advocates of negotiation or other forms of determining Guam's political status saw nothing more in the Congressional act than a call for a convention to amend the Organic Act of Guam. Most Guamanians, however, felt that this was better than none. At least it had congressional sanction, something which the first constitutional convention and the two political status commissions lacked.



The Second Constitutional Convention

In accordance with the federal statute, the Thirteenth Guam Legislature enacted Public Law 13-202 on December 10, 1976 calling for a constitutional convention to meet for not more than 120 days and not beyond October 31, 1977, except for three session days between December 1 and December 15, 1977, to adopt its final report, should the convention find it necessary.

The local act authorized the Guam Election Commission to determine the number of delegates to be elected from each municipal district by dividing the number of registered voters in the district by 750 and providing an additional delegate if the remainder numbered 375 or more. The non-partisan election was held on April 16, 1977.

Convention delegates

Thirty-two delegates were elected to the convention: Martin C. Benavente of Dededo, Gregorio M. Borja of Santa Rita, Edward W. Chargualaf of Piti, Felix L. Crisostomo of Mangilao, Thomas C. Crisostomo of Talofoto, Francisco Cruz of Agat; also Joseph C. Cruz of Barrigada, Vicente T. Diaz of Asan-Maina, Steve Eichner of Tamuning, Roque B. Eustaquio of Yona, T. Frank Flores of Yigo, Judith Guthertz of Mangilao; Carl T.C. Gutierrez of Agana Heights, Frank C. Guzman of Dededo, Anthony C. Leon Guerrero of Yona, Frank G. Lujan of Ordot-Chalan Pago, Ernesto A. Natividad of Dededo, Theodore S. Nelson of Mongmong-Toto-Maite; also Jesus L. Perez of Barrigada, Vicente P. Perez of Mongmong-Toto-Maite, Vicente Camacho Reyes of Sinajana, Jose B. Sarmiento of Santa Rita, Joseph F. Soriano of Dededo, Jesus M. Tedpahago of Merizo, Jose Tuquero of Agat, James H. Underwood of Agana; Donald Weakley, Sr., of Inarajan, Judith T. Won Pat of Sinajana, Antonio C. Yamashita of Tamuning, and Prospero Zamora of Dededo.

Like the first constitutional convention, males dominated this convention with thirty delegates. The two women were Judith T. Won Pat, daughter of Congressman Won Pat, and Judith P. Guthertz, a professor at the University of Guam. Guthertz was one of four Statesider-Guamanians among the delegates, the others being Steve Eichner, Malcon Merrill, and Donald I. Weakley.

There were three Filipino-Guamanians: Ernesto Natividad, Prospero Zamora, and Jose Tuquero.

Age-wise, the youngest was Edward Chargualaf, twenty-five, and the oldest was retired Judge and former Senator Vicente C. Reyes.

The delegates met for the first time under the interim chairmanship of Speaker Joseph F. Ada of the 14th Guam Legislature. The first order of business was the election of convention officers. The delegates took two ballots to elect Senator Carl T.C. Gutierrez as constitutional convention president. Other officers elected were: Vicente P. Perez, vice president, Theodore S. Nelson, secretary and Jesus M. Tedpahago, treasurer. Twenty-one committees made up the convention working groups, including an executive committee comprised of Delegates Thomas C. Crisostomo, Frank Guzman, Steve Eichner, Judith Guthertz, Roque B. Eustaquio, Jose C. Cruz, and Martin C. Benavente.

Messages

The first regular session was held on July 1, 1977 at convention headquarters in Agana. Among the congratulatory messages read at the opening session were those from President Jimmy Carter, Vice President Walter F. Mondale, House of Representative Speaker Thomas P. O'Neill, Jr., Interior Secretary Cecil D. Andrus, Senate Energy and Natural Resources Chairman Henry M. Jackson under whose jurisdiction fell the affairs of the territories in the Senate. Congratulatory messages also came from House Interior and Insular Affairs Committee Chairman Morris K. Udall, Insular Affairs Subcommittee Chairman Phillip Burton, and Guam's own Congressman Won Pat. Said Congressman A.B. Won Pat in his message:⁷

The task before you is an awesome one. The future of Guam and our system of democratic government largely rests in your hands. You have been chosen by our fellow Guamanians to select the form of government which will guide our destiny for years to come.

This is a memorable period in the history of Guam's first Constitution. We have been under political control of others for over 400 years. Your efforts in the Constitution marks

the dawn of a new era in Guam's political development. This is a time which will be noted by generations to come when we, the people of Guam, truly set forth to control our own destiny. I await the document you will present to the people of Guam for their approval with pride and a feeling of accomplishment.

Lofty goals unachievable

Like the above, the messages which came from official Washington and from local leaders at the opening of the convention envisioned loftier goals than both the federal and territorial enabling acts allowed. The federal statute severely limited the form of government the convention would draft. It had to be republican in form "consisting of three branches: executive, legislative, and judicial." The constitution authorized to be drafted would not end what Congressman Won Pat called "political control of others for over 400 years." The federal enabling act required the constitution to stay "within the existing territorial-federal relationship" and mandated that the drafted constitution "recognize, and be consistent with, the sovereignty of the United States over ... Guam." Furthermore, the constitution as drafted was subject to approval, disapproval, modification, or amendment by the President and the Congress of the United States before referring it to the voters of Guam.

Controversial issues

The convention met in forty-six sessions and considered 459 resolutions. Among the most controversial propositions, according to convention report, were the following:

...that to qualify to hold office, future governors and lieutenant governors of Guam be born on island or be direct descendant of native-born Chamorros (defeated); a compromise was later reached requiring a 15-year residency; that the rights of the unborn child be protected (tabled); that pregnant women not be denied the right to abortions (tabled); that Guam's 19 villages be lumped into 10 districts with a 22-member legislature (passed); that homosexuals be given the right to marry (defeated); that capital punishment be banned on Guam unless the voters decide otherwise in a referendum (passed); that Chamorro and English be the official languages of Guam and that Chamorro also be used in official actions of public record (passed); that a 'Right-to-Work' provision be included in the constitution (defeated); that persons born of married or unmarried parents have equal rights (passed).⁸

In addition to the constitution, the delegates also adopted a draft territorial-federal relations act recommended jointly by the committees on political status chaired by Frank G. Lujan and on economic and social relations chaired by Jose Sarmiento. A former senator, Lujan was a member of the first constitutional convention and of the first political status commission.

Major provisions

Among the major provisions included in the convention-adopted constitution pertained to sovereignty in the preamble. It recognized the sovereignty of the United States over Guam pursuant to both the federal and territorial enabling acts.

Article I, section 1 proclaimed "that the people are the sovereign power upon which all government is founded" and that "Government is instituted upon the agreement of the people for their mutual benefit, protection and security." This language notwithstanding, the constitution recognized the sovereignty of the United States over Guam.

Article II, Bill of Rights, guaranteed freedom of religion, speech, press, assembly and petition as well as other rights drawn from the First Amendment to the U.S. Constitution and provisions of the Organic Act.

Section 2 of article II "establishes the principle that the military is always subordinate to the civil government." The inclusion of this clause was largely a lingering reaction to the dominant role which the military used to exercise over Guam. The same was true of the right to just compensation clause under section 12 of article II. The clause was included to ensure that the government compensate the owner of any property that is taken or damaged by the government. The inclusion of the words "or damaged" was intended to clarify that "a complete taking is not necessary before the government is obliged to compensate the owner of the property affected, but it was not intended to constitute a general waiver of sovereign immunity in any instance where a person has been damaged by the actions of the government." Specific proposals to include such a waiver were rejected by the Convention.

Other provisions in the adopted constitution not found in the Organic Act included sections on right to know, collective bargaining, marital and family rights, and right to a healthful environment.

The constitution also included a definition of "bona fide resident," one of the requirements to hold the offices of governor and lieutenant governor (article IV, section 3), auditor general (article IV, section 5), attorney general (article IV, section 6), member of the legislature (article V, section 4(b)), and judge of the superior court (article VI, section 4(b)).

"A *bona fide* resident," according to the adopted constitution, "is a person who intends to make Guam his or her permanent home and who maintains a home in Guam indefinitely." The definition extends to "persons who are temporarily off-island for business, education, government service, or other purpose ... as long as they intend to return to Guam and make Guam their permanent home." A person could not claim to be a *bona fide* resident of Guam and another jurisdiction at the same time, according to the adopted constitution.

Qualifications for governor, other offices

Qualifications for governor and lieutenant governor included U.S. citizenship and a minimum age of thirty. Third, each must have been a *bona fide* resident of Guam as described above for at least fifteen years immediately preceding the date of taking office. The Organic Act calls for five-year residency. This increase in age requirement was intended to "ensure that candidates for the highest elective offices are familiar with the unique problems of Guam as an island territory 5,000 miles from the mainland and have the understanding of Guam society that can only be obtained by intimate contact with the island."

Delegates defeated a proposal to require Chamorro ancestry as a qualification. Instead they adopted the 15-year residency requirement in a compromise.

Article IV, section 5 provided for the election of an auditor general for a 4-year term to audit the receipts and expenditures of government funds. A 5-year residency requirement was required for candidates seeking the office. Section 5(c) prohibited the auditor general from engaging in partisan politics and from running for another office other than reelection as auditor general within one year of leaving the auditor general's office.

The proposed constitution provided for an elected attorney general who will hold office for four years or until his successor is elected and qualified. The residency requirement is shorter by three years than the requirement for auditor general. The delegates intended the office to be nonpartisan and nonpolitical. They provided the same restrictions on partisan political activities as those provided for the auditor general.

Provision for legislative districts.

The draft constitution provided for the election of members of the legislature by district, each legislator representing equal number of voters or as close to equal as practicable. The adopted constitution would apply the basic principle of one-man-one-vote in any apportionment and districting, as mandated by the United States Supreme Court.

Innovative provisions; Guam Supreme Court

An innovative provision in the legislative process was included. In addition to his veto power, the constitution provided a referral clause under which a governor may refer a bill to the legislature with recommendation for amendment. This has the same effect as a veto in that the referred bill cannot become law without further legislative action. This procedure was intended to provide a more positive alternative than the veto power and to promote cooperation between the governor and the legislature. The governor may not refer a bill back to the legislature a second time.

Article V, section 14 of the constitution granted the legislature the power to release funds impounded by the governor, a power not provided under the Organic Act. If the governor refuses to spend funds appropriated by the legislature, such refusal or impoundment of appropriated funds may be overturned by a two-thirds vote of the legislature. The section provided the legislature the authority to direct the treasurer of Guam or other appropriate executive official to pay out or release such impounded funds.

In the judicial area, the adopted constitution provided for the establishment of a Supreme Court of Guam. This provision, a brainchild of delegate Frank G. Lujan who had succeeded earlier in getting his senatorial colleagues to approve legislation for such a supreme court, was strongly opposed by most lawyers practicing on Guam. The U.S. Supreme Court struck down the Guam Supreme Court on the grounds that the Guam Legislature lacked statutory authority under the Organic Act of Guam to establish a supreme court for Guam.

Delegate Lujan took his case for a supreme court for Guam to the Constitutional Convention. Discarding objections presented to the convention from certain attorneys, the delegates approved a supreme court of three justices (a chief justice and two associate justices) which would handle all appeals from the lower territorial courts. From the Guam Supreme Court cases would go directly to the United States Supreme Court. Territorial lawyers found this procedure objectionable. They preferred to go to the U.S. Ninth Circuit Court of Appeals before cases go to the Nation's highest court.

The section on referenda required that a majority of those living and voting within any village or municipality must approve any change in the status of their municipal government. It also provided that a minimum of one and one-half percent of total expenditures in the territorial budget in each fiscal year be appropriated to village and municipal governments. The legislature may divide this amount among all municipalities or restrict appropriation to one or more municipalities.

Elected education board; regents

The constitution provided for elected board of education and university board of regents. The authority to determine basic educational policies and structures rest with the legislature but it was intended that the board of education and board of regents be responsible for the day-to-day management of the educational system and for the determination of priorities within the policy guidelines set by law. It was intended that this responsibility include that exercised by the department of education under the direction of the governor.

The education article approved aid to students of non-public school, "consistent with article II, section 1 and other provisions of the constitution.

Protection of public land; culture

Under article IX, the constitution prohibited the sale of public land but authorized lease of such land. The prohibition on sale "refers to the alienation of a permanent interest in land and does not restrict the alienation of lesser interests in public land, such as estates for a term of years, leases, or non-permanent easement." The delegates did not intend by the section to prohibit the sale, where necessary, of extremely small slivers or plots of land for the purposes of minor boundary adjustments or the exchange of public land. The delegates intended, however, that sale "will not result in a substantial decrease in total acreage of public land."

The convention took a strong position in protecting and promoting the continuing development of the Chamorro culture. The constitution provided that "the legislature may not enact any law which abridges the development of the Chamorro culture, language, traditions, or customs." It provided for the preservation of "places of significance to the culture, tradition, and history of the Chamorro people." It mandated that "the study of the Chamorro culture, including language, traditions, history, and art, must be an integral part of the public educational system." The constitution stopped short of requiring "the offering of any specific courses, nor that courses dealing with Chamorro culture or language be a compulsory part of the curriculum, but was clearly" intended to ensure that all students in the public educational system "are afforded the opportunity to study the Chamorro culture and its components, including language...offered as part of the regular curriculum and not merely as extra-curricular activities."

Both Chamorro and English were approved and established as the official languages of Guam. The provision "requires that only English need be used for the recording of public acts and transac-

tions until the Legislature determines that Chamorro shall also be required for some or all public acts and transactions."

The section on economic development recognized "that there had in the past been discrimination against the Chamorro people." The constitution authorized the Legislature to provide special rights for Chamorros to off-shore fishing and harvesting of marine resources, "in order to redress this past discrimination, ensure equal economic opportunity for the Chamorro people, and protect the traditional Chamorro dependence on the bounty of the oceans."

Other provisions in the draft constitution included a code of ethics for all government officials and employees, merit system, pension and retirement rights, social services, initiative, and recall of public officials; provisions for amending the constitution and the calling of a convention if the voters approve in a referendum after fifteen years had elapsed from the effective date of the constitution.

Finally, the delegates adopted a provision designating the betel nut (*Areca cathecu*) and the coconut as the official fruits of Guam. "This was not intended to have any legal effect on the use or production of betel nut or coconut, but is rather intended as a recognition of the important role played by these two fruits in past and present Chamorro culture," according to convention report.

Signing of Constitution

The convention, having completed its work met for the last time in December 1977. It met its schedule set by the Legislature. Governor Bordallo, Congressman Won Pat, Superior Court Presiding Judge Paul J. Abbate, Jr., and Convention President Gutierrez addressed the last session, congratulating and praising delegates for a job all considered well done. Said Congressman Won Pat:

You have now completed this monumental task and have provided us with a basic governmental guide of which we can be all proud particularly you the convention delegates must be experiencing on this momentous occasion. Today's ceremony has much significance for me also, as I have been intimately involved in the political evolution of this territory. It has been my privilege to have participated in the several key events which have led to today's milestone. It has been a long and difficult road but one which has provided many satisfaction.

The Congressman told convention delegates and guests who crowded the convention hall in a 3-story Agana building owned by attorney and former Senator Edward S. Terlaje, that "many challenges still lie ahead." Summarizing what were ahead, he said:

While this constitution provides for the structure and operation of internal government, there are other requirements for modifying and modernizing many aspects of Guam's relationship with the federal government. There still remains the task of obtaining for Guam the full participation in our national government which is accorded all U.S. citizens -- the right to vote for the President and full participation in our national legislature by total representation in Congress.

"For making it so well, you attained the historic challenge of providing this constitution for our island and its people," the Congressman concluded.

"With all its faults, no better one could be obtained." That's what Benjamin Franklin said of the United States Constitution. Governor Bordallo quoted that statement in his remarks at the closing moments of the convention. "After reviewing the constitution of Guam, I can now say that indeed, with all its faults, no better one could be obtained," the Governor told the convention. He saw the constitution as "the cornerstone of Guam's political development." He expressed special pride that the constitution recognized the culture of the Chamorros. Said the governor:

More than any other time in our history, we the people of Guam are faced with the challenge of survival -- not the subsistence survival of yesteryear but one through tremendous upheaval and change since our discovery by Magellan in 1521. We stand here today, 456 years later, part of a modern, technological existence capable of taking us to the moon -- amazing but true. More amazing, however, is that we have advanced at our expense. In the name of progress, man has destroyed his environment, ignored the good of all for his own good. On Guam we often attribute the roots of the problems of delinquency and crime to the identity crisis -- born out of confusion about who we are and what we want to become.

Governor Bordallo congratulated the delegates "for drafting a document that recognizes who we are and what we want to be."

"The signing of the Guam Constitution is destined to be remembered as a significant event," Judge Abbate told delegates and guests at the closing session. He viewed the constitution as representing "a giant step in Guam's development as an independent self-governing territory a part of our government and ethnic liberties" and "...a work of insight and subtle judgment designed to remedy the fault under the system that has prevailed since 1950."

He praised the flexibility of the constitution and the delicate balance between and among the three branches of the government under it. Of the Judiciary, he said:

As a jurist, I am particularly impressed with the carefully structured independent judicial system incorporated in the Guam Constitution. A strong judiciary is important.....The establishment of a Supreme Court of Guam guarantees us that the decisions that determine the effect of the constitution and the viability of the law passed under it will be made here. The laws will be shaped by those who will be living with them, under them, and by them.

"The annals of history will record this day as a landmark in the development of the democratic process," the Presiding Judge concluded his remarks.

Speaker Joseph F. Ada commended the delegates "for an outstanding piece of document that addresses itself to the very vital needs of the people of Guam." In his brief remarks the Speaker said to the delegates: "You have addressed the political needs of the island; you have addressed the economic needs of the island; and you have also addressed yourselves to the social needs of this island." He viewed the constitution as "one of the best documents that this island has ever had" and one that "will withstand many questions and issues to be brought about for many years."

Speaker Ada likened the delegates to "the fathers of the Organic Act, Francisco Leon Guerrero and Baltazar Bordallo."

Convention President's remarks

In his closing remarks, Convention President Gutierrez saw a parallel in the signing of the Guam Constitution with the day of signing of the U.S. Constitution. Said the president:

This is a great day for Guam. We are gathered here today to finish the work we began five and a half months ago. It is a day long to be remembered. What we have done is a significant step towards achieving our political maturity.

Writing about the U.S. Constitution, Thomas Jefferson expressed his wish that the good should be secured and the bad brought to right. I believe we have incorporated that in our constitution. It will then be up to the future leaders of our island to make that wish come true.

The day the U.S. Constitution was signed, Benjamin Franklin noticed the ray of light which brightened the room as the delegates one after the other, signed the document. Today we are also blessed with a bright and beautiful day as we sign our own constitution.

"My fellow delegates," the convention president called, "let us finish our task" as he directed his fellow-delegates to the table where five original copies of the Guam Constitution awaited their signatures.

Tense moments

The signing ceremony had its tense moment as delegates Frank Flores and Jesus L. Perez expressed their reservations about the document. In the end, putting aside their personal feelings, all thirty-two delegates affixed their signatures to the first locally drafted constitution. With this, the first federally-sanctioned constitution convention for Guam came to a close.

Approval by the President and Congress of the United States

The enabling act required that the convention-approved constitution be transmitted to the Governor of Guam who in turn would transmit the document to the President of the United States who had sixty days to transmit it to the Congress with his comments. The Congress had sixty days within which to approve, disapprove, modify or amend the constitution. The act provided that if Congress had not acted within sixty days the Guam constitution "shall be deemed to have been approved by the Congress."

The constitution remained on Guam for several weeks in the governor's office while Governor Bordallo and Convention President Gutierrez waited for a personal meeting to be set up with then President Jimmy Carter. When the executive review process was completed, President Carter transmitted the constitution to Congress recommending approval and attaching his comments. Thereupon the Congress approved the draft constitution without modification nor amendment.

Controversial issues

The draft constitution was placed before the voters of Guam. It became embroiled in controversies. It became embroiled in controversies even before its signing by convention delegates. Approval by the President and Congress of the United States did not sooth the controversies as some had expected.

Throughout the course of the convention and in the educational period authorized by the Fifteenth Guam Legislature, positions were staked out and lines were drawn. Sensing the mood and the various objections heard from voters, Guam's political leaders and candidates in the 1978 election year skirted the issues raised. Governor Bordallo supported passage of the constitution but elected to talk about it in a straight-forward low-key manner only when raised during his reelection campaign. Bordallo's challenger, former Republican Senator Paul M. Calvo running for governor with Speaker Joseph F. Ada as his running mate, took no strong public position on the constitution. The lack of public endorsement by Guam's political leaders left the constitution at the mercy of those who opposed it.

Strong opposition

Opposition to the draft constitution came from several vocal sources. The most influential voice came from those who felt that the constitution was premature, that the people of Guam must first be afforded the opportunity to determine what political status they wanted before a constitution was considered. This group had the strongest arguments.

Para Pada

A group of Guamanians of Chamorro ancestry calling itself *Para Pada*, a play on Chamorro words *para* (stop) *pada* (slapping) y Chamorros (the Chamorros) raised the most vocal and organized opposition to the constitution. The group represented various interest groups, including advocates of indigenous Chamorro rights and Chamorro language and culture, land owners whose properties were taken by the federal government after World War II, and those who had various gripes against the military and the U.S. Government. It also included those who wanted Guam to be closed as a port of entry for immigration into the United States.

On the eve of referendum day, the *Pacific Daily News* (PDN) published the result of its poll among senators of the 15th Guam Legislature. Most said they were voting against adoption of the constitution. A few days earlier, on July 30, 1979, PDN, Guam's only daily newspaper at the time, urged voters to vote "No" on the constitution. Many of Guam's practicing attorneys opposed the constitution because of its provision for a Guam Supreme Court.

Overwhelming rejection

On August 4, 1979, forty-seven percent of the registered voters went to the polls to vote for the first time on a constitution of the island's making. By an overwhelming vote of 81.7 percent, 10,747 voters rejected the constitution. Only 18.3 percent or 2,407, voted "yes" for the constitution.

Constitutional Convention President Gutierrez saw the votes as the expression of the people for resolution of the political status issue and not as a rejection of what the constitution had to say. He saw the defeat as a challenge to the legislature to petition the Congress of the United States to resolve the status question.



Guam officials transmit the proposed Guam Constitution to U.S. Dept. of Interior officials. Left to Right: Mrs. Ruth Van Cleve, Director of Territorial Affairs, Sen. Edward Charfaurous, Speaker of the 14th Guam Legislature Joseph Ada, Con-Con President Carl Gutierrez, Secretary of the Interior Cecil Andrus, Governor Ricardo J. Bordallo, and Undersecretary James A. Joseph. (MARC File Photo)



Guam leaders meet with U.S. Senator Spark M. Matsunaga after the U.S. Senate hearing on the proposed Guam Constitution. L to R: Sen. Antonio M. Palomo, Con-Con Delegate Judith P. Guthertz, Con-Con President Carl Gutierrez, Mr. Walter Ferenz, representing the Guam Bar Association, Mr. Greg S. Perez, Chamber of Commerce president, Guam's Congressman Antonio B. Won Pat, and Sen. Matsunaga who chaired the hearings. (MARC File Photo)