

*At Constitution Convention***Lively Discussion On Academic Freedom Held**

Collective bargaining and academic freedom were the topics of a lively discussion during the meeting of the Bill of Rights Committee of the Constitutional Convention Thursday evening. Thirty-three people attended the meeting, including representatives from the Guam Federation of Teachers, Guam Teachers' Association, Board of Education, Department of Education, and observing students from the University of Guam.

The emphasis was on educators as the group discussed collective bargaining as a possible guarantee in the new Bill of Rights. Collective bargaining was defended by Bob Hartsock, president of the Guam Federation of Teachers, as a legitimate addition to Guam's Bill of Rights.

Carlos Taitano, chairman of the Board of Education, had a guarded response, as he pointed out that "we must never forget in any laws that we pass or anything we put in the Constitution--we must never forget the children... Sometimes we're too busy fighting over the table (collective bargaining) that the children are out on the streets running around and not getting educated." He emphasized that collective bargaining must be done with a spirit of cooperation and not with threatening positions being held. He said "The law should be such that the education of the children will continue."

Collective bargaining with non-strike clauses should be provided so that the schools would not close while bargaining was occurring, he said. "Teachers should remain in the classroom and continue to teach and should not be out striking so that we close down the schools and nobody benefits."

David Terlaje, committee member, "Aren't you taking some of the power of the teachers away? Aren't you asking for quasi-collective bargaining?"

them with the necessary tools to work with the teacher is entitled to full freedom in research and publication of his work. A teacher is entitled to discuss any subject in his class which is pertinent to the subject, but he should avoid unrelated issues.

Hartsock asked, "Who is to determine what is relevant to the subject matter? I think here you're leaving an area open to restrict the academic freedom.. Those people who are in teaching situations are professionally educated and should be able to exercise the judgement necessary to know how to handle these controversial issues."

"Taitano suggested that the education officials should be the ones allowed to decide what is to be taught and what should be omitted from particular classes. He emphasized that issues regarded by these officials as irrelevant are not appropriately discussed in the classroom.

Galo Camacho of the Department of Education felt that the governing board of the institution is the voice of the community, and perhaps through the board community's requests for propriety in a classroom could be implemented.

Tony Palomo, president of the Convention, asked if this meant that academic freedom was relative and depends on the type of community and institution under consideration.

Frank Quitugua, Director of Education, answered that programs of study are always based upon the particular needs of the

people in a community, implying that academic freedom, too, should be guided by this philosophy.

Darrel Duncan, social studies consultant for the Department of Education disagreed. "Have I heard that academic freedom is different here from somewhere else? Do not the people of Guam need the same kind of academic freedom as people in other places need? Students at any level do not learn in a vacuum; and if someone rises a question which happens to be controversial, then that means that student is ready to learn on that particular issue at that time. For the teacher to respond by saying "We can't talk about that..." will cut off a lot of interest on the student's part.

"And I certainly can not believe that the people of Guam have any less ability to reason and to learn than people anywhere else in the world."

Duncan also felt that students and teachers at all levels should be guaranteed academic freedom.

Those present at the meeting were Galo Camacho, Department of Education; Darrel Duncan, Social Studies Consultant, Department of Education; Frank Quitugua, Director of Education; Carlos Taitano, Chairman of the Board of Education; Bob Hartsock, president of Guam Federation of Teachers, George Poertner and Peg Kiusel of Guam Teachers Association; and Patricia Potter and Delfina Aguigui of the Department of Education. In addition a large group of students from the University of Guam came as observers.

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Hartsock agreed by saying that if a law were written which denied the right to strike, only good faith would remain to assure the government employees that administrators would fairly bargain.

"You can't always rely on the good faith of the administrators... I think you have to allow them (the employees) the latitude to have a tool of some kind that they can use, and withholding of services is about the only tool that an employee has."

He emphasized that a strike is strictly a last resort, of course, for employees to take.

Taitano, speaking of strikes, said, "If it's used judiciously and as a last resort it's not an evil... but how can you guarantee that it will be used only as a last resort?"

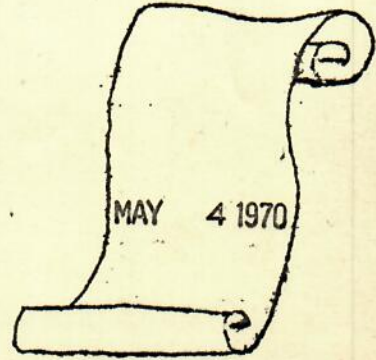
The topic of academic freedom occupied the remainder of the discussion, and two very interesting questions were presented and debated. Should academic

freedom be guaranteed only to institutions of higher learning and not to institutions wherein the students may not be mature enough to capably judge the merit or truth of controversial issues? Is academic freedom relative to the values and particular problems and idiosyncracies of a community? In other words, should a Bill of Rights guarantee academic freedom but with restrictions which would tailor the "freedom" to the community's needs?

As the proposal under study now stands, it guarantees "the students and teachers complete intellectual liberty," as stated by Joseph Ada, committee chairman. The institution is to provide

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Con-Con Proposes Tax On Liquor, Tobacco

Two propositions relating to taxes on Guam were debated at the Thursday night meeting of the Constitutional Convention.

One proposition is to tax all alcoholic and tobacco products sold on Guam, "whether sold or consumed on Federal and military reservations of the United States or elsewhere in the territory."

The other proposition would add a clause to the Organic Act denying the Legislature the power to authorize the rebate of the territorial income tax.

Chief proponent of both propositions is Joaquin G. Blaz, chairman of the Convention's Taxation and Finance Committee. Defending the former proposition, he said, "The taxing

of alcoholic beverages sold on federal or military reservations has always been a source of great contention.

"The Guam Legislature has passed several laws regarding this but attempts to enforce them have been thwarted by the existence of precedents set in the courts regarding the importation of liquor.

"According to the Attorney General's Office, it will require a Congressional amendment to enable us to enforce these laws. Meanwhile, we are losing \$1.1 million annually because we can not tax these luxury items."

Delegate Frank Lujan, who is Guam's Attorney General, supported the proposition, stating,

"Because of the availability of cheap liquor, there have been many abuses of the privilege of buying this tax-free product."

James Brooks, however, a Talofofo delegate, expressed great concern that this proposition would offend the United States Congress. He said, "I have serious doubts that this proposition is constitutional." He referred to Article I, Section 10 of the United States Constitution which states: "No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on

imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress."

He went on to say, "Congress is very jealous of protecting items which cross federal properties; and if it forbids the states of the union to tax these, I very much doubt that it will allow Guam to do so." The proposition to end the rebate of the territorial income tax was debated at length because of its implications with respect to the economic development of Guam and particularly the Guam Economic Development Authority (G.E.D.A.)

G.E.D.A. grants to certain qualifying corporations a re-

bate of the income tax. The intent of this rebate is to act as an incentive to attract businesses to Guam which will spur economic development.

The granting of this rebate has been an object of dispute since the Eighth Guam Legislature passed Public Law 880 creating G.E.D.A. According to Blaz, "This bill is the biggest folly in the history of the Guam Legislature."

Of his proposition he said, "The intent is not to discourage economic development in Guam. On the contrary, development will continue in Guam even without the existence of the rebate.

"We now have several com-
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panies with qualifying certificates-- some granting a 100% tax rebate. We have been so gratuitous to principally alien companies whose revenues go back to foreign soil. Very little economic gain is made here on Guam.

"Furthermore, a tax incentive is not really needed to attract industry to Guam. But if an incentive must be given, give it in the form of rebates on other types of taxes such as the gross receipts, property, or excise taxes. The INCOME tax should be made applicable to all. It is designed so that many allowances and deductions can be made if necessary.

"Giving a rebate to these large companies which do not really need it only inflicts a greater burden on the taxpayers of Guam."

Delegates Rufo Calvo and Jose Cepeda opposed the pro-



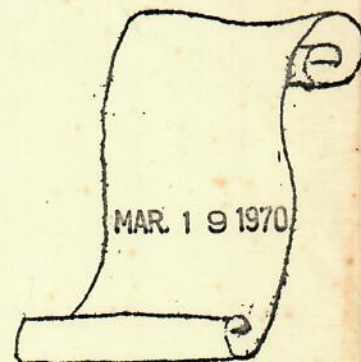
Joaquin G. Blaz

co as an example of a place where the rebate has successfully attracted many new businesses. He said, "To attract new industry we have to be liberal in our willingness to give."

Jose Cepeda, Barrigada delegate, said, "A rebate is not a restriction on the payment of income tax: it is a way of subsidizing a corporation. The corporation does pay its taxes.

"Also, the incomes of the employees are taxable; and this new corporation creates other business in Guam which will generate taxable revenue."

Jose San Agustin opposed the proposition on the basis that no avenue of exploration for economic development should be precluded to the Guam Legislature. He stressed that if Public Law 880 is objectionable it should be attacked, but that a revision of the Organic Act restricting the power of the Legislature is not in order.



Debate Marijuana Use

The delegates of the First Constitutional Convention met Monday and debated the question of whether or not to repeal from the Organic Act Section 33-A, which deals with marijuana. The section prohibits the production, sale, transportation or dispensation of the drug and prescribes the penalties for those who violate the law.

The Health and Social Services Committee reported favorably on the proposition; however, during the ensuing debate several questions arose which the delegates felt should be answered before they voted, and the proposition, was therefore, referred back to the committee for further study.

Robert Leon Guerrero, chairman of the Health and Social Services Committee and co-sponsor of the proposition, stated that his committee felt that this was a non-controversial proposition to repeal from the Organic Act a section which is legislative in nature. He said, "We can then request the local legislature to enact laws dealing not only with marijuana but with all dangerous drugs."

Jose San Agustin, a delegate from Dededo, protested, saying, "What is to be harmed by leaving it in the Organic Act?" He even suggested amending the section to include other drugs and pointed out that there must have been

a good reason for the United States Congress to have included this section in the Organic Act.

James Brooks, Talofofo delegate, disagreed, however, and said, that he thought this should be a matter of local legislation and that harm is done when such a law is included in the Organic Act where it would remain unchanged and inflexible. He suggested that it be repealed, but that a date be set upon which the repeal would become effective to give the local legislature time to enact its own law. Delegate Adrian Sanchez of Tamuning supported this stand.

Jose Cepeda, of Barrigada, supported the proposition. "The probable reason," he said, "for Congress having included this section in the Organic Act was that in 1950 marijuana was the drug with widest circulation and Guam had no local laws to protect the people against its entry."

Cepeda felt that a general provision in the Organic Act, giving the legislature the authority to enact laws protecting the health of the people from dangerous drugs, would suffice today.

Delegate Joseph Ada also supported the proposition and pointed out how a law frozen into the Organic Act can become outdated. The fine for breaking the marijuana law is set at \$2000. Ada said that the \$2000 fine would

be a much less severe punishment today than it was in 1950. He said that he felt the section should be deleted entirely because "it does not correspond with the present or future economic standard."

Jose Quintanilla, Agat delegate said that enforcement of the drug laws was on a federal level and urged that if local legislation was to be encouraged, that local enforcement also be provided for.

Charles Toves and Betty Guerrero preferred to leave the section on the books as a deterrent until such time as it is proven positively that marijuana is not injurious to physical or psychological health.

Rufo Calvo also opposed the proposition and defended his position by stating that Guam's position as a free port near the Orient made it a likely place for future entry of many types of drugs.

Joe San Agustin spoke again to suggest that the marijuana law be repealed upon the enactment of local legislation but not before.

Finally, Antonio Palomo, delegate from Tamuning and introducer of the proposition, justified his having suggested the repeal of Section 33-A. He said, "It is my feeling that the Organic Act is a basic law. Any time we find portions of it which seem to be legislative in nature, we should leave these to the legislature.

Guam Speaks

Out on a

Constitution

Residents of Merizo spoke their minds last week as they met with the Executive Council of the First Constitutional Convention.

Jose Tajalle and Ignacio Meno expressed their desire for a long residency requirement for off-islanders who wish to run for the office of Governor. Tajalle recommended twenty years and Meno, ten years. Meno also said only Chamorros should be eligible to run. Jose Pinaula stiffened the qualifications even further, saying that only those born on Guam may run.

Juan Cruz, on the other hand, proposed a residency requirement of only five years, and said, "We must eliminate the feeling that Guam is for Guamanians only".

Jesus Lujan asked the delegates to provide in the new constitution a method for removing a bad Governor. He felt that the law must give the people recourse against such a possibility.

When the area of education was discussed, Juan Cruz made a suggestion which has not been heard before by the delegates. He proposed a Board of Education with seven members, four of whom would be elected, and three of whom would be appointed. This arrangement, he felt, would provide the advantages of an appointed board while representing the people with the elected members.

Francisco Chargalauf, Merizo commissioner, was for abolishing the present system of village government and setting up independent village governments with more individual power. He said, "The commissioner is presently nothing more than a high-paid messenger boy who is at the mercy of the other agency and department heads."