

VIRGIN ISLANDS STATUS COMMISSION

EXECUTIVE SUMMARY

Position Paper: Background Information, Analysis and Recommendations

Prepared By: Paul M. Leary, Consultant

Section I The Development of the United States Territorial System

Until 1898 the American territorial system was comprised of areas within the North American continent that were destined for Statehood. Consequently, the fullest possible self-government existed during the territorial stage, and the plenary authority of Congress was generally exercised with the sensitivity required by a potential full-fledged member of the Union. There was no doubt that the U.S. Constitution fully applied, with all of its rights, protections and responsibilities. With the acquisition of the insular areas following the Spanish-American War, a new category of "unincorporated" territory was created by judicial inventiveness. Only "fundamental" provisions of the Constitution applied. In the exercise of its authority, Congress did not reflect the sensitivity to democratic government that had characterized its past territorial practices.

Section II The Pacific Offshore Areas of the United States: Guam, American Samoa, Micronesia and the Northern Marianas. An Historical Overview.

Guam

Guam was a colony of Spain from 1565-1898. During that period the native Chamorro people were largely exterminated and a culture based on a fusion of the Chamorro and later populations emerged. The United States acquired Guam as a result of the Spanish-American War of 1898. From 1898-1950 government was administered by the Navy Department in a largely autocratic fashion, with limited opportunities for self-government. Despite this record, Guamanian loyalty to the United States was demonstrated during the Japanese occupation and American re-occupation during World War II. Following this experience, a large measure of self-government was extended from 1949 onward, including civilian rule, an Organic Act (with important amendments) and American citizenship. In recent time important issues of political status and self-government have emerged.

American Samoa

American formal involvement in Samoa dates from 1872, but control was not obtained until agreement was reached with Great Britain and Germany to partition the islands in 1899, with the United States gaining Eastern ("American") Samoa and Germany Western Samoa. This secured America's primary interest in a coaling station at Pago Pago in Tutuila, part of Eastern Samoa. American Samoa was placed under naval rule by presidential order in 1900; formal cession by the chiefs of Samoa occurred in 1900 and 1904. The Congress of the United States did not officially acknowledge the acts of cession until 1929.

Naval rule lasted until 1951 and was characterized by centralized authority, very limited self-government, and deference to traditional authority and custom, including the power of chiefs and Samoan control over land.

In 1951 administrative authority was transferred to the Interior Department. Other steps followed in expanding self-government, including a locally drafted constitution (1960), an elected governor (1976) and a congressional delegate (1978). However, American Samoa still lacks an organic act and Samoans have not been granted U.S. citizenship. Samoans fear that a change in their status would imperil their traditional political structures and their land rights by bringing the full force of the Constitution of the United States to bear.

Micronesia

Micronesia (the "Trust Territory of the Pacific Islands") came under American control following World War II. In order to preserve American security interests in the area, it was administered as a strategic trust under the auspices of the United Nations Security Council. In addition to obligations to promote the social and political welfare of the inhabitants, the United States was given special powers to safeguard its security concerns. In exercising its trusteeship, the United States placed the greatest emphasis upon the security aspects. Political development was slow and cautious. Until the establishment of the Congress of Micronesia in 1964, all effective authority was concentrated in the hands of Washington-appointed executive officials. Political dependency was reinforced by economic dependence, so that Micronesians acquired a living standard that could only be sustained by financial support from the United States. The process of status negotiations between the United States and Micronesia, which began with the establishment of a Future Political Status Commission by the Congress of Micronesia in 1967, was greatly shaped by both American security concerns and Micronesian economic needs.

The Northern Marianas

The Northern Marianas remains officially a district of the Trust Territory of the Pacific Islands and will remain so until the trusteeship is terminated. Because of its special links with Guam and its experience under the trusteeship, the Northern Marianas opted for a different form of relationship with the United States than did the other districts of Micronesia. Beginning in 1972, separate negotiations ensued between the Northern Marianas and the United States which resulted in a "Covenant". Under its terms, the Northern Marianas will be permanently incorporated into the American political system and designated as a "Commonwealth". The terms of this covenant have significant implications for Guam and the other U.S. territories.

Section III The Caribbean Territories: Puerto Rico and the Virgin Islands of the United States. An Historical Overview

Puerto Rico

Puerto Rico was acquired by the United States in 1898. Ironically, under American rule Puerto Rican self-government was to be more restricted than during the last period of Spanish rule. One result would be a constant struggle for greater self-government and an unceasing concern for political status. While initially Puerto Rican political parties favored statehood, their disappointment with American policies led to a deepening interest in independence. Because of the significance of the economic relationship with the United States, however, Luis Munoz Marin devised the Commonwealth status as an alternative to independence or statehood. This arrangement, however, has not succeeded in resolving the status question, which continues to dominate Puerto Rican politics.

The Virgin Islands of the United States

After almost two hundred and fifty years of Danish rule the Virgin Islands were purchased by the United States to protect the approaches to the Panama Canal. Hopes for expanded political liberties were disappointed when the United States established autocratic Naval rule from 1917-1931. Following local agitation for greater self-government, U.S. citizenship was granted in 1927 and civilian rule under the Interior Department in 1931. Another major set forward in self-government occurred in 1936 with the passage of an Organic Act by Congress. The authority granted to the local legislature combined with universal suffrage created a basis for local political activity. The revised Organic Act of 1954, by contrast, contained several retrogressive features limiting local autonomy, while emphasizing fiscal and administrative reform. Following the first Virgin Islands Constitutional Convention in

1964, a number of significant political advances have taken place, including an elected governor, a Congressional delegate, and authority to draft a Virgin Islands Constitution. In the late 70's the issue of political status emerged as a factor for the first time in Virgin Islands politics as reflected in the proposed Federal Relations Acts of the Third and Fourth Constitutional Conventions and the establishment of a Virgin Islands Status Commission.

Section IV Current Political Status Issues in the United States Offshore Areas

A recent development of great significance in the U.S. Offshore Areas is a concern with their political status. Previously, only Puerto Rico had expressed an interest in the nature of their political relationship with the United States. During the 1970's every Offshore Area either established political status commissions or entered into negotiations for a new political status. This trend was caused by several inter-related factors. Internationally, dependent status is increasingly unacceptable in an era of decolonization. In addition, the United States has legal obligations under the United Nations Charter which relate to its non-self-governing territories. Regionally, the example of newly independent states of similar size and resources has awakened interest in a re-examination of the current limited political status among the U.S. insular areas, as well as a desire for more representation on international and regional organizations that affect them. Within the U.S. territorial system itself, negotiations with the Northern Marianas and Micronesia have created the possibility of new forms of status that did not previously exist. Finally, the Federal government itself has exhibited greater flexibility and sensitivity with respect to issues of self-determination.

Section V Political Status Options for the United States Virgin Islands

There are a number of political status options theoretically available to the U.S. Virgin Islands. They are independence, free association, commonwealth, unincorporated territory, statehood, or a novel constitutional arrangement within the American political system. Each status has its advantages and disadvantages. Analyzing them from the perspective of political, economic and social/cultural factors of relevance to the U.S. Virgin Islands, a Commonwealth is the most appropriate status. It meets both the desire of the public for a close relationship with the United States and meets the needs for specific reforms in federal relations sought by the Virgin Islands. It also reflects the close economic ties with the United States. While it does, perhaps, result in some adverse social and cultural effects, they must be balanced against the political and economic advantages.

Section VI Analysis and Recommendations

The Virgin Islands Status Commission undertakes its responsibilities at a time of great change within all the Offshore Areas of the United States. Broad community support for the political status option recommended is essential, so that any change that is made does not cause divisiveness and misunderstanding. Hence, a well planned and comprehensive program of public education is of major importance. The following recommendations are made:

1. Public education should be given a high priority.
2. A broad statement of principles should be adopted to guide status negotiations.
3. The Commission's work should not be defined exclusively in terms of the immediate response of the federal government.
4. Further studies should be made of political, economic and social/cultural factors in relation to the status option recommended.
5. Contacts should be established with the other Offshore Areas, particularly the unincorporated territories.
6. At this time, a Commonwealth status is politically and economically the most realistic choice for the U.S. Virgin Islands

POSITION PAPER: BACKGROUND INFORMATION,
ANALYSIS AND RECOMMENDATIONS

PREPARED FOR VIRGIN ISLANDS STATUS COMMISSION

BY

PAUL M. LEARY, Ph.D., CONSULTANT

July, 1981

VIRGIN ISLANDS STATUS COMMISSION

Senator John Bell

Attorney Edith Bornn

Mr. Luis Diaz

Senator William Harvey

Judge Verne A. Hodge (Chairman)

Dr. Randall James

Attorney Desmond Maynard

Lieutenant-Governor Henry Millin

Dr. Lucien Moolenaar

Senator Michael Paiewonsky

Honorable Ralph M. Paiewonsky

Senator Elmo D. Roebuck

Administrator Jean Romney

Mr. Rupert Ross

Senate President Ruby Rouss

Administrator Roy Sewer

Attorney James Wisby

Hon. Earle B. Ottley (Executive Director)

CONTENTS

I.	The Development of the United States Territorial System . . .	1
II.	The Pacific Offshore Areas of the United States:	
	Guam, American Samoa, Micronesia and the Northern Marianas. An Historical Overview	9
	A. Guam	9
	B. American Samoa	17
	C. Micronesia	29
	D. Northern Marianas	37
III.	The Caribbean Territories: Puerto Rico and the Virgin Islands of the United States. An Historical Overview . . .	43
	A. Puerto Rico	43
	B. The Virgin Islands of the United States	52
IV.	Current Political Status Issues in the United States	
	Offshore Areas	62
	A. Introduction	62
	B. Status Concerns in the Pacific Areas:	
	Guam, American Samoa, Micronesia and the Northern Marianas	75
	1. Guam	75
	2. American Samoa	80
	3. Micronesia	84
	4. Northern Marianas	90
	C. Status Concerns in the Caribbean Area:	
	Puerto Rico and the U.S. Virgin Islands	97
	1. Puerto Rico	97
	2. U.S. Virgin Islands	103
XV.	Political Status Options for the United States Virgin Islands	110
	A. Independence	110
	B. Free Association	114
	C. Commonwealth	116

D.	Unincorporated Territory & Incorporated Territory	121
E.	Full Political Integration	125
F.	A Novel Constitutional Arrangement	127
G.	The Best Choice for the U.S. Virgin Islands	129
	1. Political Factors	129
	2. Economic Factors	131
	3. Cultural and Social Factors	132
	4. Application of Factors	133
VI.	Analysis and Recommendations	135
VII.	Attachments: Maps of the Pacific, Micronesia, Guam and Samoa	
A.	The Pacific	143
B.	Guam and Micronesia	144
C.	Trust Territory of the Pacific Islands	145
D.	Samoa Islands	146
E.	Guam	147

SECTION I

The Development of the United States Territorial System

The matter of United States territories first arose following the American Revolution. Upon its conclusion thirteen independent states were created, loosely bound together through the Articles of Confederation. States which possessed land claims in the West (that is, territorial areas not included in their boundaries) ceded them to the new central government, with the understanding that they would eventually become states, also. In order to organize these territories, the Congress of the Confederation passed the Northwest Ordinance of 1787, which established the framework which would guide most future transformations from territorial to Statehood status.

The Northwest Ordinance - reaffirmed by the Congress established by the Constitution of 1787 - provided the following features of territorial government:

1. a Congressionally appointed governor
2. a Congressionally appointed court
3. a representative legislature (when the population reached 5,000 free adult males).
4. a non-voting congressional delegate to Washington
5. subjection to the same federal laws and taxation as the States.

Most importantly, the Northwest Ordinance assumed that the territories were destined for statehood; that any limitations on democratic government were temporary; that inhabitants of territories enjoyed the full protection of their constitutional rights.

Of the thirty-seven states subsequently admitted to the Union, twenty-one entered from territorial status. (Of the six that were never territories, four were created from existing states and two - Texas and California - admitted immediately, bypassing the territorial stage.) The procedures generally followed for admission were:

1. governmental organization by territorial or organic acts of Congress
2. when statehood was desired, a request for an enabling act from Congress authorizing the drafting of a State constitution and the forming of a State government
3. following the ratification of the State constitution by territorial residents and review by Congress, admission into the Union through an Admission Act.

While this was the general pattern, variations were not uncommon. It is a matter for Congressional judgment as to what procedures are acceptable, given Congress' broad constitutional authority over the territories and admission to statehood with respect to the territories. Article IV, Section 3, Clause 2 of the Constitution reads: "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State." Regarding admission to statehood, the same constitutional article indicates: "New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction

of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the consent of the Legislatures of the States concerned as well as of the Congress."

Thus Congress has very broad authority, both with respect to territories and their governance as well as admission into the Union. This accounts for the variety of practices adopted, depending on the prevailing circumstances. In general, however, three criteria has been considered by Congress in evaluating requests for Statehood:

1. that the territory's inhabitants support the American form of government
2. that a majority of the electorate desire Statehood
3. that there is sufficient population and resources to support a State government and its obligations.

A more detailed discussion of the Statehood process will be provided in the section dealing with Statehood as a status option. For our purposes here, the major point is that the basic assumption in the treatment of U.S. Territories was to consider them as nascent States. In the course of their evolution toward Statehood, they would be granted the fullest degree of self-government and constitutional protections feasible. Over time, they could look forward with confidence to incorporation into the Union on an equal footing with existing States. Any political disabilities incurred in the territorial phase were limited and transient.

This general pattern was substantially altered as a result of overseas expansion by the United States. This resulted in the acquisition of territories that were not connected to the North

American continent and were populated by peoples culturally distinct from most of those on the "mainland".

From its inception, the United States has been an expansionist nation. Following the call of "Manifest Destiny", the original thirteen states expanded westward to encompass a large part of the North American continent. But this movement did not stop at the water's edge. The major areas for overseas expansionism were the Pacific and the Caribbean. As early as 1853 Commodore Perry, in connection with his famous expedition to Japan, recommended the acquisition of the Ryukyu Islands south of Japan. Following the Civil War, Secretary of State Seward attempted to purchase both the Virgin Islands and Santo Domingo. For internal political reasons such efforts failed until the War of 1898 with Spain, undertaken in a tide of chauvinism and imperialistic ambitions, swept away the obstacles preventing the fulfillment of expansionist goals.

As a direct result of the peace settlement with Spain following the War of 1898, Guam, Puerto Rico and the Philippines became possessions of the United States. Thanks to political plotting by American interests within Hawaii, the native monarch was overthrown in 1894 and an independent republic, dominated by those interests, created. In the midst of the imperialist fervor resulting from the war with Spain, Hawaii was annexed by a Congressional joint resolution in 1898, thus yielding to the requests of the Hawaiian "government." (The Hawaiian example will be dealt with at greater length in the section of the paper dealing with the statehood status.) American Samoa was acquired by the United

States consequent to an agreement between Great Britain, Germany and the United States in 1899. Under its terms, this island group was partitioned between Germany and America, with the latter gaining Tutuila with its port of Pago Pago as well as smaller islands to the east. By executive order of February 19, 1900, President McKinley placed Samoa under the jurisdiction of the Navy Department. The chiefs of Samoa, in separate agreements of 1900 and 1904, ceded the islands to the United States - a cession not formally accepted by Congress until 1929. The present American territorial system (with the possible exception of the Northern Marianas, which is a special case) was completed in 1917 with the purchase of the Virgin Islands from Denmark.

As previously indicated, the new territories gained as a result of these actions posed a dilemma for the United States government. Previous territories had been contiguous, or at least located on the North American continent. The new possessions were offshore and, in some cases, very remote, and were inhabited by people culturally distinct from the "Anglo-Saxon" model which prevailed in the older territories. There was little expectation of Statehood (with the exception of Hawaii, dominated by American settlers). In addition, the products of these areas, if admitted duty-free to the United States, might pose a threat to American commercial interests.

The dilemma was resolved through a judicial formula which distinguished the newly acquired territories from the older ones. According to the Insular Cases, particularly Downes vs. Bidwell (1901), two kinds of territories now existed. The "incorporated" territories were fully a part of the American political system and all the provisions of the Constitution applied. They could be

identified as "incorporated" because Congress, either explicitly or implicitly had signified that they were destined for Statehood. No such Congressional intent existed with respect to "unincorporated" territories. Consequently, only the "fundamental" parts of the Constitution applied, such as the protection of basic liberties (speech, religion, assembly, etc.). The parts of the Constitution that relate only to the "form and manner" of exercising power (the "formal" parts) do not apply. This includes the imposition of tariffs. Hence, the products of the new territories could have duties imposed on them, since they were not fully a part of the United States - they were "unincorporated". In addition, of course, Congress' plenary authority over territories was unimpaired. And Congress chose to exercise that authority in the "unincorporated" territories in a manner that was substantially different than the model of democratic government, based on the Northwest Ordinance, that was applied to the past and present "incorporated" territories.

Summary

Until 1898 the American territorial system was comprised of areas within the North American continent that were destined for Statehood. Consequently, the fullest possible self-government existed during the territorial stage, and the plenary authority of Congress was generally exercised with the sensitivity required by a potential full-fledged member of the Union. There was no doubt that the U.S. Constitution fully applied, with all of its rights, protections responsibilities. With the acquisition of the insular areas following the Spanish-American War, a new category of "unincorporated" territory was created by judicial

inventiveness. Only "fundamental" provisions of the Constitution applied. In the exercise of its authority, Congress did not reflect the sensitivity to democratic government that had characterized its past territorial practices.

Major Source for this Section:

"Experiences of Past Territories Can Assist Puerto Rico Status Deliberations." Report to the Congress by the Comptroller General of the United States (Washington, D.C.: General Accounting Office, 1980).

SECTION II

THE PACIFIC OFFSHORE AREAS OF THE UNITED STATES: GUAM, AMERICAN SAMOA, MICRONESIA AND THE NORTHERN MARIANAS. AN HISTORICAL OVERVIEW

A. Guam

Guam is located in the western Pacific approximately 600 miles southwest of San Francisco and 1500 miles east of Manila. The island is 30 miles long and its width varies from 4 to 8 1/2 miles. (See maps attached.) It has a population of approximately 100,000.

Guam was discovered by the Spanish explorer Magellan in 1521, but was not formally claimed by Spain as part of its empire until 1565. Guam remained part of the Spanish Empire until its seizure by the United States in the course of the Spanish-American War in 1898.

When first discovered by Europeans, Guam was inhabited by the Chamorros. Following intensive Spanish attempts at colonization, including conversion to Christianity, a period of warfare ensued between 1670 and 1695 which resulted in the decimation of the indigenous population. By 1742 it was estimated that only 4000 Chamorros remained. (The Chamorro population at the time of the Spanish discovery was in the range of 50,000-100,000.) They inter-married with the Spanish and other groups who subsequently resided on the island, including Filipinos, Japanese and Mexicans, to create the present Guamanian people. The Chamorro language (now an amalgam of the original and later additions) is still the language of the home; the present culture reflects a combination of Chamorro-Catholic values, despite an increased trend toward Americanization; Guamanians regard themselves as "Chamorros."

Following the destruction of Chamorro resistance, Spanish rule was unchallenged. The population became predominantly Catholic, with the Church exercising a major influence over personal and social life. While Guam had some initial importance as a stop-over for the rich galleon trade between the Philippines and Mexico, it increasingly declined in significance in the Nineteenth Century. By the time of the American conquest, Guam was an impoverished backwater of the now-feeble Spanish Empire.

The United States seized Guam on June 20, 1898, when U.S. naval ships on their way to the Philippines surprised a small Spanish garrison which did not even realize that war had been declared. They surrendered the next day without offering any resistance. Under the terms of the Treaty of Paris (December 10, 1898), which settled the war between Spain and America, the United States gained possession of Guam in addition to the Philippines and Puerto Rico.

By Executive Order issued by President McKinley on December 23, 1898, Guam was placed under the rule of the Department of the Navy. Guam stayed under naval rule until 1949, when President Truman established civilian rule by transferring jurisdiction to the Department of the Interior. An Organic act was passed in 1950, which also conferred U.S. citizenship.

Throughout the period of American control military factors have been of major significance for Guam. Naval rule was originally established because of Guam's possible use as a coaling station at a time when warships required strategically placed refueling points. The entire island was designated as a naval station, and naval officers functioned both as governors and commandants.

Their authority was practically unchecked, and local forms of representative government non-existent or feeble. In the absence of Congressional action providing a framework of territorial government, all authority was effectively in the hands of the naval governor, who exercised it by means of executive orders, verbal orders, and proclamations. As one history of Guam notes: "...naval government was highly centralized and based on personal authority. It remained so throughout most of the period of naval rule." (Paul Carano and Pedro Sanchez. A Complete History of Guam, p. 185.)

The naval governors concentrated their efforts in the areas of public works, sanitation, health and education. Little effort was made to foster self-government. The First Guam Congress was established in 1917. It was strictly an advisory body appointed by the governor and serving at his pleasure. The first elected Guam Congress (the Second Guam Congress) took office on March 7, 1931. It too was an advisory body which could only send resolutions to the governor for his action. Local government officials were elected for the first time also on March 7, 1931, but this authority was rescinded in 1933. It was also in the latter year that a local bill of rights was first extended to Guam.

The reaction of Guamanians to this autocratic government was not rebellion but an appeal for equal treatment based on American citizenship. The Second Congress of Guam petitioned the United States to grant citizenship on July 11, 1936. It also requested the governor to set aside \$5,000 to support the travel of a delegation to Washington, D.C. to speak in support of the petition.

The governor refused the request and the money was raised by popular subscription. A bill to grant citizenship was introduced in Congress in 1937, but failed to pass.

Thus, during the period from 1898-1950 Guamanians were governed by an autocratic naval administration. There was no local legislative authority. There was no grant of citizenship. Self-government would only come in 1950, following the ordeal of World War II and the Japanese occupation. The loyalty to the United States demonstrated by Guamanians during that difficult period was a major factor in the passage of the Organic Act of 1950.

The Japanese invaded Guam in December, 1941, shortly following the Pearl Harbor attack. Guam was largely undefended, and resistance light. The Japanese occupation lasted until July 21, 1944, when the island was invaded by American forces. While the Japanese rule was initially moderate, as the pressures of war increased it became progressively more brutal. One author described this ordeal and its effects the following way:

The memory of the Japanese regime lingers as a fresh one and will not be forgotten in Guam for many decades. A number of Guamanians were beheaded for merely smiling at an American plane as it passed overhead in reconnaissance during the last days before the assaults of Asan and Agat. Many more lived through the occupation only to die in the final Japanese orgy of slaughter as American troops debarked along the western shores of the island and began to fight their way inland. The joy and genuine feeling of welcome expressed in the native reception of American troops was overwhelming to the liberators. They had not expected this, since they had been forced to annihilate Guam's flimsy civilization and much of its natural beauty in order to liberate it. But the Guamanian friendliness was omnipresent as American troops advanced, and it could not be denied, recognizing this loyalty, that the people of Guam had unequivocally earned their right to be called Americans. (Charles Beardsley. Guam: Past and Present, p. 219)

U.S. casualties in the battle for Guam were approximately 7,500; Japanese casualties were 11,000.

One consequence of the U.S. re-occupation that would present major problems in the future was the condemnation of a great amount of private land for military use with questionable levels of compensation. By 1948, 48% of the total land area of Guam was controlled by the United States. The fact that much of this land was not put to military use but simply remained idle caused resentment. There also arose some controversy about the level of payments made by the U.S. government in the form of war claims for damage caused to native property. Both issues were to remain sources of discontent.

As a result of Guamanian loyalty during World War II, a favorable atmosphere for greater Guamanian self-government and for the grant of citizenship existed in Washington. This was reinforced by the findings of both an inter-agency federal study (involving the Departments of War, State, Navy and Interior) and a civilian committee headed by Dr. E. M. Hopkins established by the Navy Department. The Hopkins Report contained many recommendations eventually incorporated into the 1950 Organic Act.

On September 7, 1949, President Truman issued Executive Order No. 10077, transferring administration of Guam from the Secretary of the Navy to the Secretary of the Interior. The order became effective August 1, 1950 and the first civilian governor, Carlton S. Skinner, took office on September 27, 1950.

In its consideration of the legislation that would provide an Organic Act for Guam, a major concern of Congress was that it

not be considered as establishing a precedent for eventual statehood. In remarks on the floor of the House, the sponsor of the bill, Representative J. Hardin Peterson of Florida, made it clear that no such precedent was intended.

HR 7273 (The Organic Act of Guam) passed the House on May 23, 1950 and the Senate on July 26, 1950. It was signed into law by President Truman on August 1, 1950. It remains, with major subsequent amendments providing for an elected governor (1968), an elected non-voting delegate (1972), and the right to formulate an internal constitution (1976), the basic framework today for Guam's government. Some of its major provisions were:

1. U.S. citizenship
2. a Bill of Rights
3. a unicameral legislature with broad law-making authority
4. a U.S. District Court to try major cases
5. a governor appointed by the President (now elected as a result of a 1968 amendment.)

Recent political developments in Guam relating to the status question will be examined in a subsequent section of the paper.

Summary

Guam was a colony of Spain from 1565-1898. During that period the native Chamorro people were largely exterminated and a culture based on a fusion of the Chamorro and later populations emerged. The United States acquired Guam as a result of the Spanish-American War of 1898. From 1898-1950 government was administered by the Navy Department in a largely autocratic fashion, with limited opportunities for self-government. Despite this record, Guamanian loyalty to the United States was demonstrated during the

Japanese occupation and American re-occupation during World War II. Following this experience, a large measure of self-government was extended from 1949 onward, including civilian rule, an Organic Act (with important amendments) and American citizenship. In recent times important issues of political status and self-government have emerged.

Major Sources for this Section:

Beardsley, Charles. Guam: Past and Present
(Rutland, Vt. and Tokyo: Charles E. Tuttle Co., 1964)

Carano, Paul and Sanchez, Pedro. A Complete History of Guam
(Rutland, Vt. and Tokyo: Charles E. Tuttle Co., 1964)

Sheridan, Peter. Status of Guam: Some Political and Historical Aspects (Washington, D.C.: The Library of Congress - Congressional Research Service, 1979).

B. American Samoa

American Samoa is located in the South Pacific approximately 2,200 miles southwest of Hawaii, 1,600 miles northeast of New Zealand, and 4,500 miles from San Francisco. The islands stretch for 200 miles. (See maps attached.) There are nine inhabited islands, the largest of which is Tutuila. The total land area of all the islands combined is seventy-six square miles. They are mainly mountainous, arable land is scarce, and most of the population lives on the coastal fringe between the mountains and the sea. Based on the 1978 census, the population is 30,600.

In addition to American Samoa, the island group includes Western Samoa, composed of the major islands of Savaii and Upolu. The two Samoas are closely related by language, culture and family ties, but have been administered separately since partition in 1899. Since 1962 Western Samoa has been an independent state.

Samoa was first sighted by Europeans on June 13, 1722 by ships from the Dutch West India Company. In 1768, the French navigator De Bougainville visited the islands and named them the "Navigator Islands", a designation by which they were long known. Visits followed with increasing frequency, ending the islands' isolation.

With the 19th Century came the introduction of Christianity, as well as frequent visits by whalers in the course of their long voyages. At this time also the first major commercial enterprise was established by the German firm of J. C. Godeffroy and Co., which dealt mainly in copra (dried coconut). The copra was shipped to Europe and processed into oil.

American interests in Samoa originated with the whalers' visits and centered on the strategic location of Samoa between San Francisco, Hawaii, Australia and New Zealand. Of particular attraction was the large, protected harbor of Pago Pago (pronounced Pango Pango) which offered an ideal location for a coaling station for naval vessels and steamships.

In 1872 the U.S.S. Narrangansett under Commander Richard W. Meade visited Pago Pago and negotiated an agreement with the leading chief of the area. Under it, the United States gained the exclusive right to build and maintain a naval station in return for American friendship and protection. While this agreement was never approved by the U.S. Senate, it served as a basis for later claims.

There ensued a period of Samoa history in which the United States, Germany and Great Britain became embroiled in a contest for influence. The situation was aggravated by the intermingling of these claims with unstable Samoan internal politics, characterized by a vying for power by local chiefs, as well as European political factors, in which Samoa became a pawn of shifting policies and loyalties, particularly in the relations between England and Germany. Indeed, the situation became so volatile as to verge on armed clashes among the contending powers, and to produce a lingering bitterness in relations between the United States and Germany. (Full details of this period can be found in Paul M. Kennedy The Samoan Tangle, available in the Commission's library).

American involvement in Samoa at this time was deepened by a

treaty ratified by the U.S. Senate on February 13, 1878. It provided for mutual peace and friendship for a period of ten years; confirmed the right of the United States to establish a naval station at Pago Pago; and bound the United States to use its good offices in the event Samoa became engaged in a quarrel with any third nation.

In order to resolve the Samoan "tangle" and prevent it from causing open conflict among the three outside powers involved, a fact-finding mission was dispatched in 1886, followed by a conference in Washington in 1887. Neither the mission nor the conference was successful in finding a solution. With tensions increasing in Samoa largely as a result of German efforts to gain the upper hand, another conference was convened in 1889. A major result of this meeting was the establishment of tri-partite control, with Britain, Germany and the United States sharing authority under a complicated and cumbersome arrangement. In addition, Samoan independence was recognized, although effective control now rested in the hands of the three powers.

The final resolution of the Samoan problem was reached in 1899 when it was apparent that the tri-partite arrangement was unworkable and Germany was willing to settle for partition. In the manner of the time a deal was struck between Germany and Britain by means of which German rights in other areas of the Pacific and West Africa were traded for British rights in Samoa. To placate the United States, the latter received Tutuila, with its harbor, Pago Pago, as well as other smaller islands to the east.

President McKinley, by executive order on February 19, 1900, placed Samoa under the jurisdiction of the Navy Department, given the latter's interest in a coaling station. The flag of the United States was formally raised over Tutuila on April 17, 1900. American control was legitimized by two treaties of cession, one in 1900 with the chiefs of Tutuila, and the other in 1904 with the chiefs of the Manua district, a group of islands to the east of Tutuila.

The first naval governor, Commander B. F. Tilley, established the pattern of naval rule which was to prevail for most of this period. Tilley issued a "Declaration of the Form of Government" on May 1, 1900. It proclaimed that the laws of the United States were in force and that any Samoan law or custom not in conflict with them would be preserved. In addition, traditional Samoan political organizations would be maintained with recognition of the role of the chiefs, although the naval governor retained ultimate law-making authority as well as the right to appoint office holders. Tilley also appointed a secretary of native affairs.

This was to remain the form of Navy rule. While retaining ultimate and autocratic powers, the naval governors sought to exercise them so as to respect Samoan custom and tradition as much as possible. In particular, the important role of the chiefs was recognized.

Since Samoan tradition and its protection were to play such an important part in shaping American rule, and since they continue to do so today, an understanding of its major elements is important.

Culturally, Samoans belong to the Polynesian group in the Pacific. They share the general way of life of their neighbors in Western Samoa, native Hawaiians, Tongans, Tahitians and New Zealand Maoris. The base unit in the social structure is the aiga, roughly equivalent to a clan. It is a group of people related by blood, marriage or adoption. It varies in size from a few people to around two hundred. Within the aiga, all bear allegiance to the matai, or chief. Loyalty is to the aiga and its matai rather than the nuclear family of the Western type.

The economic base of the aiga is common land ownership. Ownership does not vest in the individual. Instead, one is assigned temporary use of a portion of the property which belongs to the aiga as a whole. In traditional Samoan life, prestige accrues through generous distribution of wealth, not its accumulation. Occasions such as births, marriage and deaths provide the occasions for the elaborate ceremonies at which such distribution takes place. In addition, members of an aiga have claims on the resources of other clan members.

The matai is chosen by election by the adult members of the aiga. The title is not automatically inherited, although birth order and parentage may give a candidate certain advantages. As in much of Samoan life, the election has to be unanimous, that is, by consensus rather than majority/minority decision. The matai allots work tasks and distributes the products of labor among the aiga's members. He is trustee for the communal land and represents the aiga in public affairs.

A village may consist of several "clans", each headed by a

matai. The matai from the traditionally senior family is the village high chief. Within the village, legislative authority is vested in a fono (or council) of all the matai. Here too, the rule is unanimity, although the high chief tries to ensure that his view prevails.

Villages in turn are grouped together in an itu (or county). Its headquarters is the senior village of the area. The governing body of the itu is a fono composed of the high chiefs of the villages and other matai who have a traditional right to participate.

The largest traditional governmental unit is the district, which is comprised of the counties (itu) within a traditionally defined area. The districts are headed by high chiefs of considerable rank and prestige, in some case claiming divine descent.

Another important part of the customary power structure are the tulafale ("talking chiefs"). They act as administrative and executive officers for the high chiefs. In some cases, the tulafale can gain considerable de facto authority, including an important role in the selection of the leadership.

Of the chiefly titles which exist, by tradition some are more prestigious than others. The most important titles are found on the islands of Upolu and Savaii in Western Samoa. Historically, the chiefs of Tutuila in American Samoa bore lesser titles and were subordinate to a high chief in Upolu. If a high chief succeeded in gaining election to the five highest traditional titles, he received the ultimate title of Tupu o Samoa ("King of Samoa"). The vying for the prestigious titles, particularly for the highest one, was a prime source of instability and warfare

in Samoa before colonial rule imposed order from outside.

From 1900 to 1951 the naval governors administered authority but with considerable deference to the traditional social structure. Little effort was made at social, economic or political development, although public health programs and compulsory elementary education were introduced. One of the major enactments of this style of rule was the Native Lands Ordinance of 1900, which prohibited the alienation of Samoan land.

During the 1920's resistance to naval rule developed in the form of the "Mau" ("Samoa Cause") movement which had as one of its aims the installation of a civilian government. The Mau helped to focus Congressional attention on Samoa. In 1929, by joint resolution, Congress finally formally accepted the cessions of 1900 and 1904. This resolution also provided what remains the only statutory authority for government in Samoa:

"Until Congress shall provide for the government of such islands, all civil, judicial, and military powers shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officers and fill the vacancies so occasioned." The joint resolution also indicated that special protection of Samoan land rights would continue and created a congressional commission to investigate conditions there.

The Commission, chaired by Senator Hiram Bingham, held hearings in Hawaii and Samoa in 1930. The major concerns expressed were for U.S. citizenship and an Organic act. The Commission so

recommended in its report to the President, and in addition called for restriction of land ownership to Samoans. Legislation incorporating the commission's recommendations failed to pass Congress, however, with the principal objection being the costs entailed by a civil administration at a time of economic depression in the United States.

During World War II a large U.S. military presence brought the modern world - and its ways - to Samoa in a dramatic fashion. A money economy was developed, Samoans served in the armed forces, and aspiration levels were raised. One result was the demand for more self-government following the way. As a result, the first legislature was established in 1948. It had advisory status only.

One major change in attitude at this time had to do with the desirability of an organic act and citizenship. This was primarily because efforts to include restrictions on outside land purchase in the 1950 Guam Organic Act had been deleted as inconsistent with the American form of government and constitutional rights of citizens. Samoans did not want a similar fate to befall their traditional way of life, particularly land ownership, if an Organic act were provided for them.

On July 1, 1951, administration of American Samoa was transferred from the Navy Department to the Interior Department, establishing civilian rule with a governor appointed by the President. In 1960, a locally drafted constitution for Samoa was approved by the Secretary of the Interior. It established a bicameral legislature with more than advisory powers, but still with significant restrictions, such as the right of the Secretary

of the Interior to approve a bill passed over the veto of the appointed governor. In addition, the governor could designate legislation as "urgent", and if the legislature failed to pass it in acceptable form, the governor could promulgate it on his own with the approval of the Secretary of the Interior. Traditional components of the social structure were recognized in Article I, section 3 of the Bill of Rights which protected Samoans against the alienation of their lands. In addition, the upper house of the legislature (the Senate) was elected by the county councils in accordance with Samoan custom, thus providing a significant role for the chiefs.

Another constitutional convention was held in 1966 which revised the 1960 charter. It was approved by the Secretary of the Interior on June 2, 1967. The revised constitution restricted the governor's veto powers, striking his right to promulgate into law measures designated as "urgent".

Another major political event was the creation of an American Samoan Delegate-at-Large in 1970 to serve as Samoa's representative in Washington. The Delegate did not have any official standing in Congress, however. This was changed in 1978 (effective 1980) when Congress acted to accord the Samoan Delegate the non-voting status previously accorded representatives from Guam and the Virgin Islands.

The appointed governor was replaced by an elected one in 1977. Previously, on three occasions (1972, 1973, 1974) the proposal for an elected governor had been rejected in referenda. The negative votes were attributed to several factors, including

opposition from some of the traditional chiefs supported by the appointed governor, John Haydon. Proponents of a locally elected governor finally succeeded in a 1976 vote, partly because of dissatisfaction with the appointed governor serving at that time and the major governmental economies he was responsible for carrying out. In addition, a highly popular Samoan, Peter Coleman, was likely to stand for election if the measure passed. Following the positive vote of the referendum, an elected governor for American Samoa was authorized by order of the Secretary of the Interior.

With civilian rule, the passage of a locally constructed constitution, the securing of an elected governor, and the admission of a Delegate to Congress, American Samoa achieved a level of self-government comparable to the other unincorporated territories. However, Samoans remain "nationals" rather than citizens of the United States. In addition, American Samoa continues to be an "unorganized" unincorporated territory, as Congress has not yet passed an Organic Act. Both the questions of citizenship and an Organic Act are closely connected to Samoan concerns about their consequences for their traditional life style. Those issues will be examined at greater length in a subsequent section on the present political status of Samoa.

Summary

American formal involvement in Samoa dates from 1872, but control was not obtained until agreement was reached with Great Britain and Germany to partition the islands in 1899, with the United States gaining Eastern ("American") Samoa and Germany Western Samoa. This secured America's primary interest in a

coaling station at Pago Pago in Tutuila, part of Eastern Samoa. American Samoa was placed under naval rule by presidential order in 1900; formal cession by the chiefs of Samoa occurred in 1900 and 1904. The Congress of the United States did not officially acknowledge the acts of cession until 1929.

Naval rule lasted until 1951 and was characterized by centralized authority, very limited self-government, and deference to traditional authority and custom, including the power of chiefs and Samoan control over land.

In 1951 administrative authority was transferred to the Interior Department. Other steps followed in expanding self-government, including a locally drafted constitution (1960), an elected governor (1976) and a congressional delegate (1978). However, American Samoa still lacks an organic act and Samoans have not been granted U.S. citizenship. Samoans fear that a change in their status would imperil their traditional political structures and their land rights by bringing the full force of the Constitution of the United States to bear.

Major Sources for this Section:

Gray, John A.C. Amerika Samoa: A History of American Samoa and Its United States Naval Administration (Annapolis, Md: United States Naval Institute, 1960.)

Leibowitz, Arnold. "American Samoa: Decline of a Culture", California Western International Law Journal, vol. 10, number 2 Spring, 1980).

Sheridan, Peter. Status of American Samoa: Some Political and Historical Aspects (Washington, D.C.: The Library of Congress - Congressional Research Service, 1979)

Tansill, William R. American Samoa: A Descriptive and Historical Profile (Washington, D.C.: The Library of Congress - Government and General Research Division, 1974).

C. Micronesia

The Official designation for the area commonly known as Micronesia is the Trust Territory of the Pacific Islands (TTPI). It is comprised of three island groups - the Marshalls, the Carolines, and the Marianas. These islands are scattered across the Pacific in a space as large as the continental United States, but possess a total land area of only 700 square miles and a population of approximately 115,000. (See maps attached.) For administrative purposes the islands were divided into six districts, with the headquarters of the TTPI located in Saipan in the Northern Mariana islands. The six districts were: The Marshalls, the Marianas (generally referred to as the "Northern Marianas" to distinguish them from Guam, which is part of the Marianas chain but not part of the TTPI), Ponape, Truk, Yap, and Palau. Since 1972, for reasons to be outlined subsequently, four separate entities have emerged from this original grouping. The Marshall Islands, the Federated States of Micronesia (Ponape, Truk, Yap, Kosrae) and Palau have all initialled an agreement with the United States to become "associated states" upon the official termination of the trusteeship. Previously (in 1975) the Northern Marianas negotiated a "Commonwealth" status providing for permanent union with the United States. This agreement, also, will come into full effect upon the dissolution of the trusteeship.

American interest in Micronesia is rooted in World War II and the struggle to wrest control of the islands from Japan. As a result of the Versailles Treaty of 1919, which formally ended

World War I, Japan gained authority over Micronesia as a Mandate of the League of Nations. Formerly, the islands had been under German control. The Germans, in turn, had established their rule both through colonization in the Nineteenth century (as in the case of the Marshalls) and through purchase (from Spain at the time of the Spanish-American War). Thus, the pre-American history of Micronesia was one of colonial domination. Indeed, one of the few common factors shared by this area of divergent cultures and traditions was administration by a foreign power.

After the United States had taken control of Micronesia from Japan through armed struggle, it was presented with a dilemma. On the one hand, the United States had fought World War II in the name of freedom and anti-colonialism. On the other hand, the significance of Micronesia for American national security was now obvious. The device employed to attempt to resolve this dilemma was a "strategic" trusteeship under the auspices of the United Nations.

The strategic trusteeship is an agreement between the United States (the "administering power") and the United Nations. Under its terms the United States undertakes to promote the welfare and political advancement of the inhabitants of the area. At the same time, in recognition of American security concerns, the United States is given the right to establish military installations, to close areas for security reasons, and to exercise extensive political authority. In recognition also of its "strategic" nature, the trusteeship is supervised ultimately by the Security Council, which is responsible for collective security measures,

rather than the General Assembly, which had general authority over the other trusteeships established at that time. This is particularly significant, given the possession of a veto power by the United States as a permanent member of the Security Council.

In short, the strategic trusteeship provided a means for the United States to insure its security interests in Micronesia, and to reconcile those interests with its political ideals. In practice, security concerns were to play a much more important part in American administration of Micronesia than would the promotion of the inhabitants' welfare and political advancement. It is also important to note that because of the trusteeship Micronesia was never formally incorporated into the United States political system, nor did its peoples become U.S. citizens. There was always, then, a recognition of the "foreign" quality of U.S. control. This would play an important part in the form of association negotiated with the different political units of Micronesia, the Northern Marianas excepted.

Under the U.S. administered trusteeship, political development was gradual and cautious. The islands were placed under Navy rule following their capture and remained there until 1951 when responsibility was transferred to the Interior Department. Until the establishment of the Congress of Micronesia in 1965, all executive and legislative authority was exercised by a High Commissioner appointed by Washington and assisted by a bureaucracy dominated by Americans. The Congress of Micronesia was preceded by trusteeship-wide conferences which were purely advisory in nature and established as a means of sharing ideas and concerns between

administrators and district representatives. In 1961 the conference became the Council of Micronesia and began to present formal resolutions and recommendations to the High Commissioner. In 1962 the Council declared itself in favor of a trusteeship-wide legislature and set up a drafting committee to recommend one. The Council adopted, by resolution, thirty-five items which it submitted to the High Commissioner. It left the final details of drafting up to the latter and the Interior Department. The Interior Department then drew up a draft of the Charter of the Congress of Micronesia. While consultations were held with the Council of Micronesia during the drafting process, the only major change suggested by the Council was that the legislature be bicameral rather than unicameral. The Charter was not submitted to popular vote for approval, but simply established by Order of the Secretary of the Interior on September 28, 1964.

The Congress of Micronesia consisted of a House of Delegates with twelve members, two elected from each district, and a General Assembly of twenty-one members, with representation from districts based on population. Delegates were elected for four year terms, Assembly members for two years. All residents of the Trusteeship eighteen years and older were eligible to vote. The Congress had broad law-making authority, but limits were placed on its control over funds. Federal monies, the bulk of the revenues, were not controlled by Congress. The High Commissioner's budget for the Territory was simply submitted for review to the Congress prior to its transmission to Washington, and recommendations made by the Congress were forwarded to the Secretary of the Interior

for his information. Additional restrictions on the authority of the Congress were that amendments to its Charter could only be made be order of the Secretary of the Interior, and bills passed over the veto of the High Commissioner also had to be approved by the Secretary of the Interior.

Thus, only after almost twenty years of American rule in Micronesia was the first cautious attempt made to apply democratic principles on a trusteeship-wide basis. For the entire period, executive power had remained firmly in American hands on both the district and trusteeship levels. Authority granted to municipalities and district legislatures was also very circumscribed, particularly with respect to control over fiscal resources. When a trusteeship-wide legislature, the Congress of Micronesia, was finally established in 1964, its powers were also limited.

Not only was American policy in the area of political development very conservative, it was reinforced by an economic policy which, until the early 1960's and the Kennedy administration, was characterized by minimal investment, even neglect. However, following a highly critical report by the U.N. Trusteeship Council Visiting Mission in 1961, which was endorsed by the Trusteeship Council as a whole, this policy was reversed and greater resources committed. But the resources were employed in such a fashion as to reinforce political dependence. An artificially high standard of living, requiring continued American economic assistance, and with unfortunate consequences for the cultural and social fabric, was the major result. Evidence of its impact was a large government sector; increasing reliance on imported goods, including

food; the growth of urban concentrations in the district centers characterized by troubling social problems. This economic situation would have an important impact on the political status options that would be examined by Micronesians. As one Micronesian explained: "Micronesians have come to like and demand certain commodities that only the Western life-style can provide. The desire for imported goods has a determining effect on the kind of life and society the people want and even on the choice of a political future. Any political alternative which can best answer these demands without compromising the Micronesian desire for self-government and self-respect will have no difficulty in winning the hearts of the people of Micronesia." (Carl Heine, Micronesia at the Crossroads, University of Hawaii Press, 1974, p. 28.)

With the establishment of the Congress of Micronesia in 1964, a new political era began. The Congress became increasingly assertive, and was quick to discern the discrepancy which existed between American political ideals of democracy and self-determination and American practice in Micronesia. The major form taken by the desire for greater autonomy was the establishment of the Future Political Status Commission by the Congress of Micronesia in 1967. This began a process of self-examination, political change and negotiations with the United States which is still not completed, and resulted in a major restructuring of the trusteeship.

The Micronesian status negotiations and their import for the Virgin Islands and other U.S. territories will be examined in a subsequent section of this paper.

Summary

Micronesia (the "Trust Territory of the Pacific Islands") came under American control following World War II. In order to preserve American security interests in the area, it was administered as a strategic trust under the auspices of the United Nations Security Council. In addition to obligations to promote the social and political welfare of the inhabitants, the United States was given special powers to safeguard its security concerns. In exercising its trusteeship, the United States placed the greatest emphasis upon the security aspects. Political development was slow and cautious. Until the establishment of the Congress of Micronesia in 1964, all effective authority was concentrated in the hands of Washington-appointed executive officials. Political dependency was reinforced by economic dependency, so that Micronesians acquired a living standard that could only be sustained by financial support from the United States. The process of status negotiations between the United States and Micronesia, which began with the establishment of a Future Political Status Commission by the Congress of Micronesia in 1967, was greatly shaped by both American security concerns and Micronesian economic needs.

Sources for this Section:

Clark, Roger, "Self-Determination and Free Association -
Should the United Nations Terminate the Pacific Islands
Trust?," Harvard International Law Journal
(Vol 21, No. 1, Winter, 1980)

Leary, Paul, "American Policy in Micronesia: An Assessment,"
The Journal of the College of the Virgin Islands
(No. 5, May, 1979)

D. The Northern Marianas

The Northern Marianas district of the U.S. Trust Territory of the Pacific Islands (of which it will officially remain a part until the entire trusteeship is terminated) consists of sixteen islands, of which six are inhabited. The three most populous islands are Rota, Tinian and Saipan, with the last having the bulk of the population (approximately 11,000 out of a total of 13,000). The total land area of the group is 183.5 square miles. Saipan is the capital.

The Northern Marianas are located in the Pacific Ocean, approximately 5,000 miles from San Francisco and 1,800 miles from mainland China. To the immediate south is Guam, which is also part of the Marianas island group, although administered separately as an unincorporated territory of the United States since 1898. Prior to that time, the Northern Marianas had been administered by Spain as part of Guam. In addition to these historical and geographic links, the Northern Marianas share the Chamorro culture with Guam as well as many family ties. Periodically, the issue of a political union between the Northern Marianas and Guam is raised. This proposal was defeated in 1969 in an informal referendum on Guam, while being approved by the Northern Marianas' voters. The establishment of the Northern Marianas Covenant in 1976 had significant repercussions in Guam, given its liberal provisions which were in advance of the status possessed by Guam, the older American territory. The long-term effect of the Covenant on reunification attempts is unclear at this point.

Following the Spanish-American War of 1898, the Northern Marianas were sold to Germany. They remained in German hands until

after World War I, when they were acquired as a mandate of the League of Nations by Japan, which had allied itself with the winning side in that struggle. Under Japanese rule the Northern Marianas experienced widespread economic development as well as intensive Japanese cultural influences. Large numbers of Japanese migrated to the Northern Marianas to work in the industries and commercial enterprises established there. Indeed, it appeared to be long-range Japanese policy to assimilate the Northern Marianas, along with the other parts of the Pacific Islands it administered, into the homeland itself, as had occurred with Okinawa and Iwo Jima.

During World War II Saipan and Tinian were invaded by American forces on June 15, 1944, following an intensive bombardment. As a result of a costly and desperate struggle, American control was established on July 9. Almost 22,000 Japanese civilians perished, some by mass suicide toward the end of the battle. Almost the entire Japanese garrison of 30,000 was killed. American casualties (killed, wounded, missing) were 14,111 - double the losses at Guadalcanal. Immediately following the battle airfields were constructed on Saipan and Tinian to support B-29 raids on the Japanese mainland. It was from Tinian that the atomic bombing of Japan was carried out in August, 1945.

With the establishment of the Trusteeship Territory of the Pacific Islands in 1947, the Marianas were incorporated as a district. However, from 1953 to 1962 most of the Northern Marianas were transferred back to Navy control, while the rest of the Trust Territory was under the jurisdiction of the Interior Department.

This was primarily due to the establishment of an extensive C.I.A. facility on Saipan to train Chinese Nationalist guerillas for raids against mainland China.

Despite their incorporation into the Trust Territory, the people of the Northern Marianas felt little affinity to the other areas of the trusteeship. It must be remembered that the Trust Territory encompasses a great diversity of peoples and cultures spread over a vast geographical space. Some eleven mutually unintelligible languages are spoken, and significant cultural differences exist. For example, as a Chamorro people, the Northern Marianas population possesses no cultural affinity with the residents of the Carolines; indeed the Carolinian minority that resides in Saipan itself remains unassimilated and isolated. Given their distinct culture, links with Guam, and long experience with Navy rule which brought a living standard higher than the rest of Micronesia, it is not surprising that the Northern Marianas desired closer links with the United States than was true of the other districts of the Trusteeship. This desire was expressed repeatedly. One resolution passed by the Northern Marianas legislature advised the United Nations Security Council in 1972 that the area was prepared to secede by force of arms, if necessary. Such sentiments, until 1972, were discouraged by the United States and the United Nations Trusteeship Council which pursued a policy of fostering unity within the Trusteeship.

What caused the United States to abandon this policy in 1972 and undertake separate negotiations with the Northern Marianas? It is, of course, difficult to prove motivation in such a situation. But it is significant that the American decision came at a

time when its status discussion with the rest of Micronesia were at an impasse because the Micronesians had firmly rejected an offer of territorial or commonwealth status and were even raising the issue of independence for the first time. By accepting the Marianas request when it did, the United States would be able to assure itself of a permanent connection with a part of Micronesia in which it had a serious strategic interest, since it was considering the construction of a major base on Tinian and already had two strategic installations on nearby Guam. In addition, separate talks with the Marianas district seriously weakened the Micronesian bargaining position by removing the Marianas base as a "counter" and encouraging separatist tendencies in the other districts, particularly the Marshalls and Palau.

The negotiations with the Northern Marianas and the Covenant which resulted will be examined in a subsequent section.

Summary

The Northern Marianas remains officially a district of the Trust Territory of the Pacific Islands and will remain so until the trusteeship is terminated. Because of its special links with Guam and its experience under the trusteeship, the Northern Marianas opted for a different form of relationship with the United States than did the other districts of Micronesia. Beginning in 1972, separate negotiations ensued between the Northern Marianas and the United States which resulted in a "Covenant". Under its terms, the Northern Marianas will be permanently incorporated into the American political system and designated as a

"Commonwealth". The terms of this covenant have significant implications for Guam and the other U.S. territories.

Source for this Section

Leary, Paul. The Northern Marianas Covenant and American Territorial Relations (Berkeley, California: Institute of Governmental Studies Research Report 80-1, 1980)

SECTION III

THE CARIBBEAN TERRITORIES: PUERTO RICO AND THE VIRGIN ISLANDS OF THE UNITED STATES. AN HISTORICAL OVERVIEW

A. Puerto Rico

Puerto Rico is located 885 miles southeast of Florida and lies thirty-four miles west of the U.S. Virgin Islands. It is approximately 109 miles long and 39 miles wide, with a total land area of 3,497 square miles. Present population is 3.3 million.

Puerto Rico was discovered by Columbus in 1493 and remained under Spanish control from the early 1500's until the Spanish-American War of 1898. During most of the Spanish era, Puerto Rico was regarded as an important part of the Empire's defense system safeguarding the richer colonies in Central and South America. Economic development was limited and political rights few. In the 19th century, however, major changes occurred.

In 1815, Spain abandoned her policy of mercantilism and sought to foster economic growth and colonization. Immigration and trade were promoted. The population increased from 221,000 in 1815 to 953,000 in 1898. Political concerns increased as well, culminating in the historic uprising of 1868. On September 23, 1868, a group of four hundred rebels, headed by Manuel Rojas, seized the town of Lares and proclaimed the birth of a free republic in the "Lares Proclamation" which has remained an inspiration to independence advocates. The rebellion itself, however, was quickly crushed by Spanish authorities.

Spain underwent a period of revolutionary republicanism between 1868-1874. During that period political reforms were

extended to Puerto Rico, including the right to elect deputies to the Spanish parliament and to elect municipal (local) officials. While many of the rights which were extended at this time were abrogated following the end of the revolution in 1874, these were not.

During the period from 1874-1898 two major political parties vied for power in Puerto Rico. The Conservative party favored Spanish rule and dominated local elections thanks to its access to patronage and royal favors. The Liberal Reformist Party was split into two factions on the issue of political status. The "assimilationists" wanted fuller and more equal integration into the mother country. The autonomists favored greater home rule within the Spanish Empire. As the latter group came to predominate, the Liberal Reformist Party was transformed into the Puerto Rican Autonomist Party. This group in turn divided, with one faction seeking home rule for Puerto Rico through alliance with the Spanish Republican Party which was ideologically sympathetic but politically ineffectual. The other group was pragmatic, seeking the same goal through the peninsular Liberal Party in Spain which was monarchical - and hence less close ideologically - but more likely to gain political power. This "practical" faction was headed by Luis Munoz Rivera, the father of Luis Munoz Marin, who was to devise the present Puerto Rican Commonwealth arrangement.

The point for Puerto Rican autonomy was reached in 1897 when, possibly as a result of Munoz' political alliance with the peninsular Liberal Party, the Spanish Crown issued the "Autonomic

Charter of the Antilles." Puerto Rico was provided a two-house legislature with substantial authority, with one house completely elected and the other composed of both elected (eight) and appointed (seven) members. Amendments to the charter were permitted only upon petition by the Puerto Rican legislature. Full voting representation was granted to both chambers of the Spanish parliament - confirming a right which had been in effect for twenty years.

It is ironic that with the advent of American rule in 1898, the political rights of Puerto Ricans would be substantially diminished. Indeed, some of the rights gained from Spain in 1897, such as voting representation in the national legislature, have still not been gained. It is also noteworthy that during the Spanish period political demands on the status issue were predominantly cast in the form of greater autonomy rather than independence.

Following the Spanish-American War, Puerto Rico was ceded to the United States by Spain. A period of military occupation (1898-1900) was terminated in 1900 when Congress passed an Organic Act establishing a civil government - the Foraker Act. It vested executive authority in a presidentially appointed governor and eleven person Executive Council. Council members were all presidential appointees, but at least five were required to be Puerto Rican. Legislative authority was shared between the Executive Council and a locally elected House of Delegates of thirty-five members. The legislature had full authority to pass laws of local application, subject to Congress' ultimate authority to annul any such law. (Congress never exercised that right.) The judicial system consisted of a Supreme Court whose members were

appointed by the President and a district court selected by the Governor. Both were courts whose jurisdiction was confined to local matters. Cases involving federal law were heard in a U.S. District Court.

Other features of the Foraker Act are notable. Federal internal revenue laws were not extended, nor was U.S. citizenship. The post of Resident Commissioner was established to represent Puerto Rico in Washington. (The Resident Commissioner was given the status of a non-voting member of the House of Representatives in 1904.) Also, the Foraker Act imposed temporary duties and taxes on goods shipped between Puerto Rico and the United States which would be discontinued when a Puerto Rican tax system would be in place. These temporary duties led to the famous insular cases. In up-holding this duty, the Supreme Court fashioned the distinction between incorporated and unincorporated territories. Since Puerto Rico was unincorporated, the full Constitution did not apply, and duties could be imposed upon its exports.

The next major land mark in Puerto Rican political development under American rule was the Jones Act of 1917. This new Organic act was passed in response to continued criticism of the limitations on self-government contained in the Foraker Act. Among other reforms, the Jones Act extended U.S. citizenship, eliminated the legislative role of the Executive Council and replaced it with a popularly elected Senate, and contained a Bill of Rights. Limits on self-government remained, however, in the form of presidentially appointed Supreme Court Justices and Executive Council members, as well as the appointed Governor.

Congress retained the right to nullify any local law. If the Governor's veto was overridden by the Legislature, he could refer the bill to the President for final disposition.

In 1947 the appointed Governor was finally replaced with an elected one with full authority to appoint Executive officials. In 1950 continued concern in Puerto Rico over its political status and limitations on self-government led Congress to authorize Puerto Rico to write its own constitution. Public Law 600, which contained the authority, would become the basis for the establishment of the Commonwealth of Puerto Rico.

The question of political status emerged as a major issue in Puerto Rico from the earliest days of American rule. Both the two major political parties at the time of the U.S. takeover - the Republican Party and the Federal Party - endorsed American rule and called for the granting of territorial status as a prelude to eventual statehood. They also desired that prior to the enactment of any organic legislation for the territory of Puerto Rico, a plebiscite be held giving the voters the options of statehood, independence, or home rule. In this context, the regressive nature of the Foraker Act was a bitter disappointment, especially to the Federal Party. It renamed itself the Union de Puerto Rico ("Unionists") and, while still endorsing statehood, sought greater self-government and included autonomy and independence as other possible status options. By 1913 the party abandoned statehood as a goal. The majority of the Party (led by Luis Munoz Rivera) supported autonomy - greater self-government under American rule. A sizable minority of the Party however, became increasingly attracted to independence.

The status issue re-emerged dramatically in the 30's, as agitation for independence by a militant minority intensified. The pro-independence Nationalist Party, organized in 1922, was revitalized by Pedro Albizu Campos, who declared Puerto Rico was in fact an independent republic and ceaselessly struggled for recognition of that status. This agitation took a violent turn in February, 1936, when two Nationalists assassinated the American chief of police and were in turn killed under suspicious circumstances while in police custody. A year later a Nationalist parade in Ponce, conducted with a revoked permit and during a time of great tension, resulted in an exchange of gunfire in which twenty people died and more than a hundred were wounded.

Senator Millard Tydings - a personal friend of the slain police chief - in angry reaction to the violent atmosphere introduced a bill on April 2, 1936 to provide for a referendum on Puerto Rico independence. If independence were chosen, then Puerto Rico would be economically penalized in the form of high U.S. tariffs on its products. While the bill never reached the floor of the Senate, it had a significant impact on Luis Munoz Marin, at that time part of the more conservative faction of the Liberal Party. He abandoned an earlier pro-independence position for greater autonomy within the American political system on the ground that it was required by economic necessity. Munoz' position caused him to be expelled from the Liberal Party and to found the Popular Democratic Party (PDP) in 1936.

Given the depressed economic situation in Puerto Rico, Munoz concentrated on economic and social reforms which appealed to the

rural poor, Building on that power base, the PDP would come to dominate Puerto Rican politics.

The issue of independence, however, continued to play an important part in Puerto Rican politics, and during the early 40's many members of Munoz' PDP favored this status. Munoz himself continued to search for a respectable status that was neither independence nor statehood and which would provide an opportunity for desperately needed economic development. Following the passage of the Elected Governor bill in 1947, Munoz Marin became Puerto Rico's first popularly elected chief executive in 1948. He would remain in office until 1965.

Following his election, Marin committed himself to the political status known in English as "Commonwealth", but in Spanish as Estado Libre Asociado, or Associated Free State. He believed it would provide for full internal autonomy while permitting the continued association with the United States required by economic realities. It would also satisfy the need for a dignified status by being freely chosen and based on the popular will.

On March 13, 1950, the Puerto Rican Resident Commissioner in the House of Representatives, a close political ally of Munoz, introduced H.R. 7674 which, when enacted as Public Law 600, would provide the basis for the Puerto Rican Commonwealth. As we shall see in a later section, which examines the status question on Puerto Rico in more detail, this compromise of Munoz failed to resolve the question of Puerto Rico's political relationship with the United States.

Summary

Puerto Rico was acquired by the United States in 1898. Ironically, under American rule Puerto Rican self-government was to be more restricted than during the last period of Spanish rule. One result would be a constant struggle for greater self-government and an unceasing concern for political status. While initially Puerto Rican political parties favored statehood, their disappointment with American policies led to a deepening interest in independence. Because of the significance of the economic relationship with the United States, however, Luis Munoz Marin devised the Commonwealth status as an alternative to independence or statehood. This arrangement has not succeeded in resolving the status question, which continues to dominate Puerto Rican politics.

Sources for this Section

Tansill, William R. Puerto Rico: Independence or Statehood? A Survey of Historical, Political and Socioeconomic Factors, with Pro and Con Arguments (Washington, D.C.: Library of Congress, Congressional Research Service, 1977).

"Puerto Rico's Political Future: A Divisive Issue With Many Dimensions" Report to the Congress by the Comptroller General of the United States (Washington, D.C.: U.S. General Accounting Office, 1981).

B. The Virgin Islands of the United States

(Note: While this information is well known to members of the Commission, it is included for purposes of completeness and in the event this document is used as part of the Commission's education campaign.)

The Virgin Islands of the United States (USVI) are located in the Caribbean thirty-four miles to the east of Puerto Rico. The three major islands are St. Thomas (the capital), St. Croix, and St. John. The British Virgin Islands (BVI) lie to the east and share strong cultural and ethnic affinities, cemented by common family ties. At present, the BVI is a colony of Great Britain, but with substantial internal autonomy and the prospect of independence. The total land area of the Virgin Islands of the United States is approximately one hundred and thirty-three square miles. Population estimates vary. The 1970 census produced an official figure of 62,468, which was generally considered too low. A 1978 household survey conducted for the Economic Policy Council resulted in an estimate of 118,960, which is probably more accurate. The population of the Virgin Islands is culturally and ethnically diverse. The 1978 household survey referred to above indicated that 42% of the population were born in the Virgin Islands, 8% in Puerto Rico, 16% in the United States, and 31% in the West Indies outside the Virgin Islands (3% were classified as "other").

The Virgin Islands were first discovered by Europeans in 1493 when Christopher Columbus sighted and named them in the course of his second voyage. St. Thomas came under the rule of the King of Denmark in 1671, St. John in 1717, and St. Croix in 1733 following purchase from France. Danish rule lasted until 1917, when the

three islands were sold to the United States. Under Danish rule, the group was known as the Danish West Indies.

The primary interest of the Danes was commercial, and the islands were governed by the Danish West India Company until 1755, when royal government was substituted. As elsewhere in the Caribbean at this time, the main interest was in sugar cultivation based on slave labor. St. Croix, being more suited to agricultural activity, became a typical plantation society, with a small group of European owners, overseers and clerks controlling a much larger slave population, aided to some extent by a small "free colored" class. St. Thomas, with its strategic location and fine harbor of Charlotte Amalie, became a commercial and trading center.

Emancipation came to the Virgin Islands in 1848 as a result of a slave rebellion on St. Croix which provided an opportunity for the liberal Danish Governor, Peter von Scholten, to declare an end to slavery. The post-emancipation period was characterized by economic decline as the sugar industry became increasingly marginal with the development of rival sources elsewhere. Restrictive labor laws and desperate economic conditions gave rise to another rebellion in 1878 on St. Croix, which brought some temporary improvement but did not result in the replacement of a generally repressive social and economic system. By the time of the sale to the United States in 1917, the islands were impoverished and political liberties very circumscribed. Many Virgin Islanders welcomed the transition to American rule in the expectation that both economic and political benefits would be forthcoming.

The United States purchased the Danish West Indies in 1917 for the sum of \$25 million dollars. The major motivation was to

prevent the strategically located islands from possibly coming under German rule and threatening the approaches to the Panama Canal at a time when the United States was on the verge of entering World War I. It should be noted, however, that American interest in the islands predated the 1917 purchase, as earlier attempts to secure them were made in 1867, 1898 and 1902.

The first form of government for the U.S. Virgin Islands was provided in the Act of March 3, 1917. The islands were placed under the jurisdiction of the Navy Department. Self-rule was extremely limited. Not only was the governor appointed by Washington, but the old Danish colonial government was retained. Separate Colonial Councils for St. Thomas-St. John and St. Croix were continued. Their legislative powers were limited and they contained members appointed by the governor as well as elected members. The suffrage remained very restricted, and in 1917 only 701 voters existed out of a total population of 26,000 due to property and income qualifications.

A struggle ensued for greater political rights and against the repressive aspects of Navy rule, including its racist elements. Leading figures in this effort were Hamilton Jackson, Rothschild Francis, and Ralph de Chabert. The American Civil Liberties Union took an increasing interest in the Virgin Islands situation, as did Virgin Islanders resident in New York City. As Gordon K. Lewis notes with respect to this period, "...psychologically the Navy was not equipped to understand the processes of civilian democracy in general or the peculiarities of Caribbean race relations in particular. Its officers thought, characteristically, in

terms of authority." (The Virgin Islands: A Caribbean Lilliput, Evanston, Illinois: Northwestern University Press, 1972, p 55.) On the positive side, the Navy did make considerable improvements in the areas of public health, education and public works, such as a water storage system based on catchments. One result of the campaign for greater political equality was the granting of U.S. citizenship by Congress on February 25, 1927. In addition, Navy rule came to an end in 1931, as jurisdiction over the islands was transferred to the Department of the Interior and the first civilian governor, Paul M. Pearson, assumed office.

A major turning point in the political history of the U.S. Virgin Islands was the Organic Act of 1936. It provided for election of all Council members (eliminating the appointed ones), contained a Bill of Rights and - most importantly - extended suffrage to all adults of twenty-one years and older who were literate in English. While the Organic Act retained major limitations on local autonomy, such as an ultimate Presidential veto over bills passed over the objections of the governor, as well as the appointed governorship itself, it nevertheless represented a genuine change. The extended suffrage gave rise to political parties and brought the first period of popular participation in government. It also ushered in an era frequently characterized by clashes between the elected legislature and appointed governors. Not all of the latter had the personality or abilities needed to operate successfully in the Virgin Islands context.

The next major constitutional development for the Virgin Islands occurred in 1954 with the passage of a revised Organic Act. The

chief concerns of the legislation appeared to be the promotion of governmental efficiency and the provision of a financial base for local government rather than political advancement. The Act formally declared the Virgin Islands to be an unincorporated territory to satisfy Congressmen who did not wish the Organic Act to be interpreted as a step toward statehood. In an apparent attempt to provide representation for the white resident minority, a provision was included that six members of the legislature would be elected at large but each voter could vote for only two. (Local resentment caused this provision to be removed by amendment in 1966.) Government executive departments were reorganized and limited to nine; establishment of additional departments required approval by the Secretary of the Interior. Separate legislatures for St. Thomas-St. John and St. Croix were eliminated. The President retained the ultimate right to decide the fate of bills passed by the local legislature over the governor's veto. The governor remained a presidential appointee.

The most significant parts of the 1954 Organic Act provided a financial base for local government, but with substantial restrictions on the latter's freedom of action. Federal income taxes would be collected as a local tax by the Virgin Islands government. (This system had previously been provided by authority of the Naval Appropriations Act of 1921.) In addition, federal taxes collected on Virgin Islands products (mainly rum) would be returned to the islands if matched on a 100% basis by local funds. However, these monies could be spent "for emergency purposes and essential public projects only", and their expenditure required

the prior approval of the President of the United States or his designated representative (i.e., the Interior Department). To further ensure that federally related funds were properly spent, the office of Government Controller for the Virgin Islands was established, with authority to audit all accounts of the Virgin Islands Government. The Comptroller is appointed by the Secretary of the Interior and is under his supervision. As part of his responsibilities, the Comptroller is required to bring to the attention of the Governor any mismanagement of funds which he discovers.

In reaction to the continued limitations on self-government which were not remedied by the 1954 Organic Act, a locally authorized constitutional convention met in 1964 and proposed several reforms. They called for an elected governor; abolition of the at-large voting limitation; an elected representative in the Congress; the right to vote in Presidential elections; the abolition of the President's ultimate veto power over local legislation; the appointment of the Controller by the Governor of the Virgin Islands; the right to propose amendments to the Organic Act, subject to approval by the President and Congress; and a change in the political status of the territory from "unincorporated" to "autonomous". With respect to political status, the convention noted that it was opposed to annexation by another U.S. State or territory; that it opposed independence; that it wished to remain an unincorporated territory with full self-government and the closest possible association with the United States.

The reaction of Congress to this list of proposals has been to act on them in a piecemeal rather than in a comprehensive fashion. Thus, some have been attained, and others remain to be achieved. The at-large provision was removed in 1966 as previously noted. An elected governor was provided in 1968. An elected delegate to Congress was authorized in 1972. The President's ultimate veto power has been eliminated (but Congress still retains the right - never exercised - to annul any act of the Virgin Islands Legislature). Under the terms of P.L. 94-584 of 1976, the Virgin Islands now has the right to draft its own constitution.

Proposals made in 1964 which have not been enacted are the right to vote in Presidential elections, a locally appointed Controller, and a revised political status.

In contrast to neighboring Puerto Rico, political status issues have not been an important factor in Virgin Islands' politics. There has, until recently, been no indication of a desire to re-examine the unincorporated territory status. Changes have been sought in federal relations with respect to individual irritants, but there has been no comprehensive analysis of the entire framework of U.S.-Virgin Islands relations. However, with the newly awakened interest in status questions in the other U.S. territories, and with the example of the Northern Marianas Covenant as a possible precedent, for the first time a Status Commission has been established in the Virgin Islands under Act 4462 (1980). In addition, constitutional conventions held in 1979 and 1980 have drafted proposed federal relations acts, even though

their primary task was confined to constructing a framework for internal self-government. The federal relations acts reflect an unhappiness with the terms of the present relationship with the United States and are closely related to the issue of status. They will be examined in a later section of this paper focusing on status issues.

Summary

After almost two hundred and fifty years of Danish rule the Virgin Islands were purchased by the United States to protect the approaches to the Panama Canal. Hopes for expanded political liberties were disappointed when the United States established autocratic Naval rule from 1917-1931. Following local agitation for greater self-government, U.S. citizenship was granted in 1927 and civilian rule under the Interior Department in 1931. Another major step forward in self-government occurred in 1936 with the passage of an Organic Act by Congress. The authority granted to the local legislature combined with universal suffrage created a basis for local political activity. The revised Organic Act of 1954, by contrast, contained several retrogressive features limiting local autonomy, while emphasizing fiscal and administrative reform. Following the first Virgin Islands Constitutional Convention in 1964, a number of significant political advances have taken place, including an elected governor, a Congressional delegate, and authority to draft a Virgin Islands Constitution. In the late 70's the issue of political status emerged as a factor for the first time in Virgin Islands politics as reflected in the proposed Federal Relations Acts of the Third and Fourth

Constitutional Conventions and the establishment of a Virgin
Islands Status Commission.

Sources for this Section

Lewis, Gordon K. The Virgin Islands: A Caribbean Lilliput
(Evanston, Ill: Northwestern University Press, 1972)

Miller, Richard. "The Virgin Islands Economy" (Washington,
D.C.: Office of Territorial Affairs, Department of the
Interior, 1979)

Bough, J. and Macridis, R. The Virgin Islands: America's
Caribbean Outpost

SECTION IV

CURRENT POLITICAL STATUS ISSUES IN THE UNITED STATES OFFSHORE AREAS

A. Introduction

With the exception of Puerto Rico, political status issues were not broadly and self-consciously debated in U.S. offshore areas until recently. In general, reforms were sought within the existing context of the status relationship, such as citizenship, greater legislative authority over local matters, elected governors and non-voting delegates to Congress. Beginning with the late 1960's, however, this situation began to change. There are a number of factors that were instrumental in producing that change.

Internationally, any political status of a colonial type became increasingly anachronistic as formerly dependent peoples emerged into independent states. Their experiences under colonialism often led to a deep hostility to any lingering elements of the old order, and their favored forum for expressing such sentiments was (and is) the United Nations. As Rupert Emerson put it: "The overwhelming majority of the United Nations has come to accept the preposition, passionately held by many of them, that colonialism is an abomination in the eyes of God and man, to be promptly extirpated. The anti-colonialists have ceased to be an isolated minority of rebels under attack by the imperial Establishment; it is now the defenders of the lingering colonial regimes who have descended into the position of fighting what are often no more than brief and half-hearted rearguard actions..." (Rupert Emerson, Self Determination Revisited in the Era of Decolonization,

Cambridge, Mass.: Center for International Affairs, Harvard University, 1964, pp 17-18)

Given this international political climate, the United States has assumed binding legal obligations under the United Nations Charter which have become increasingly significant. The American territories of Guam, Samoa and the Virgin Islands are officially classified as "non-self-governing" by the United Nations - that is, as colonies, subject to the Charter provisions contained in Chapter XI (Declaration Regarding Non-Self-Governing Territories). Under Article 73a of Chapter XI, administering powers (in this case, the United States) are charged with promoting the political, educational, economic and social advancement of the inhabitants of their non-self-governing areas, and with treating them justly, protecting them against abuses, and respecting their culture. Article 73b obligates the administering states to develop self-government and free political institutions, while taking into account that this must be done in the context of the circumstances surrounding each case and the degree of advancement of the inhabitants. Under Article 73e, the administering authorities must transmit information relating to the economic, social and educational conditions in their territories to ensure that they are properly fulfilling their Charter obligations.

The United Nations body to which this information is submitted each year by the United States is the Subcommittee on Small Territories of the Special Committee of 24 on Decolonization. The Committee of 24 reports to the General Assembly. During the '70s the interest of this group in U.S. territories was manifested by

visiting missions sent to the Virgin Islands, Guam and Samoa with the consent of the United States - the first time this has been done in the history of U.S. administration. The attitude of the "Committee of 24" on questions of decolonization may be gleaned from this excerpt from a United Nations publication describing its work: "In other decisions adopted at its 1980 session, the Committee reaffirmed the inalienable right of the inhabitants of smaller territories to self-determination and independence... and reiterated the view that such factors as size, geographical location, population and limited natural resources should in no way delay the speedy implementation of the process of self-determination..." ("The United Nations and Decolonization," United Nations, New York, 1980, p 44.).

In the case of another U.S. offshore area, Puerto Rico, the situation vis-a-vis the United Nations is more complex. As a result of the Commonwealth status gained by Puerto Rico in 1953 the United States requested that it be removed from the list of non-self-governing territories, since the new status represented an authentic exercise of self-determination. The American position was approved by a narrow majority in the General Assembly (26-16 in favor with 18 abstentions) at a time when its influence in that body was much greater than it is today. In the 1970's the issue of Puerto Rico's status was raised repeatedly by the Cuban delegation to an increasingly sympathetic Committee of 24. In 1978 this Committee declared that the Puerto Rican people had the inalienable right to self-determination and independence, and has subsequently reaffirmed that stand. To date, however, the General

Assembly has not acted and Puerto Rico has not been returned to the list of non-self-governing entities.

With respect to the other Offshore Area under American control, as previously noted (see pp 29 ff), Micronesia is a strategic trusteeship administered under the authority of the Security Council through the Trusteeship Council. As we shall see, the question of the United Nations' involvement will become a very significant one when present arrangements to dissolve the trusteeship are presented to it.

In summary, then, there is an international political and legal basis for heightened sensitivity to political status questions in the U.S. Offshore areas. In an era of decolonization, both the inhabitants of these territories as well as the United States must be concerned about their existence as part of the last remnant of colonies. It is an increasing source of embarrassment to both parties, and it is of interest that the terms "colonial" and "colony" are now frequently employed in the Offshore Areas to describe their status. For example, the report on political status prepared for the Guam Legislature in 1980 states: "It is indeed a paradox that the United States, which actively promoted decolonization in the world through the United Nations, still keeps Guam in a colonial status." ("A Reassessment of Guam's Political Relationship With the United States", prepared for the 15th Guam Legislature by Venture Development Management Resources, Inc., Agana, Guam, 1980, p. 8.)

In addition to broader international developments, regional factors have been important in the new concern about political

status. In the Pacific region independence has come to almost all the remaining colonies of the metropolitan power, even the smallest and least politically sophisticated. For example, there is Nauru, a small island of 3,300 people situated on a rich phosphate deposit which, as it is mined, will eventually make most of the island uninhabitable. Papua New Guinea is still characterized by "stone-age" cultures in its interior region and a very limited experience with modern political life. A particularly glaring contrast exists in the Samoan islands where Western Sāmoa, which is economically much less advanced than American Samoa, has been independent since 1962. A similar situation exists in the Caribbean region, where new nations are emerging from islands smaller in population and much poorer than the U.S. Virgin Islands and Puerto Rico. A situation somewhat analagous to that in Samoa may emerge in the Virgin Islands in the 1980's if the British Virgin Islands becomes an independent state, which appears likely.

A consequence of these regional trends is that the U.S. Pacific and Caribbean territories are increasingly defensive about their dependent status. For example, the Report of the Second Future Political Status Study Commission of American Samoa, while rejecting independence as economically impractical at this time, does note: "Independence is the ultimate goal of any freedom-loving people, including the Samoans." With respect to possible political union with Western Samoa - also considered undesirable at this time - the Commission commented: "If all the Samoan people were unified as residents of a single nation, Samoan national pride would be increased. Putting the 'two Samoas' together would show the world that artificial lines drawn by foreign

powers need not permanently divide a people." ("Report from the Second Future Political Status Study Commission to the Governor of American Samoa and the Fifteenth Legislature of American Samoa", Pago, Pago - American Samoa, September 14, 1979, p 25, p 27.)

The form most often taken by the desire to relate more effectively to regional developments is to seek authority from the United States to participate in regional organizations. All of the Pacific Offshore Areas, including Guam and Samoa, now do so. In the Caribbean, Puerto Rico has sought a greater international role, but has been discouraged by the United States. There are indications that the U.S. Virgin Islands are also interested in greater regional ties, and are concerned about their present political isolation. (See, for example "Report of the Executive Director", Virgin Islands Status Commission, St. Thomas, June 12, 1981). Given the precedents set in the Pacific, it is difficult to understand how the Caribbean areas' aspirations can be denied.

While international and regional political developments have contributed to the present status concerns of U.S. Offshore Areas, changes within the U.S. entities themselves have also been important.

Beginning in 1969, Micronesia began a process of negotiation with the United States concerning its future relationship. In the course of those negotiations, which are still not concluded, the Northern Marianas district decided to pursue discussions with the United States separate from the other districts of Micronesia. The result was the Northern Marianas Covenant of 1975, which was approved by Congress and the President in 1976. Under its terms,

the Northern Marianas gained advantages which the older unincorporated territories do not possess. This was particularly upsetting to Guam, with its close geographical, cultural and historic links to the Northern Marianas. This Covenant has important implications for the U.S. Virgin Islands as well, and they will be discussed more fully in the next section.

After the United States negotiated a permanent "Commonwealth" relationship with the Northern Marianas, it found itself dealing with the three separate entities that had emerged from the Trust Territory as of 1977 - the Federated States of Micronesia (Yap, Truk, Ponape and Kosrae), the Marshall islands, and Palau. These entities had rejected the permanent commonwealth relationship attractive to the Northern Marianas, and were seeking a form of "free association", under which they would have full control over their domestic affairs and be able to conduct their own foreign policy as well, while recognizing American control over defense and security for a limited period of time. In return for concessions on defense matters, the United States would make substantial financial contributions to the Micronesian states. Finally, the Micronesians gained the right to terminate the arrangement unilaterally if they so wished, and to move to independence.

For our present purposes, the importance of the Micronesian negotiations is that they indicate a much greater flexibility on the part of the United States in considering status options when it is in its interests to do so. While certain legal distinctions between the Micronesians and inhabitants of the other U.S. Offshore Areas may be insisted upon to argue that the Micronesian precedent

is not relevant - such as the special status of Micronesia as a Trust Territory rather than a "permanent" part of the American political system under full U.S. sovereignty, or the fact that Micronesians are not U.S. citizens - a close examination of the negotiations indicates that the free association status arose out of the insistence of the Micronesians rather than a legal analysis. Would not a similar insistence on the part of the other U.S. Offshore Areas result in a more flexible interpretation of the prevailing legal factors? As the 1980 Guam Report on Status argued: "In the contemporary political environment, with new and highly relevant precedents being set all around the Pacific, Guam need not be bound by turn-of-the-century domestic law cases on United States territoriality. Because of widespread American public sensitivity on the issue of self-determination, it is doubtful the United States would adamantly or long oppose firm Guamanian initiatives toward free association or independence, if these options represent the majority view on Guam." ("A Reassessment of Guam's Political Relationship With the United States," p. 51)

The last factor that should be noted in connection with the Offshore Areas' concerns regarding political status are indications of a greater willingness on the part of the United States government to accommodate political change. The 1970's have witnessed a progressive improvement of self-government within the unincorporated territories of Guam, Samoa and the U.S. Virgin Islands. All three territories now have elected governors and Congressional delegates. Guam and the U.S. Virgin Islands have authority to write their own constitutions, and Samoa in practice

can do so. It is likely that existing constraints on autonomy, such as the comptrollers appointed by the Interior Department, will disappear in the 1980's. With respect to Puerto Rico, even President Ford's surprising declaration in 1976 that he favored statehood for the commonwealth could be considered as part of this trend to examine alternatives previously not seriously considered. Finally, there was the inter-agency review taken under the Carter Administration. In a subsequent message to Congress on February 14, 1980, transmitting the administration's framework for a comprehensive Territorial policy toward American Samoa, Guam, the Northern Marianas and the U.S. Virgin Islands, the President stated:

"In keeping with our fundamental policy of self-determination, all options for political development should be open to the people of the insular territories so long as their choices are implemented when economically feasible and in a manner that does not compromise the national security of the United States.

If the people of any of the territories wish to modify their current political status, they should express their aspirations to the Secretary of the Interior through their elected leaders, as is the case now. The Secretary, along with representatives of the appropriate Federal agencies will, in turn, consult with territorial leaders on the issues raised. Following such discussions, a full report will be submitted to the Congress, along with the Secretary's proposals and recommendations."

In this connection also, it should be noted that Task Force No. 1 of this Inter-agency Policy Review made the following comment: "There is a range of choices that are at least theoretically open to the people of the U.S. territories, some for the long term, some for the shorter term, such as unincorporated territorial status. U.S. security interests are susceptible of accommodation in connection with any of these choices, but they are, of course, more easily accommodated with some status choices than with others..." ("Interagency Policy Review - U.S. Territories and the Trust Territory," Task Force No. 1, p 7.)

Thus, the federal government itself, during the seventies, indicated that a new spirit of flexibility may be developing on status issues. While the change of administrations in 1980 obviously raises questions regarding the willingness of the Reagan administration to continue this trend, there are some preliminary indications that it too may be responsive to the need for change. In comments made at a conference in March, 1981 at the College of the Virgin Islands on the topic of "Recent Developments in U.S.-Offshore Areas Relations," Tom McGurn, who headed the Reagan transition team dealing with the International and Territorial Affairs Division of the Department of the Interior, and was a leading candidate for the position of Assistant Secretary for that office, commented:

"I would like to end by making a few comments about status. One of the most important issues of the 1980's is the economic and political status of the Offshore Areas. Significant changes will take place in the Caribbean

and Pacific basin, and more than ever the changes will be affected by world events. In order to influence and plan for a stable and productive economic system, the Offshore Areas must explore every reasonable and practical option for your future status with the U.S. Federal government, as well as, and very importantly, your regional neighbors. The future will require a greater voice for the Offshore Areas and local self-determination of political, economic and social development, and the means to assure a stable local and regional future. If you do not take advantage of this opportunity in a vigorous manner, then your choices by default will be made by the Federal Government. The resulting options are most likely to be less than adequate or desirable for the Offshore Areas. It appears that the Reagan administration is determined and supportive of greater local self-determination, giving necessary consideration to over-all national security issues. However, the window of opportunity may not remain open for long due to unpredictable world events and new long-term changes in economic development. It is up to the people of the Offshore Areas to seize the day and vigorously pursue the establishment of their status options. Vigorous and energetic local governments can and will produce a more prosperous future. Cooperation among the Offshore Areas in the development of this new status will help produce a stronger and more cohesive approach. This will benefit each individual and will be less confusing and therefore more acceptable to the Congress and those in the Executive branch who make federal policy."

Summary

A recent development of great significance in the U.S. Off-shore Areas is a concern with their political status. Previously, only Puerto Rico had expressed an interest in the nature of their political relationship with the United States. During the 1970's every Offshore Area either established political status commissions or entered into negotiations for a new political status. This trend was caused by several inter-related factors. Internationally, dependent status is increasingly unacceptable in an era of decolonization. In addition, the United States has legal obligations under the United Nations Charter which relate to its non-self-governing territories. Regionally, the example of newly independent states of similar size and resources has awakened interest in a re-examination of the current limited political status among the U.S. insular areas, as well as a desire for more representation on international and regional organizations that affect them. Within the U.S. territorial system itself, negotiations with the Northern Marianas and Micronesia have created the possibility of new forms of status that did not previously exist. Finally, the Federal government itself has exhibited greater flexibility and sensitivity with respect to issues of self-determination.

Major Sources for this Section

"Final Report from the First Future Political Status Study Commission of American Samoa" (Pago Pago, American Samoa, 1970)

"Interagency Policy Review - U.S. Territories and the Trust Territory", Task Force #1 (Washington, D.C.: N.d.)

"A Reassessment of Guam's Political Relationship With the United States," prepared for the 15th Guam Legislature by Venture Development Management Resources, Inc. (Agana, Guam, 1980)

"Report for the Second Future Political Status Study Commission to the Governor of American Samoa and the Fifteenth Legislature of American Samoa" (Pago Pago, American Samoa, 1979)

"Status of Guam: Report of the Political Status Commission of the Twelfth Guam Legislature" (Agana, Guam, 1974)

"The United Nations and Decolonization" (New York: United Nations, 1980)

B. Status Concerns in the Pacific Areas: Guam, American Samoa, Micronesia and the Northern Marianas

1. Guam

The first Guam Political Status Commission was authorized by legislation passed by the Twelfth Guam Legislature and produced a two-part report in September, 1974. In their report, the Commission distinguished between the long-term goal of Guam's ultimate political status and short-term goals that relate to immediate needs for adjustment within the present status. As for the former, the Commission held that no firm recommendation could be made without the development of a consensus among the people of Guam; an educational and political process must precede that development. Regarding short-term adjustments, the Commission held that the present Organic Act should be replaced with a constitution (including a Federal Relations Act) drafted by the people of Guam. Of particular concern was the impact of the U.S. military presence including the reservation of large tracts of land and the importation of foreign laborers without regard to Guamanian needs. The Commission also expressed its dismay at the growth of a large migrant labor force being employed in the private sector. This labor force was admitted as a result of Federal Government policies over which Guam had no control, despite the potentially drastic consequences. Another issue raised by the Report was the desire of Guam to participate in Pacific regional organizations, such as the Asian Development Bank, particularly since areas with less autonomy than Guam (e.g., Micronesia) do so. The final short-term problem identified by the Commission was inconsistent

treatment of Guam under federal law, including lack of sensitivity to the special needs of the Island. The specific recommendations made by the Commission were:

1. a local Constitution and Federal Relations Act to replace the present Organic Act;

This would address the short-term concerns of Guam and leave open for future determination any final status: "The Commission regards this as a short-term immediate response to Guam's problem so that the longer-term issue can be handled more at its leisure and with the proper degree of local control. It is the Commission's view that this interim position would be similar to the Commonwealth status granted Puerto Rico and that which is being discussed for the Marianas. But this interim position is not necessarily the longer-term status goal. It may be that Commonwealth should continue to develop and grow but it could also be the people of Guam would wish closer association with the United States through statehood or a more distant one similar to that being discussed with Micronesia at present." (p. 19)

2. a referendum presenting the choice between the present Organic Act and a constitution;
3. a joint U.S.-Guam Ad-Hoc Committee to review the U.S. military presence;
4. a public education campaign to inform the Guamanian public about political status issues and their implications.

Also of interest are three of the conclusions drawn by the Status Commission:

1. The relationship between the United States and Guam should be based on the principle of self-determination. Changes in the status of Guam must be undertaken only after due consultation with the people of Guam;
2. In accordance with this principle, it is essential that Congress and the Executive fully understand the wishes of the People of Guam so that it can be properly guided in carrying out these wishes.

3. The various status alternative are within the power of the people of Guam and the Congress to establish under the Constitution. (This was originally Point 4 in the Report.)

In 1979 the 15th Guam Legislature called for another reassessment of relations with the United States. Rather than appoint a separate Commission, it placed responsibility for the study upon a Legislative subcommittee ("Subcommittee on Federal Political Reassessment"). Its major purpose was not to make definitive recommendations, but to provide an analysis that would help provoke and inform public debate on the issues. The basis for the subcommittee's work was a report provided by a local consulting firm, Venture Development and Management Resources, Inc.

By the time the 1979 re-examination of relations with the United States occurred, a great deal of controversy had developed regarding the implications of U.S. Public Law 94-584 of October 21, 1976, authorizing Guam and the Virgin Islands to draft constitutions for local self-government within the existing territorial-federal relationship. This followed the work of a second Guam Status Commission, authorized by the 13th Legislature in 1975, which had held inconclusive discussions with a Presidential representative, Mr. Fred Zeder, then Director of the Office of Territories. Following these discussions and the Commission's recommendations, a plebiscite was held in September, 1976 on status options.

The results were:

Status Quo	8%
Improve Status Quo	51%
Independence	5%
Statehood	21%
Other	3%

(88% of the eligible voters participated in the referendum.)

In this context, Public Law 94-584 was interpreted as an attempt to keep status discussion within the limits defined by the existing relationship, and as a pre-emptive effort on the part of the Federal government which would preclude an authentic act of self-determination. It was argued that if Guam passed such a constitution, it would be viewed as a vote in favor of the present relationship, so that further discussions would be moot.

Nevertheless, a constitutional convention was authorized, met in 1977 and 1978, and drafted a proposed basic law. Opposition surfaced immediately, much of it focusing on status implications. Most legislators publicly expressed disapproval. A referendum was held on August 4, 1979, in which the proposed Constitution was defeated by a margin of 5 to 1; only 47% of the registered voters participated. The defeat was generally interpreted as an indication that status issues had to be settled before any constitution would be adopted.

With this background, and after examining the advantages and disadvantages of various status options, the Venture Development Report followed the pattern set by the 1974 Status Commission in recommending both immediate and long-term goals. It differed,

however, in recommending a specific long-term political status. In the short-term, the Report called for the negotiation of a covenant with the United States based on the Northern Marianas precedent. Under the terms of the covenant long-standing Guamanian grievances, such as military land use, restrictive federal laws, and the right to participate in regional organizations, could be resolved. Following negotiation of the agreement, it would be confirmed by local plebiscite and Congressional action. Only then would a Guam Constitution be in order. For the longer term, the Report recommended statehood, either alone or as a united commonwealth with the Northern Marianas. In the meantime, the economy should be strengthened.

The Report also noted that a careful planning process was required whatever the political status goals chosen. Important in this regard were an effective public education campaign followed by a plebiscite in which the electorate decided which path was to be followed. Only then would it be appropriate to negotiate for the status chosen: "...constitutions, covenants or compacts to be negotiated with the federal government should not be drafted without first obtaining the electorate's approval, after an effective educational program, of the aim of such a document. Any covenant or compact by necessity must point toward a particular new political status; that status preference should be determined beforehand by the people in a formal plebiscite, not by a status commission or informal public opinion polls....Once the public consensus is known, then the function of a status commission... is to negotiate the covenant or compact." (p. 61)

In connection with its Report, Venture Development conducted an extensive public opinion poll. Regarding political status, the results were:

Territory	39%
Statehood	30%
Free Association	4%
Commonwealth	8%
Independence	5%
Not Sure	<u>14%</u>
	100%

At present, both the political status and constitution issues are unresolved in Guam. A status commission exists, but is inactive. Resentment continues regarding treatment by the federal government, but there is no indication of any serious attempt to resolve them outside of the present political framework of close association with America.

2. American Samoa

The first Future Political Status Study Commission for American Samoa (FPSSC) was created by the Eleventh Legislature in July, 1969. It was created as a result of political and economic changes within American Samoa, including discussion of its ultimate political destiny. Under the terms of its mandate, the Status Commission was to analyze alternative forms of future political status and present its findings and recommendations to the Legislature. To gather information, the Commission travelled to Washington, D.C. to consult with members of Congress and officials of the Interior Department. It also visited Puerto Rico and the Virgin Islands, conferred with large Samoan communities on the West Coast and

Hawaii, and examined the political and economic situation in selected Pacific countries (New Zealand, Fiji, Tonga and Western Samoa). Within American Samoa itself, meetings were held with leaders and the public in order to assess attitudes on status issues.

The FPSSC examined six possible political statuses:

1. Independence
2. Union with Western Samoa
3. Incorporated territory of the U.S. (with an Organic Act)
4. Commonwealth of the U.S.
5. A county of Hawaii
6. Present status

The committee saw its role to be one of exploring and evaluating these options so as to provide a basis for public discussion, not that of being an advocate for a particular choice: "The function of this report is to explore and evaluate the political alternatives open to American Samoa, not to select an alternative on behalf of the people. The Commission's role is merely to provide an analytical report which can be the basis for intelligent discussion. The final decision rests, of course, with the people of American Samoa and the Congress of the United States." (p. 5)

The Commission's recommendation was to retain the present status of American Samoa as an unorganized and unincorporated territory of the United States. (American Samoa is "unorganized" because Congress has never passed an Organic Act for it. Instead, it is governed through the authority of the Secretary of the Interior, who was delegated this function by the President. The President, in turn, had been given this authority under an act of Congress

in 1929). The major reason for this choice was the fear that aspects of the traditional Samoan way of life would be imperiled if Samoans became U.S. citizens and were governed by an Organic Act which might bring to bear provisions of the U.S. Constitution. Of major concern were preservation of the present form of communal land holding which prohibits alienation of land to outsiders. In addition, the traditional matai (chief) system is the basis for selection to the upper house of the legislature - not the secret ballot based on universal suffrage. Finally, under its present arrangement, Samoa controls immigration into the territory, including the entrance and terms of residence of U.S. citizens as well as non-citizens. All of these buttress the traditional order, and could be overridden if put to a constitutional test. However, the main concern of the FPSSC was the land holding situation. Indeed, as part of the political modernization of American Samoa, it recommended that both houses of the Legislature be popularly elected. Other recommendations were: election of a governor with exclusive veto power over local legislation, a re-examination of the educational system, official representation in Washington, a land survey and registration, and a joint U.S.-Samoan Committee to study further the possibilities of Commonwealth and Organic Act Status.

As previously noted, American Samoa has subsequently gained both an elected governor and a Washington Delegate. The upper house of the legislature, however, is still selected by traditional methods.

In 1979, a Second Future Political Status Study Commission was

created by the American Samoa Legislature. It was charged with the same responsibilities as the First Commission. It also examined the same political status options as the latter, but with one addition - return to Ancient Samoa prior to U.S. administration. It followed the same pattern of soliciting information through public meetings with American Samoans both in the territory and in the United States. Discussions were also held with Washington officials.

In its final recommendations, the Second Commission reaffirmed the position of the First, and called for a retention of the present status of an unorganized, unincorporated territory in order to safeguard the traditional culture and social system. This would enable change to occur in a gradual and peaceful manner and keep future options open: "The great majority of American Samoans are devoted and devout in their feelings for America. However, facts may arise which would make independence or union with Western Samoa or to join with Hawaii as part of that very fine State the wisest course of political development. The Commission feels that while these alternatives are not practical at this time, they should not be summarily dismissed. American Samoa must continue to search its soul in the light of future developments." (p. 47)

Other recommendations made by the Second Commission included the establishment of a unicameral legislature (including members selected in the traditional manner), the Chief Justice and Associate Justices to be appointed by the Governor, changes in the qualifications for candidates for Governor and Lieutenant Governor requiring American-Samoan ancestry, and the creation of a Third

Future Political Status Study Commission in the next ten to fifteen years. Of particular interest is the recommendation that American Samoa be given the right to negotiate with other Pacific nations with respect to economic matters of special interest.

3. Micronesia

The negotiations between the United States and Micronesia for a political status acceptable to both sides began in 1967, and are still not concluded. The Congress of Micronesia, which was established in 1964, created a Future Political Status Commission (FPSC) composed of six Congressmen, with one elected from each district of the Trust Territory. (At that time the districts were: the Marianas, the Marshalls, Ponape, Truk, Yap, and Palau.) The FPSC published an Interim Report in June, 1968, which examined four possible future statuses: independence, a freely associated state, integration, and continuance as a trust territory. In July, 1969 a final report was issued which favored free association, with independence to be pursued if negotiations for free association failed. Significantly, integration with the United States, either through a territorial or commonwealth status, was rejected because it would entail the destruction of the Micronesian way of life. Independence was rejected because it would not eliminate the need for ties with a major power, given the strategic location of Micronesia, and it would result in unacceptable consequences for the present living standard which was dependent on the American connection. Free Association was chosen as a viable compromise status.

Following publication of the final report, a Political Status Delegation was appointed by the Congress of Micronesia which held its first meetings with American officials in Washington, D.C., in 1969. In 1970 the Congress of Micronesia adopted a set of four non-negotiable principles to guide status discussions:

1. That sovereignty in Micronesia resides in the people of Micronesia and their duly constituted government;
2. That the people of Micronesia possess the right of self-determination and may therefore choose independence or self-government in free association with any nation or organization of nations;
3. That the people of Micronesia have the right to adopt their own constitution and to amend, change or revoke any constitution or governmental plan at any time; and
4. That free association should be in the form of a revocable compact terminable unilaterally by either party.

In the negotiations which ensued starting in 1969, the major issues were future status, land, defense and foreign affairs, and finance. Initially the United States opposed the concepts of unilateral termination and free association, and offered instead a "permanent" relationship in the form of commonwealth or unincorporated territory. Eventually, the United States would come to accept free association with unilateral termination, provided that American defense interests were safeguarded. Eventually, too, Micronesia would gain control over foreign affairs (with some modest restrictions) as well as internal affairs. However,

a protracted series of negotiations would be required before the Micronesia position prevailed.

In 1972 the United States initiated separate talks with the Marianas district which was interested in a permanent affiliation with the United States and had desirable military base areas to offer. At the same time, concurrent discussions were held with the other districts of Micronesia. The result of the latter was a Draft Covenant of Free Association concluded on October 30, 1974, but subsequently rejected by the Congress of Micronesia as providing inadequate levels of financial assistance and other shortcomings, including lack of control over foreign affairs. In 1976 negotiations resumed, resulting in a draft compact that left only one major area for further resolution - control of marine resources. However, no agreement was reached on this issue and a newly re-organized Micronesian negotiating Commission (the Commission on Future Political Status and Transition) assumed authority for the negotiations.

No further negotiations took place from mid-1976 until late 1977 due to several factors, including the issue of the Federated States of Micronesia Constitution. A constitutional convention was held in 1975 which drafted a proposed constitution for the remaining districts of Micronesia during the period when the Northern Marianas was concluding its separate negotiations with the United States. According to the enabling legislation establishing the constitutional convention, any district which rejected it by referendum would not be subject to its provisions. In the course of the convention, the Marshall Islands and Palau both

indicated reservations about future incorporation into a federated Micronesia. In the referendum held on July 12, 1978, both districts rejected the proposed constitution.

To deal with these problems, an agreement was reached in Guam in July, 1977, to establish a two-tier framework for future negotiations, with one tier to discuss matters of common interest for all of Micronesia and the other to consider matters of specific concern to each district. Questions of unity or separation would be decided at the district level.

The next major steps took place after formal negotiations were renewed on October 24, 1977 in Hawaii after a halt of seventeen months. A new American Ambassador, Peter Rosenblatt, had assumed office as of August 25, 1977. Following meetings in early 1978 in San Diego and Hilo, Hawaii, agreement was reached on eight "Hilo Principle" in April, 1978. These formed the basis for the detailed negotiations which followed resulting in the "Compact of Free Association" of 1980 which has been initialled by all four parties to the negotiations (the United States, the Federated States of Micronesia, the Marshall Islands and Palau).

The compact contains the following major provisions:

1. full internal self-government for Micronesia;
2. the right of Micronesia to conduct foreign affairs and make international agreements in consultation with the United States;
3. preferences to Micronesians over other aliens with regard to entry requirements into the United States;
4. non-applicability of U.S. law, except where explicitly provided in the compact;

5. substantial general grant assistance, on a decreasing basis, for fifteen years, as well as continuation of certain specific federal grant programs;
6. full authority to the U.S. over defense and security affairs, including denial of access for military purposes of any third country and the option to establish and use military bases (subject to subsequent agreements);
7. the right of unilateral termination of the agreement by either side, with Micronesian termination to be based on a plebiscite in which a majority vote approves dissolution of the compact. (However, defense and security provisions will remain in effect for fifteen years even if termination of the association occurs.)

In order to become effective, the compact must be approved by the governments of the three entities and a popular plebiscite, as well as be approved by the United States. The provisions of the compact which have a fifteen year time limit (e.g., the defense and grant aspects) must be renegotiated on the thirteenth anniversary of the agreement.

At present there are two factors which would seriously affect the future of the free association agreement. The agreement itself is under inter-agency review in order for the Reagan administration to decide if it wishes to submit the compact to the Congress as negotiated, or to re-open discussion on provisions it may find unacceptable. (Ambassador Rosenblatt's resignation was accepted in March, 1981.) Even if the compact is accepted by the Reagan

administration, however, it may face difficulties in gaining Congressional approval, as there are indications of serious reservations, at least in the House of Representatives' Committee on Interior and Insular Affairs.

Even assuming approval by the United States (and, of course, the three Micronesian parties), there remains the possibility of serious difficulty in the United Nations. As a strategic trust, any proposal for termination must be submitted for the Security Council, on which both the Soviet Union and the People's Republic of China possess a veto. If the termination agreement is presented for approval, a veto is quite possible. In addition, although the Compact of Free Association with the Federated States of Micronesia, the Marshall Islands and Palau probably conforms to United Nations pronouncements on self-determination, the Northern Marianas covenant does not, since there is no right of unilateral termination and it provides for a permanent union with the United States. Since the trusteeship as a whole must be dissolved, the unacceptability of the Marianas agreement could undercut the more acceptable free association agreements. (On these points, see Roger S. Clark, "Self-Determination and Free Association - Should the United Nations Terminate the Pacific Islands Trust?" Harvard International Law Journal, Vol. 21, No. 1, Winter, 1980.) In anticipation of such difficulties, the United States appears to be preparing the position that the Security Council approval of termination is not required by the Agreement establishing the Strategic Trusteeship, that it merely must be informed of United States' actions and the dissolution presented as a

fait accompli. If this strategy is followed, both the free association compact and the Northern Marianas Covenant will be born with an air of international illegitimacy surrounding them. In the long run, such a course of action may have unfortunate consequences for the international standing of both the United States and its new associates.

4. The Northern Marianas

In December, 1972 the United States began discussion with the Northern Marianas district of the Trust Territory of the Pacific Islands which had expressed a desire for a closer form of political relationship than the other districts. In addition to the expressed desire on the part of both parties to realize democratic ideals, there was also the firm ground of mutual interests - military security for the United States; economic development for the Northern Marianas. The major concerns of the latter during the negotiations were: the exact nature of the future political status; land issues, including the extent of military needs;; return of public lands held by the United States under the trusteeship; prohibition of ownership of real property by non-Marianas people; economic and financial questions involving the level of American assistance, the type of tax system and access to federal programs; and transition questions, most importantly the prompt implementation of the new status regardless of the complications caused by remaining associations with the Trust Territory and the form and timing of the Trusteeship's termination.

Agreement was reached on all issues and the Covenant was signed by the two parties on February 15, 1975. It was approved

by the Northern Marianas Legislature and by its people in a plebescite observed by representatives from the U.N. Trusteeship Council. The agreement was approved by 78.9% of those voting, who represented 95% of the registered voters. After being submitted to Congress, the agreement was approved by Joint Resolution in March, 1976.

The Northern Marianas Covenant established a "self-governing commonwealth...in political union with and under the sovereignty of the United States of America." This union cannot be dissolved except by mutual consent. Internal autonomy is guaranteed the Northern Marianas through the right to adopt and amend its own constitution. (Only the Constitution as a whole must be submitted to the United States Congress for approval based on its consistency with the terms of the Covenant, the U.S. Constitution, and U.S. laws and treaties applicable to the Northern Marianas.) Any constitution adopted by the Northern Marianas must provide for a republican form of government, but the covenant expressly permits equal representation in one house of the legislature for all three municipalities in the Northern Marianas (Saipan, Tinian and Rota) despite large population differences among them. Authority is also granted to establish a local judicial structure with full jurisdiction over cases arising out of the local laws and constitution, as in state court systems.

While the sovereignty and authority of the United States are expressly acknowledged in the Covenant, a unique feature is the voluntary relinquishment, by Congress, of portions of its plenary authority over the territory when it involves the "fundamental

provisions" of the agreement. The fundamental provisions are:

1. the political relationship with the United States
2. the right to adopt and amend a local constitution
3. U.S. citizenship
4. the exact parts of the U.S. constitution expressly recognized as applicable to the Northern Marianas
5. the prohibition against those of non-Northern Marianas descent from holding real property

In addition to these safeguards against Congressional tampering with the basic components of the agreement, the Northern Marianas received other concessions. U.S. immigration and naturalization laws, minimum wage laws and coastwise shipping laws (the "Jones Act") remain inapplicable to the Northern Marianas until the trusteeship is terminated and Congress provides otherwise. In the interim, the Northern Marianas is free to make their own regulations (except that entry into the Northern Marianas by other U.S. citizens cannot be controlled). In addition, a Commission of Federal Laws is authorized to recommend to Congress which U.S. laws presently not applicable to the Northern Marianas should be made so, and which applicable laws should be made unapplicable. The Northern Marianas has a majority of four out of the seven members of this body.

In the financial area, the Northern Marianas received substantial benefits. The U.S. income tax comes into force as a local territorial income tax, with proceeds returned to the local treasury. The Northern Marianas government is also authorized to

impose any additional local taxes it deems advisable, as well as to rebate any taxes it receives. Authority is also given to levy import duties on non-American goods and impose export duties on Northern Marianas products. Proceeds from all customs duties and federal income taxes derived from the Northern Marianas, all taxes collected under the internal revenue laws of the United States, all quarantine, passport, immigration and naturalization fees collected in the Northern Marianas - as well as the proceeds of any other taxes which may be levied by the Congress on its inhabitants - are returned to the local treasury.

In addition to the above sources of revenue, the Northern Marianas also receive substantial amounts of direct financial assistance. Grants of at least \$14 million a year for seven years are guaranteed, with amounts adjusted for inflation. This annual grant will continue at that level after the seven-year period until Congress appropriates a different amount. A one-time payment of \$19.5 million for lease rights on military bases is also provided. Other financial benefits are eligibility for the full range of federal programs and services available to the other territories, eventual full participation in the U.S. Social Security system, and return of all territory public land held by the trusteeship territory (approximately 7/8 of the total land area of the islands).

In assessing the extent of these financial arrangements, it should be borne in mind that the population of the Northern Marianas is only approximately 13,000 people.

Other noteworthy benefits for the Northern Marianas are a provision for a Resident Representative to the United States to safeguard its interests in Washington and the stipulation that regular consultation take place on all matters affecting the U.S.-Northern Marianas' relationship. They can occur at the request of either party, and not less frequently than every ten years.

For its part, the United States secured its major interests through the covenant. It gained permanent control of an area of strategic importance and the right to construct an extensive military facility on the island of Tinian if it chose to exercise that option.

There are several potentially troublesome aspects of the Northern Marianas Covenant. While the Northern Marianas believed that the "Commonwealth" it established was superior in status to an unincorporated territory, serious doubts exist regarding this interpretation. Outside of the areas specified as "fundamental", Congress may legislate as it wishes, with the minor qualification that the Northern Marianas be specifically designated if the law is not generally applicable to the states. In addition, Northern Marianas laws - and the covenant itself - are subordinate to the U.S. Constitution, laws and treaties, and U.S. Courts will be in a position to decide on such federal questions brought before them. Even the surrender of Congress of its plenary authority in relation to the fundamental parts of the Covenant is subject to interpretation. If the United States is sovereign and Article IV of the U.S. Constitution confers plenary authority over

territories to Congress, could not a future Congress rescind or amend what a past one has granted? Finally, two of the major provisions of the agreement which relate to equal representation in one house of the Northern Marianas legislature regardless of population and the non-alienability of land to those of non-Northern Marianas descent may not survive a constitutional challenge on 14th amendment grounds.

Despite its possible shortcomings, the Northern Marianas agreement does represent a considerable improvement in comparison to the status of other U.S. territories. Some of the provisions of interest in this connection are:

1. negotiation of the terms of the relationship on the basis of equality and comprehensively;
2. approval of the Covenant by a popular referendum;
3. multi-year unrestricted grants to promote economic development;
4. review of federal laws by a special commission on which the Northern Marianas has a majority;
5. temporary authority over non-American immigration;
6. no Interior Department jurisdiction;
7. self-imposed restraints on the plenary authority of Congress embodied in a formal agreement;
8. cultural protection through the non-alienability of land, with special treatment for the Northern Marianas' inhabitants.

In summary, the Northern Marianas Covenant indicates that the federal government can exhibit considerable flexibility, even within

the present territorial system, when it wishes to do so. While it might be argued that the Northern Marianas' case is inapplicable to the other territories, since the Marianas were never under U.S. sovereignty in the trusteeship and their inhabitants were not U.S. citizens, this position results in the curious consequence that the U.S. citizens in established territories labor under a handicap imposed by their superior status. If that is so - if they cannot negotiate on the same basis as an outsider seeking admission to the American political family - then what superiority is conveyed by membership? Such narrowly legalistic positions cannot be sustained in the light of the political precedent established for the territorial system by the Northern Marianas Covenant. Indeed, once it was signed the Covenant did touch off immediate concern in Guam for equal treatment and was responsible for adding to the restiveness over status that exists there.

C. Status Concerns in the Carriibbean Area: Puerto Rico and the U.S. Virgin Islands

1. Puerto Rico

The debate over status in Puerto Rico has dominated its political life and has generated a large amount of analyses and polemic. This section will not attempt to describe that debate in detail, but will focus only on the major developments that are relevant to the Virgin Islands' status concerns.

As previously noted (see pp 48ff), Luis Munoz Marin, Puerto Rico's first elected governor, believed that the status of a "free associated state" (or Commonwealth) was the best resolution of the problem of the island's relationship with the United States. In 1950, Puerto Rico's Resident Commissioner in Congress introduced H.R. 7674 which, when finally approved as Public Law 600 of the 31st Congress, provided the legal basis for the "compact" between the United States and Puerto Rico. The law's first section read: "That, fully recognizing the principle of government by consent, this Act is now adopted in the nature of a compact so that the people of Puerto Rico may organize a government pursuant to a constitution of their own adoption."

The Act itself was submitted to the qualified voters of Puerto Rico, who approved it by a margin of 337,016 to 119,169 on June 4, 1951. A constitutional convention was then held which drafted a basic law and concluded its work on February 6, 1952. In a vote held on March 3, 1952 the constitution was approved in a referendum with 374,649 in favor and 82,923 opposed. Congress gave its approval, but with several amendments. The Puerto Rican Constitutional Convention then reconvened and accepted the amendments (which were also approved by the electorate in a vote in November,

1952). On July 25, 1952, the Governor of Puerto Rico proclaimed the Constitution to be in effect.

Under the terms of the association, Puerto Rico gained authority over local matters analogous to that of a state. Those sections of the constitution which did not concern purely internal matters became the Puerto Rican Federal Relations Act. Among other provisions, it continued Puerto Rico's exemption from the federal income tax, U.S. citizenship, and free trade with the Mainland. Significantly, the Act stipulated that U.S. laws not locally inapplicable apply equally to Puerto Rico and gave the U.S. District Court jurisdiction over federal cases.

Immediately following approval of the Commonwealth a debate emerged as to whether it was simply a continuation of the previous territorial status or provided a unique new status with much greater autonomy. This debate has not been conclusively resolved, as the U.S. Supreme Court has not taken a case for review which would result in a definitive judgment.

Under the Commonwealth, in addition to full internal self-government along the lines of the 50 states, Puerto Rico is represented in the House of Representatives by a Resident Commissioner with the same rights and privileges of a congressman, except for the right to vote on the floor of the House. There is no Senate representation and no vote for President. However, Puerto Rico does play a significant part in Presidential nominating conventions. In 1980, Puerto Rico had 14 members in its delegation to the Republican convention and 41 at the Democratic convention (which made it the 27th largest in attendance).

Status questions continued to dominate Puerto Rican politics after 1952. Statehood, independence and amended commonwealth are the three options under discussion, and each is strongly supported by a political party or parties. The New Progressive Party (NPP), currently in power, supports statehood. The other major party, the Popular Democratic Party (PDP), advocates an improved commonwealth. The Puerto Rican Independence Party (PIP) and the Puerto Rican Socialist Party (PSP) both favor independence. Several attempts were made in the recent past to resolve the matter, including a plebiscite. None have succeeded.

In 1964 a "United States-Puerto Rico Commission on the Status of Puerto Rico" was established. Following extensive hearings and exhaustive analyses it reported in 1966 that all three forms of status - Statehood, Commonwealth and Independence - were valid, but that the initiative regarding them should rest with the people of Puerto Rico. Consequently, a status referendum was held in 1967. The results were that 60.4% favored Commonwealth, 39.0% Statehood, and 0.6% Independence. However, both statehood and independence advocates supported a boycott of the vote, resulting in only 66% turnout of eligible voters compared to the usual figure of 80% plus.

Given this support for Commonwealth, an advisory group was appointed by the President and Puerto Rico's Governor in 1973 to examine ways of improving that status. It proposed several reforms of interest to unincorporated territories:

1. participation in international organizations (consistent with U.S. foreign policy);

2. authority to set minimum wage rates and environmental protection regulations;
3. participation in establishing immigration quotas;
4. representation in the U.S. Senate;
5. ability to object to federal legislation with an adverse impact and to have Congress act on the objections.

A proposed "Compact of Permanent Union Between Puerto Rico and the United States" embodying these proposals was introduced in Congress in 1975 but died in committee. It became a dead issue with the electoral victories of the pro-statehood New Progressive Party in 1976 and 1980.

Support for various status options has been voiced by American politicians and parties as well as those in Puerto Rico. President Ford issued an unexpected call for statehood in 1976. In 1978, President Carter indicated support of whatever choice was made by the Puerto Rican people. Congress, in 1979, reaffirmed its position that Puerto Rico had the right to self-determination. In their 1980 political party platform, the Republicans supported statehood, the Democrats the right of Puerto Ricans to choose whatever status they believed best.

Within Puerto Rico, the narrow gubernatorial victory of the pro-Statehood New Progressive Party over the pro-Commonwealth Popular Democratic Party (47.2% to 47.0%) has been interpreted as both demonstrating the depth of statehood's support (since the NPP candidate had defined the issue as a central one, with a strong majority vote providing a mandate to seek admission to the Union)

and rejection of the statehood option (since the margin of victory so narrow). The independence movement, while receiving only a small percentage of the vote in elections (5.7% in 1980), has deep roots in Puerto Rican political tradition and culture, regards the electoral results as a form of manipulation of the popular will, and has gained recent international support at the United Nations. In addition, secret militant organizations continue to dramatize the independence cause through armed attacks and bombings.

It is difficult to foresee what the ultimate resolution of the status issue will be, since each position is associated with a profoundly different view of what Puerto Rico is and should be. As the 1966 U.S.-Puerto Rico Status Commission Report pointed out:

Status choices ...are in a sense political subcultures within Puerto Rico's society. Each status viewpoint holds an interpretation of history, a way of life, a concept of the Puerto Rican destiny. Ideological differences alone make consensus difficult, but that difficulty is nurtured by the partisan political character of the status parties and by electoral competition.

Thus, political opposition and ideology regularly enforce one another to intensify the conflict over status.

In the meantime, the reliance of Puerto Rico on federal monies has increased dramatically in the past decade. Whereas total federal assistance totalled \$455 million in 1970, by 1979 it had increased to \$2.9 billion. Approximately 15% of the island's personal income and 35% of its government's recurrent receipts come

from Washington. These figures do not include the \$250 million (and related employment) associated with federal government operations in Puerto Rico (Post Office, Customs, etc.) In addition, Puerto Rico's trade is predominantly with the United States. In 1979, 84% of Puerto Rico's exports went to the United States and 63% of her imports came from there (imported oil constituted the bulk of non-U.S. imports). While Puerto Rico is excluded from certain federal programs, such as Supplemental Security Income (SSI), it is eligible for the vast majority of the over 1000 available programs and is heavily dependent on several, including food stamps. Because of this heavy economic dependency, statehood advocates and some independence partisans recognize the need for a transition period in which the United States government would ease the financial pains which a change of status would entail.

2. The U.S. Virgin Islands

The issue of political status as such has only recently surfaced in the U.S. Virgin Islands, although the struggle for fairer and more democratic treatment by Washington has always been a feature of its political history. However, those struggles have generally focused on the need for reform within the territorial status, rather than a re-examination of the basic terms of the political relationship with the United States. Even in the 1970's, as status issues emerged throughout the American territorial system, the U.S. Virgin Islands was the last entity to establish a Status Commission through Act No. 4462 of the Thirteenth Legislature (July 22, 1980).

This act creates a Virgin Islands Status Commission composed of members appointed by both the Governor and the President of the Legislature, and includes public officials, members of the Legislature, and private citizens. Ex-officio members included the President of the Legislature (at his/her discretion), the Lieutenant Governor, the President of the Fourth Constitutional Convention, the Chairman of the Federal-Territorial Relations Committee of the Fourth Constitutional Convention, and the Presiding Judge of the Territorial Court (who serves as chairman). The Commission is charged with considering and defining the scope of territorial-federal relations and setting forth the options available to the Virgin Islands. Prior to any negotiations over status with federal officials, public hearing must be held and the views of community organizations and the delegates to the Fourth Constitutional Convention solicited. The public comments

received shall guide the negotiations with the Federal officials. In its final report to the Governor and Legislature the Commission is to recommend a specific territorial-federal relationship, which will then be submitted for approval in a referendum. Any amendments subsequently made to a popularly approved relationship must also be approved by the voters.

As the Commission pursues its responsibilities, it must take into consideration the present state of public opinion on status questions, not only through public hearings and meetings with civic groups, as charged by law, but general attitudes that might not be reflected in such settings. Until a more sophisticated reading of public opinion is available, the only survey that presently exists is the poll conducted by the Louis Harris organization for the Ariel Melchoir, Sr. Foundation in April, 1981.

According to the Harris survey, less than 1% of the population identified U.S.-Virgin Islands relations as one of the two or three biggest problems in the territory today. When read a list of seventeen issues and asked to rank them as "very serious", the U.S. Virgin Islands being a territory of the United States was ranked last, with only 14% indicating that they considered it as "very serious". With respect to specific statuses, a majority of respondents favored a closer relationship with the United States (55%), while a significant number believed the relationship should remain as it is (32%). With respect to alternative statuses posed, 13% favored complete independence (with 19% of Crucian respondents pro-independence compared to 7% in St. Thomas) and 28% opted for statehood. The summary observation made by the survey

with respect to these data is:

"Most residents want to pursue a middle ground in their relationship with the U.S. They widely favor a closer relationship and reject a more independent path. However, they are not yet ready to tie the knot with the U.S. by becoming a state.

This having been said, almost half of U.S. Virgin Islanders do not feel Washington is attuned to their needs and interests...Perhaps the closer relationship they deserve is characterized by a more responsive federal presence in the U.S. Virgin Islands." (p 60-61)

While it is possible to raise questions about the methodology of the Harris poll and to interpret the data in a variety of ways, the basic findings are consistent with the lack of popular or political concern over status issues. The question of the form of status has certainly not preoccupied U.S. Virgin Islands life and politics as it has in neighboring Puerto Rico. If anything is surprising in the Harris results, it is that so many Crucians favor independence and that there exists so much pro-statehood sentiment. Perhaps the political status debate is about to emerge as a significant factor in local politics.

If status per se has played little part in past Virgin Islands politics, issues related to status have. It is instructive in that regard to examine the proposed federal relations acts which have emerged from the Second (1972), Third (1979) and Fourth (1980-81) Constitutional Conventions. (The status proposals of the First Constitutional Convention of 1964 were discussed previously. See pp.57 ff) All share similar concerns, which can be placed in four categories:

1. The removal of remaining controls on autonomy which remain in the 1954 Revised Organic Act.

In this respect, a main concern is the elimination of the federally appointed controller and his replacement, either with a locally appointed official or the general supervision of the General Accounting Office, as in the 50 states. In addition, the jurisdiction of the Interior Department, including the requirement of annual reports by the Governor, is opposed. The ultimate Congressional veto over Virgin Islands legislation, the restrictions on the number of executive departments, and the authority of the Federal District Court and U.S. Attorney General's office over local law are also slated for replacement or removal.

2. The provision of an adequate financial basis for the U.S. Virgin Islands Government

Among the proposals made in this connection are a return, without any restrictions, of federal revenues collected on Virgin Islands products, including petroleum; broader bonding authority; grants for both general and specific purposes; the transfer or sale of unnecessary federal property; and a local surcharge on income taxes up to 10%.

3. New authority in Important Areas

In this area the federal relations acts have requested some control over immigration; a U.S. Virgin Islands citizenship; the opportunity for relations with Caribbean nations; a local court system with jurisdiction analagous to

that of a state; regular, formal consultations with the federal government; the restriction of the applicability of federal constitutional provisions that would possibly overturn provisions of the proposed local constitution, such as the definition of Virgin Islands citizen; a new political status.

4. The elimination of "irritants"

In this category fall requests for equal treatment of the Virgin Islands residents with stateside citizens in all federal programs (e.g., Supplemental Security Income, or SSI) and the protection of local influence over public life through definitions of Virgin Islands citizenship and significant residency requirements for public office.

There are, of course, differences among the three proposed federal relations acts and each must be examined separately in order to be fully understood. However, they do share the common concerns outlined above, and they represent a call for significant modifications in the present political relationship, if not for a new status. Thus, if political status per se has not been a significant concern until recently in the Virgin Islands, federal relations questions certainly have. Perhaps it is time to put those questions within the broad context of political status and determine which one would best accommodate them.

Major Sources for this Section:

Guam

"Status of Guam: Report of the Political Status Commission of the Twelfth Guam Legislature" (Agana, Guam, 1974)

"A Reassessment of Guam's Political Relationship With the United States," Survey Report and Findings on Public Opinion Poll prepared for the 15th Guam Legislature (Agana, Guam: Venture Development Management Resources, Inc., 1980)

American Samoa

"Final Report from the First Future Political Status Study Commission of American Samoa" (Pago, Pago, American Samoa, 1970)

"Report from the Second Future Political Status Study Commission to the Governor of American Samoa and the Fifteenth Legislature of American Samoa" (Pago, Pago, American Samoa, 1979)

Micronesia and the Northern Marianas

Armstrong, A. John, "The Emergence of the Micronesians Into the International Community: A Study of the Creation of a New International Entity", Brooklyn Journal of International Law, vol V, no. 2, Summer, 1979

Clark, Roger S. "Self-Determination and Free Association - Should the United Nations Terminate the Pacific Islands Trust?," Harvard International Law Journal, vol. 21, no. 1., Winter, 1980

Leary, Paul, "American Policy in Micronesia: An assessment", The Journal of the College of the Virgin Islands, No. 5, May, 1979.

_____, The Northern Marianas Covenant and American Territorial Relations, (Berkeley, California: Institute of Governmental Studies, 1980) Research Report No. 80-1

"Compact of Free Association" (1980)

Puerto Rico

Tansill, William R. "Puerto Rico: Independence or Statehood? A Survey of Historical, Political and Socioeconomic Factors, With Pro and Con Arguments" (Washington, D.C.: Library of Congress, Congressional Research Service, 1977).

Puerto Rico (Cont.)

"Puerto Rico's Political Future" A Divisive Issue With Many Dimensions", Report to the Congress by the Comptroller General of the United States (Washington, D.C." General Accounting Office, 1981).

Virgin Islands

"Proposed Virgin Islands Federal Relations Acts", Second, Third and Fourth Constitutional Conventions of the Virgin Islands.

"A Survey of Residents' Attitudes Toward Major Issues Facing the U.S. Virgin Islands' (Louis Hains and Associates, Inc., April, 1981).

SECTION V

POLITICAL STATUS OPTIONS FOR THE UNITED STATES VIRGIN ISLANDS

The political status options theoretically available for the Virgin Islands are independence, commonwealth, unincorporated territory, and full political integration (statehood or an analogous position.)

A. Independence

Independence confers full sovereignty upon the political entity that possesses it. This includes complete control over all domestic matters, the right to conduct relations with other nations as a legal equal, the right to participate fully in international organizations such as the United Nations, and the right to enter into any agreements desired with other countries. The sovereignty and territorial integrity of independent states are recognized and protected by the Charter of the United Nations. As previously noted (see pp.62f) the period after World War II has witnessed a decolonization movement which has resulted in a large increase of independent countries. Factors such as size and lack of natural resources are no longer considered impediments to independence. In the United Nations, given the attitudes of the sizable number of new nations which have emerged during this time, any status short of independence (such as free association, to be examined below) is looked at with considerable skepticism. It should be borne in mind that a number of nations have gained independence that are smaller in population and poorer than the U.S. Virgin Islands, including neighboring Caribbean islands.

The only possession of the United States which was granted independence was the Philippines. In the present territorial system, an organized and militant independence movement exists in Puerto Rico. In Micronesia, sentiment for independence exists, and it has always been considered an alternative if free association with the United States is not attained. Also, under the terms of the Compact of Free Association initialled by U.S. and Micronesian negotiators, the latter has the right to unilaterally terminate the association and move to complete independence. No organized movements for independence exist in the other territories of Guam, American Samoa and the Virgin Islands, but this situation could change, given international and regional developments, continued alienation of the younger population, and an unsatisfactory response from the Federal government to requests for adjustments in the present relationship.

Since the Philippines represents the only case thus far of an American possession gaining independence, it is instructive to examine the background factors which led to this status.

The United States gained possession of the Philippines as a result of the Spanish-American War of 1898. In conquering the Spanish garrison in the islands, U.S. forces were assisted by Filipino insurgents who believed that American control would mean independence for them. When this was not granted, a brutal guerilla war ensued. Estimated American casualties were over 7,000 killed and wounded. The Filipinos lost an estimated 20,000 men and suffered 200,000 civilian deaths. The American pacification campaign was characterized by a ferocity and methods reminiscent

of the Vietnam War..

While the United States succeeded in quelling the independence movement's military manifestations, sentiment for eventual freedom from the United States continued. In August, 1916, this was recognized by the U.S. Congress which declared its intent to grant Philippine independence as soon as a stable government was established. In the meantime, greater internal self-government, including full legislative jurisdiction, was provided. The next step toward independence came on March 24, 1934, with the Philippine Independence Act. It provided for a ten-year transition to independence primarily to adjust the free trade relationship gradually so as not to produce injury to either American or Filipino economic interests. Another feature of the transition phase was the establishment of a Commonwealth government based on a locally drafted constitution as a prelude to full autonomy. The constitution also included provisions for settling property rights and financial and treaty obligations once independence was achieved. According to the Philippine Independence Act, local approval of the constitution constituted approval of independence.

Of particular interest was the care taken to provide a smooth transition to independence, including needed economic adjustment. Attempts were made to diversify the economy, to achieve greater self-sufficiency, and to lessen reliance on trade with the United States, particularly sugar exports. On the United States' part, import duties on Philippines' products were gradually phased in, and duty-free quotas were established for some items. The unrestricted immigration status the Philippines had enjoyed was substantially altered, being replaced by a small annual quota

equivalent to that of any other independent nation.

World War II and the Japanese conquest interrupted the independence process. Despite the devastation brought by the war, independence was granted on July 4, 1946. To assist in the rebuilding of the islands, Congress authorized grants to pay compensation to individuals for war damage and to restore public property and essential services. In recognition of the weakness of the post-war economy, the Philippine Trade Act of 1946 extended duty-free treatment of Philippines' exports for eight years, with a gradual application of full duty after that time. A system of gradually declining quotas on certain goods was also established. Other agreements were reached regarding economic activities of U.S. businesses and citizens in the Philippines, immigration and military base rights.

The experience of the Philippines is significant as a precedent. It indicates that when a strong and persistent popular sentiment for independence exists in a territory, it is possible for the United States to accommodate it. However, there were also strong interest groups in the United States that supported independence for their own reasons, including farmers competing with duty-free Filipino products and groups (including unions) concerned about unrestricted immigration from a nation of sizable population (14 million in 1934 when the Independence Act was passed). But when the United States agreed that it was in the mutual interests of both peoples to grant independence, it was done in a manner that included a planned transition. At the same time, the security interests of the United States were protected through separate agreements

with the independent Philippines. If independence does come to another U.S. territory, the pattern followed in the Philippines could be an important one to examine.

B. Free Association

Free Association is a status in which a smaller entity decides, by a free and voluntary choice, to link itself with a larger one. The associated state has full control over internal affairs, but relinquishes authority over external affairs - either defense or foreign relations, or both. The Free Association arrangement that has recently been accepted as legitimate by the United Nations (the Cook Islands and Niue Islands agreements with New Zealand) provided for the right of unilateral termination, which is generally part of such arrangements. The proposed relationship between the United States and the Marshall Islands, the Federated States of Micronesia and Palau also provides for unilateral termination, as well as Micronesian control over both foreign and domestic affairs. (The U.S. retains responsibility for defense and external security.)

The status of free association is a new and evolving one under international law. As one observer, A. John Armstrong, noted: "International law offers no precise definition of free association, and only a few general criteria, augmented by recent precedents, are available as touchstones." Armstrong also points out:

"The term free association can describe an infinite number of political relationships between governments. Any given status can have elements of integration and elements of free association and it can join these elements together. It is an error to think that a status which is labelled 'free association' may be evaluated

against immutable criteris, since the value of the concept of free association is in its flexibility. Political relationships can be molded into a wide variety of relationships which the parties freely choose; those which are neither clearly independence nor integration may be called 'free association' for want of a better term." (A. John Armstrong, "The Emergence

of the Micronesians into the International Community: A Study of the Creation of a New International Entity", Brooklyn Journal of International Law, vol.V. no. 2, Summer, 1979, p 256, p 259.)

One of the few examples of defining "free association" more precisely is Resolution 1541, passed by the United Nations General Assembly in 1960. According to this resolution, free association constitutes a "legitimate" status if the following conditions are met:

1. it is the result of a free and voluntary choice
2. the choice is expressed through informed and democratic processes
3. it respects the individuality and cultural characteristics of the associated territory
4. it allows for freedom of modification (that is, unilateral termination)
5. it gives the associated territory the right to determine its internal constitution without outside interference.

The United Nations looks upon free association arrangements with great skepticism. It only reluctantly accepted the association of the Cook Islands and the Nuie Islands with New Zealand. It did not accept the Associated State status of the British Caribbean territories. Both the Puerto Rican "free associated

state" and the Kingdom of the Netherlands arrangement for Surinam and the Netherlands Antilles were accepted as acts of self-determination in 1953 and 1955 respectively. However, this was prior to the 1960 Resolution 1541, and at a time when the influence of Third World nations over such questions was much less than it is today. It is significant, in that regard, that the U.N. Committee on Decolonization (but not yet the General Assembly) has called the Puerto Rican arrangement into question, and that Surinam is now independent and the Netherlands Antilles are negotiating for that status. The same development toward independence has occurred in the British Associated States in the Caribbean. It is also possible that independence sentiment may ultimately become predominant in the Micronesian entities. Free Association may be, in most cases, a transition stage toward independence rather than a permanent arrangement.

(The international legal questions relating to free association, particularly obligations under the United Nations Charter, are complex and debatable. For two approaches to the questions raised, see Armstrong - cited above - and Roger S. Clark, "Self-Determination and Free Association - Should the United Nations Terminate the Pacific Islands Trust?", Harvard International Law Journal, vol. 21, no. 1, Winter, 1980).

C. Commonwealth

The exact meaning of a commonwealth status, and the differences, if any, between it and the status of an unincorporated territory (see below) are matters of continuing dispute. The best way to

describe this status is to examine the characteristics of the two commonwealths that now exist within the American political system - Puerto Rico and the Northern Mariana Islands.

Under the terms of the commonwealth arrangement between Puerto Rico and the United States, Puerto Rico is subject to federal laws of general applicability and a U.S. District Court is established to hear cases arising under federal laws, treaties or the U.S. Constitution. (Interestingly, proceedings there must be conducted in English - a source of continuing irritation.) However, some Commonwealth advocates claim that Puerto Rico possesses a "residual sovereignty". Since it negotiated a "compact" with the United States, this must imply, they argue, that Puerto Rico had a sovereignty initially which it yielded voluntarily.. Puerto Rico is no longer a territory within the meaning of the territorial clause of the U.S. Constitution, but an entirely new entity to which the plenary authority of Congress does not apply. There has been no U.S. Supreme Court case which has resolved these questions. Circuit Court decisions have been divided. A singular lack of definition exists with respect to the applicability of provisions of the U.S. Constitution. After analyzing the court cases that have arisen regarding Puerto Rico, one recent study concluded: "...the question of Puerto Rico's status and constitutional relationship to the United States since the establishment of the Commonwealth in 1952 has not been judicially determined nor subject to thorough analysis by the courts. What the courts will do in the future is uncertain. In any case, it

is questionable that the rationale behind the Insular Cases would be currently applicable....Although the United States supreme Court might be presented with a case requiring an analysis of Puerto Rico's relationship to the United States, it is uncertain it would render a decision on such a controversial political issues....The Commonwealth status issue has been left unresolved..." ("Puerto Rico's Political Future: A Divisive Issue With Many Dimensions", Report to the Congress of the United States by the Comptroller General, 1981, p 118, See pp 108-118 for a full analysis of the legal issues.)

Under the terms of the Covenant of the Northern Mariana Islands, the latter is formally designated a "self-governing commonwealth... in political union with and under the sovereignty of the United States of America." The union cannot be dissolved except by mutual consent. In addition, Congress agrees not to exercise its plenary authority when it involves the "fundamental" provisions of the compact. (For fuller details regarding the Covenant, see above, pp 91f). However, there is some question as to whether or not the Northern Marianas "Commonwealth" is anything but an unincorporated territory with a new name.

The Report of the Committee on Interior and Insular Affairs which accompanied the Northern Marianas when it was favorably reported out of Committee states explicitly: "Although described as a commonwealth the relationship is territorial in nature with full sovereignty vested in the United States and plenary legislative authority vested in the United States Congress." (quoted

in Paul Leary, "The Northern Marianas Covenant and American Territorial Relations", Berkeley, California: Institute of Governmental Studies, 1980, p. 22). In a legal memorandum prepared for the United States' negotiating team, the point is made that the failure to assert clearly the plenary power of Congress in the case of Puerto Rico has led to confusion. The Northern Marianas Covenant was self-consciously designed to eliminate any such ambiguity:

To avoid the issues arising from the Puerto Rican model the United States draft version of the commonwealth agreement clearly establishes the relative powers of the federal government and of the territorial government in the Marianas. U.S. sovereignty was to be clearly established with the consequence that all the attributes and inherent powers of sovereignty were to rest with the federal government. Specific constitutional provisions were to be extended to establish federal supremacy over the territory. Plenary powers of the Congress were to be fully held but agreement would be made that these powers would not be exercised in a well defined area to permit maximum local self-government. There could consequently be no challenge to U.S. supremacy or to the nature of the political relationships. The Marianas would fall within broad guidelines now formulated for federal-territorial relationships and would be less precipitous a factor for change of status in the other U.S. territories.

(Quoted in Leary, p 24. Emphasis added.)

If the status of the Puerto Rican Commonwealth is not completely defined and may possibly differ from that of an unincorporated territory, there does not appear to be any legal difference between commonwealth and unincorporated territory status in the Northern Marianas case. Even in the case of Puerto Rico, no substantial difference exists in practice. There are, however, some significant features of the two commonwealths that are not shared by the unincorporated territories of Guam, American Samoa and the U.S. Virgin Islands:

1. commonwealth status was based on a set of comprehensive negotiations (more formal in the case of the Northern Marianas, and through the Federal Relations portion of the Puerto Rican Constitution)
2. implicit in the terms 'compact' and 'covenant' is the need for negotiations based on some initial measure of equality and freedom. Otherwise, these terms are not appropriate.
3. the agreements negotiated were approved by the electorate in a referendum, providing popular consent.
4. the term "commonwealth" is associated with a large measure of internal autonomy and a Congressional commitment to restraint in exercising its authority.

It should also be noted that the Puerto Rican and Northern Marianas Commonwealths have an important symbolic significance if not a great legal one. Not only do they eliminate such irritants as the supervision of the Interior Department, they also represent a departure from the unfortunate historical and political associations of the "unincorporated" designation.

D. Unincorporated Territory & Incorporated Territory

As a result of the "Insular Cases" decided by the U.S. Supreme Court following the Spanish American War, a distinction was made between the older ("incorporated") and newer ("unincorporated") territories acquired as a result of that conflict. An incorporated territory is one which Congress, either expressly or implicitly, has indicated will eventually become a state of the union. The U.S. Constitution fully applies. By contrast, an unincorporated territory is not destined for statehood and only certain 'fundamental' provisions of the Constitution apply. Major provisions of the Constitution relating to human rights and liberties, such as due process of law, are fundamental. Other provisions, such as uniform tariffs or grand juries, are considered 'formal' and hence not automatically applicable. The exact parts of the Constitution which apply have either been stipulated in Organic acts and their equivalent (the Puerto Rican Federal Relations Act and the Northern Marianas Covenant) or determined by the courts on a case by case basis. In cases following the first "insular case" of Downes vs. Bidwell (1901), the Supreme Court indicated which constitutional provisions it considered fundamental and which formal.

All territories, whether incorporated or unincorporated, are subject to the broad authority of Congress under Article IV, Section 3, clause 2 of the Constitution: "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so

construed as to prejudice any claims of the United States or of any particular states." Territories are governed through Organic Acts passed by Congress which establish their internal political structure. (An exception is American Samoa, where Congress in 1929 delegated authority to the President until it chose to act. It has not yet acted to provide an Organic Act. Hence, American Samoa remains and "unorganized" unincorporated territory.) As previously indicated, Congress has generally exercised its power with full respect to the democratic rights of the inhabitants of incorporated territories which were expected to evolve from territorial to statehood status. (See pp lff) In the case of the unincorporated territories, however, grants of self-government were very limited until the post World War II period.

There are no remaining incorporated territories since Alaska (1959) and Hawaii (1959) were admitted into the Union. The remaining unincorporated territories of Guam, American Samoa and the U.S. Virgin Islands have recently made significant advancements in self-government, including elected governors, the right to write their own constitutions (in the case of Guam and the U.S. Virgin Islands) and non-voting delegates in the House of Representatives. However, they remain subject to the plenary authority of Congress and the status is an unequal one within the American political system. The elected delegates do not have a vote on the floor. While it is true that the vote they possess on the committee level is more significant in the legislative process, the lack of a floor vote is a sign of inequality. In addition, there is no representation in the Senate, which plays an important part in legislation affecting the territories. And, of

course, there is no presidential vote, although delegations from the territories do participate in the presidential nominating conventions.

Another disadvantage of unincorporated status is its inferior international standing. In 1946 the United States submitted to the Secretary General of the United Nations a list of its possessions that it considered to be "non-self-governing". Included were Guam, Samoa and the U.S. Virgin Islands. As a result, Chapter XI of the Charter of the United Nations applies. It contains the following obligations for the United States with respect to its unincorporated territories:

1. promoting the political, educational, economic and social advancement of the inhabitants; treating them justly and respecting their culture
2. developing self-government and free political institutions, in the context of the circumstances surrounding each case and the degree of advancement of the inhabitants
3. transmitting information relating to the economic, social and cultural conditions in the territories so as to insure that the obligations listed above are met.

Finally, it should be noted that Congress, in both the 1950 Guam Organic Act and the 1954 revised Organic Act of the U.S. Virgin Islands, specifically designated these territories as "unincorporated", and in the floor and committee discussions relative to them made it clear that no intention of incorporation

existed. There is no recent evidence of any change of attitude on the part of Congress.

E. Full Political Integration

Statehood

As previously noted, (see pp 2) the general pattern for evolution from territorial to statehood status has been:

1. organization of the territory by territorial or organic acts
2. a request for congressional approval of statehood
3. an enabling act authorizing the drafting of a state constitution and the forming of a state government and including whatever land and monetary grants would be provided. Other provisions for admission, as deemed appropriate, were also included.
4. ratification of the State constitution by the territory's inhabitants and review by Congress
5. an admissions act

Not all states have followed this model, however. Eleven territories, including Hawaii and Alaska, drafted a constitution without Congressional approval. In addition, several territories followed the example set by Tennessee in 1796 and both drafted constitutions and elected senators and representatives on their own initiative, and then simply requested admission. In some cases, states were never territories, and were either created out of existing states (e.g., West Virginia) or were simply annexed directly into the Union (Texas and California). In general, Congress has broad authority over admission and is not bound to any particular model.

In examining applications for admission, however, Congress

usually employs three principles of evaluation:

1. the inhabitants support democracy and the American form of government
2. the majority of the inhabitants desire statehood
3. the proposed state has sufficient population and resources to support a state government and provide its share of the cost of the federal government.

These criteria are very broad and have been interpreted flexibly by Congress. For example, when Alaska applied for statehood three arguments were raised against it - small population, physical isolation (non-contiguous) and limited financial ability (this, of course, was before the oil discovery). These arguments were countered by noting that Alaska's population (128,643 in 1950) was larger than that of many states previously admitted, and was growing; that contiguity was never a statehood requirement (e.g.: California in 1850) and was not significant given modern transportation and communication; that economic expansion offer statehood would provide an adequate economic base. When Congress granted statehood, it made substantial contributions to insure future economic viability for Alaska, including a land grant of over 100 million acres. Transitional assistance including financial grants totalling \$28.5 million was also provided.

In the case of Hawaii, there was no doubt that the three traditional criteria were satisfied. Objections to statehood centered around allegations of Communist influence (particularly in the labor unions), disproportionate representation in the Senate, racial composition, alleged economic domination by

five corporations, and non-contiguity. Given the racial composition of the Virgin Islands, it is of interest to examine that factor more closely.

Hawaii is a racially plural society with a majority of Asians (37% Japanese; 12% Filipino; 7% Chinese) in addition to the white and black Americans, remaining native Hawaiians, and smaller ethnic groups. In confronting this issue, the report accompanying the approved statehood bill noted: "With the entire free world looking to the United States for moral and spiritual leadership, the Committee does not believe that the 86th Congress will deny full political equality to a group of its own citizens who have met every historic test of qualifying for statehood merely because of the ancestry of a part of that group." (Quoted in "Experiences of Past Territories Can Assist Puerto Rico in Status Deliberations," Report to the Congress of the United States by the Comptroller General, Washington, D.C., 1980, p. 40).

Thus, given the broad power of Congress over admission and the experiences of Alaska and Hawaii, there is no legal obstacle to statehood for any of the unincorporated territories. Given the particular example of Hawaii, distance and racial composition would not appear to be insurmountable obstacles either. If the political will existed in both the territory and the Congress, statehood could be achieved.

F. A Novel Constitutional Arrangement

An alternative method of political integration into the United States on an equal basis could be sought through constitutional amendment. It is possible to construct a novel arrangement in

which the territories could be considered as a group and given several electoral votes for the presidency, more effective representation in both houses of Congress (perhaps in the form of required consultation of their representatives on legislation that adversely impacts the territories) as well as other forms of protection (e.g.: control over immigration) and participation barred by the present rigid constitutional division of states and territories. Models for such a relationship could be sought in examples such as the Kingdom of the Netherlands governmental structure for Surinam and the Netherlands Antilles, or a completely novel arrangement could be devised. However, this method would be a difficult one to employ successfully. It would require a degree of cooperation and consultation among the territories themselves which is unlikely in view of their significant differences. It would also require a constitutional amendment, which is a prolonged and uncertain process. There is another possibility, suggested by a recent article by Arnold Leibowitz, which involves a basic reinterpretation of the territorial clause of the Constitution on the part of the Congress and the Supreme Court. This interpretation would take into account the historic uniqueness of the unincorporated territory status and provide much greater latitude and flexibility in the treatment of the territories. At the present time though, this approach also offers little room for hope. (See Arnold Leibowitz, "United States Federalism: The States and the Territories," The American University Law Review, Summer, 1979)

G. The Best Choice for the U.S. Virgin Islands

Which of the options noted above - independence, free association, commonwealth, unincorporated territory, incorporated territory, statehood, a novel constitutional arrangement - is the most appropriate one for the U.S. Virgin Islands? The answer to that question requires an assessment of the relative importance of several factors, political, economic, social and cultural. Ultimately, each member of the U.S. Virgin Islands community and the Status Commission must weigh their significance and come to a conclusion as to the most desirable relationship. What follows is my own assessment.

1. Political Factors

The most significant political factor, given both a commitment to democratic values and the terms of the legislation establishing the Status Commission, is public opinion within the Virgin Islands. At present, the general attitude appears to be firmly supportive of retaining close links with the United States, but with improvements. While public opinion is not absolute or immutable, and is susceptible to change based on events and political leadership, it is unlikely that this general attitude will alter in the near future.

Another important political factor is the attitude of U.S. policy-makers, both in the legislative and executive branches. Given the recent change in administration, it is difficult at this time to ascertain what the import is for the U.S. Virgin Islands. However, the general trend in Congress has been toward liberalization of territorial policy, although concerns have surfaced on

fiscal management issues. The attitude of the Executive branch will be more clearly defined now that an Assistant Secretary of Interior for International and Territorial affairs has been indentified. Also, Reagan administration Caribbean policy may produce greater sensitivity to the political status of the U.S. Virgin Islands and its regional role. (It is possible, of course, for the U.S. Virgin Islands to suffer disadvantages if its needs are neglected in favor of larger political entities in the area, such as Jamaica.) In general, though, of the political statuses possible for the U.S. Virgin Islands, there should be no insurmountable obstacles to a closer relationship. Also, precedents for commonwealth status exist in Puerto Rico and more particularly, the Northern Marianas. A determination of the attitudes of U.S. policymakers is obviously essential, and the current activities of the Commission in that regard should clarify matters.

Beyond domestic and national political considerations are regional and international ones. In these areas the continued dependent relationship of the U.S. Virgin Islands does create difficulties. As the decolonization process continues, they may intensify. There is, however, no reason why the U.S. Virgin Islands could not play a more active regional role that would be of benefit to both Washington and the islands. While any international role for the U.S. Virgin Islands would have to be in conformity with U.S. foreign policy and in keeping with the authority of the federal government over relations with foreign countries, precedents now exist for such a role in the Pacific area. Also, in the past, the U.S. Virgin Islands was active in regional organizations such

as the Caribbean Commission. Hence, a more active regional and international role is possible even within the parameters set by the territorial or commonwealth statuses.

2. Economic Factors

At present the Virgin Islands is highly dependent on the economic relationship with the United States to sustain a standard of living which, while lower than the United States as a whole, is much higher than that of its regional neighbors, (In 1976 per capita income in the U.S. Virgin Islands was \$4,596 compared to \$6,393 in the United States as a whole, \$4,575 in Mississippi and \$1,248 in Barbados). The federal economic impact is pronounced, both directly and indirectly. Directly, receipts of federal grants and transfers comprise a large portion of total revenues (In 1977, \$62.7 million compared to \$58.8 million in total income tax revenues). Indirectly, the American political connection results in a secure investment environment for firms such as Hess Oil Corporation, Martin Marietta Corporation and the tourist industry which provide the bulk of the private economic base from which personal income and corporate taxes are drawn. With a rapidly increasing population and a subsequent increased demand for infrastructure improvements as well as public services, this economic dependency is likely to increase, (See Richard W. Miller, "The Virgin Islands Economy", Office of Territorial Affairs - Department of the Interior, 1979).

Given the economic situation, a continued close relationship with the United States is extremely important. Any alteration of that status must provide for an orderly transition in which the present dependency is replaced by a more autonomous and self-supporting economy.

3. Cultural and Social Factors

The economic benefits gained from the present relationship to the United States must be weighed against the often negative cultural and social impact the connection brings. The rapid economic growth experienced by the U.S. Virgin Islands in the past twenty years has spawned numerous social, cultural and psychological problems. While these factors are much more difficult to quantify, they impact negatively on the quality of life of all the islands' residents. Crime, overcrowding, juvenile alienation, a threatened culture, drastic population shifts - these and other problems are difficult to resolve within the context of the present political relationship. There are also psychological distortions created by immersion in a consumer society and a communications network that come from outside and lacks local roots. Dependency becomes cultural and psychological as well as economic.

All the United States territories have reacted to this situation, usually by provisions in their recent draft constitutions which seek to protect and/or promote the local culture. However, the success of such efforts is doubtful, given the long-term consequences of the close political and economic relationship with the United States. Even American Samoa, which has preserved its traditional life style much more successfully than the U.S. Virgin Islands or Guam, is finding it increasingly difficult to resist "Americanization" and its eroding influence. (And it should be remembered that American Samoa not only restricts land ownership to Samoans; it also controls the admission of both U.S. and non-U.S. citizens into the territory as well as their terms of residence).

It is partly because of perceived cultural and psychological costs of the American connection that Puerto Rican independence advocates insist that only independence is compatible with national dignity and self-respect. Over the long-term, such attitudes may become more prevalent in the U.S. Virgin Islands as well.

4. Application of Factors to Status Options for the U.S. Virgin Islands

In my judgment a commonwealth status is the most feasible option for the U.S. Virgin Islands at the present time. Politically, it reflects the desires of the majority of Virgin Islands residents and is likely to gain the approval of the federal government. Such a status, based on full and comprehensive negotiations and subject to popular approval in a referendum, would help to remove the historic shortcomings of unincorporated territory status. The other statuses available - independence, free association, statehood, incorporated territory, a novel constitutional arrangement, appear to be politically impractical. A commonwealth status may not be a final one, but it represents an interim arrangement which would allow advocates of other statuses to persuade the electorate of their desirability.

Economically, a commonwealth status is also required by present conditions. It would also permit the negotiation of a more secure and long-term economic basis for the U.S. Virgin Islands as, for example, occurred with the Northern Marianas Covenant. A more economically viable Virgin Islands would also make different future status options more practical.

Culturally and socially, a continued close connection with the

United States is likely to have a negative impact. In negotiating a commonwealth status, however, protections can be devised (in areas such as immigration, for example) which will ameliorate specific problems. In addition, cultural protection and enhancement can be provided by both law and constitutional provisions. But this area promises to be one of continued difficulty, and may be part of the price that has to be paid for the close relationship to the United States.

SECTION VI

ANALYSIS AND RECOMMENDATIONS

The last decade has witnessed a significant awakening of concern for political status among the offshore areas of the United States. Status commissions have been established in American Samoa, Guam and the United States Virgin Islands. A new commonwealth, the Northern Marianas, has been brought into the American political system with features that represent an advance in comparison to the older territories. At the same time a novel form of association with America has emerged in the Compact of Free Association drafted with Micronesia. Puerto Rico is no longer unique in its concern with political status.

At the same time this development has occurred, it is apparent that the status of unincorporated territory is no longer a viable one. Its historical associations with undemocratic treatment of the territories as well as its lingering elements of political dependency make it an anomaly in an era of decolonization and international concern over such questions. It is long over-due for re-examination.

In making that re-examination, the smaller territories of the United States - American Samoa, Guam and the U.S. Virgin Islands - are faced with a particular dilemma. Their peoples have had a long association with the United States and as a whole remain loyal to it and its values. Guamanians and Virgin Islanders are citizens of the United States, with a right to the equal treatment inherent in that common citizenship. Political loyalties are reinforced by a close economic relationship which brings a

standard of living superior to that enjoyed by neighboring countries in the Pacific and the Caribbean. At the same time, the close relationship with America is marked by a disturbing dependency and an erosion of cultural and social life which has caused a reaction in the form of protective legal and constitutional measures. However, even the territory that has the greatest measure of cultural protection, American Samoa, is undergoing a process of Americanization which may ultimately transform its way of life.

Given this situation, political status must be viewed as the key to the further development of the territories. Both the Samoan and Guamanian Political Status Commissions recognized this by calling for a major public education effort so that their citizens could be informed of the significance of political status and the complex issues involved. Indeed, they saw themselves as primarily informative agencies rather than negotiating teams. In addition, the habit of dependency fostered by the history of the unincorporated territory status must be broken, and an awareness cultivated that the right of self-determination for the territories is protected by international obligations of the United States which have been reflected in statements made by its political leaders, most recently President Carter. It is for the territories to decide for themselves what political status they desire, and to define their options for themselves. It is unlikely that Congress or the Executive branch would shun a well-articulated position supported by broad community agreement. It might be said, in this connection, that the U.S. government will take the status choices of the territories as seriously as they take them themselves.

This requires a first-rate level of analysis and a full basis of supporting information to support any position taken.

As the territories continue to re-examine their relationship with the United States, they may discover that there are important advantages to be gained by more consultation with each other. While they are divided by major differences in culture, history and language, as well as great geographical distance, they do share common features and concerns. Indeed, the degree of common concern is remarkable given their differences. Up to this point, each territory has considered it more advantageous to press the federal government for concessions on an individual basis. There has been concern that a common approach would result in the special problems of one territory being overlooked because of the problems of another territory, or perhaps being entangled with them to its disadvantage. These fears are based on hard realities, and cannot be discounted. But it is time for some exploration of the advantages of a common approach on certain issues, such as political status. The federal government might react more positively if faced with a position supported by all the territories. At least this approach should be considered and preliminary contacts established.

Finally, in my judgment a Commonwealth status best fits the political and economic realities of the U.S. Virgin Islands today, even though it may not address the social and cultural issues that are emerging. It should be viewed as an immediate response to status concerns which could considerably enhance the present concerns of the U.S. Virgin Islands in the federal relations area. If based on negotiations conducted in a spirit of equality and

mutual sensitivity, and if it is ratified by popular vote, Commonwealth will help eliminate some of the unattractive associations of the unincorporated territory status, even if in legal terms it may not be inherently different. But such symbolic concerns are important for political dignity and self-respect.

While a Commonwealth status is an immediate solution to status concerns, it is unlikely to be a long-term one. As the experience of Puerto Rico indicates, either independence or statehood (or an analogous form of integration into the political system) is likely ultimately to replace commonwealth. Also, commonwealth status, at least as defined by American territorial practice, contains components that make it an unsatisfactory arrangement from the viewpoint of international legitimacy. It is instructive, in this connection, that another interim status - Free Association - has also frequently led, finally, to independence, as in the case of the Associated States of the British and Dutch Caribbean. There are preliminary indications that this may be the case with Micronesia as well, since sympathy for independence is considerable in places such as Palau - and this even before the implementation of the new status.

If commonwealth and free association are in most cases an interim status, that does not mean they are without value. They may provide a period during which long-term status choices are weighed and proper preparations made to support them. These would include both political education as well as economic development.

Based on the preceding analysis, the following recommendations are made to the Status Commission:

1. Public education should be given a high priority.

A public education effort will ensure that the political status choice finally recommended by the Commission is understood by the voters, and that their reaction will be an informed one. Both key opinion-making groups and the average citizen must be reached through a concerted effort involving public appearances by Commission members, public hearings, media presentations, pamphlets and advertising, etc. As a long-term consequence of the Commission's work, the introduction of appropriate materials in the public school system and the development of a library of relevant materials will help create the level of awareness the U.S. Virgin Islands requires as it faces these important issues.

2. A broad statement of principles should be adopted to guide status negotiations.

Following the public hearings and meetings with key civic organizations, the Commission should consider the desirability of adopting a broad set of principles that will guide their negotiations with the federal government. This could include both a statement of the status option being pursued as well as the underlying assumptions (e.g., right to self-determination) supporting it. Any negotiations undertaken must conform to them. This would allow the Commission to evaluate the success of the negotiations based on its major concerns. A precedent indicating the usefulness of this approach is the Micronesian Status negotiations. The Micronesian side adopted a set of principles at the beginning of their talks with the United States, and as a result of adhering to them consistently was able to gain major concessions over time.

3. The Commission's work should not be defined exclusively in terms of the immediate response of the federal government.

Both the Guam and American Samoa Status Commissions had as a main concern the stimulation of public debate and discussion. While the mandate of the Virgin Islands Status Commission is broader, involving the selection of a status to place before the voters for their approval as well as discussions with the United States, a disapproving response on the part of the latter does not mean the work of the Commission is futile. If a broad public consensus could be established in support of the status recommended by the Commission, this would be of great significance in itself. Over time, federal officials would have to respond appropriately to such public support..

4. Further studies should be made of political, economic and social/cultural factors in relation to the status option recommended.

This paper is designed to provide a broad overview of the historical and political context within which the Status Commission is operating. While reference has been made to political, economic and social/cultural factors, each one should be explored specifically and in greater detail when a particular option is recommended. This will be of special importance in both negotiations with the federal government as well as in the public education campaign in support of the status recommended. What has been provided in this paper is not adequate for those purposes.

5. Contact should be established with the other Offshore Areas, particularly the unincorporated territories.

Since all of the Offshore Areas are undergoing a re-evaluation of their political status, and given the common legal relationship

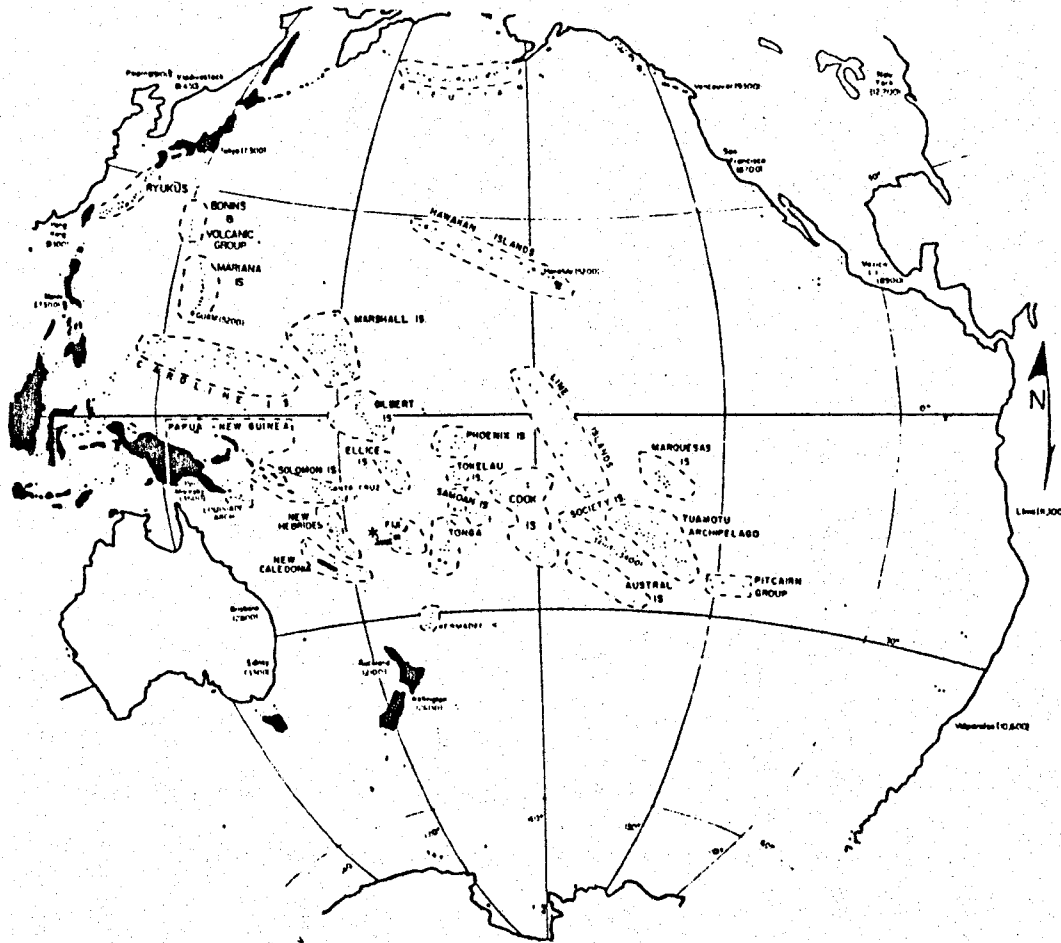
to the United States shared by the unincorporated territories, there may be broad interests that could be pursued more effectively together rather than separately. At least preliminary contacts should be made to decide whether this path is worth exploring further.

6. At this time, a Commonwealth status is politically and economically the most realistic choice for the U.S. Virgin Islands.

This recommendation, of course, is based on my own evaluation of relevant factors and may not be shared by either the Commission or the general public. It may also be premature to adopt any particular position prior to the public hearings and consultations with civic organizations. It is my present judgment, however, that no other option is feasible. The choice of Commonwealth may only be an interim one, however, meeting present needs and leaving open for the future the ultimate political status of the U.S. Virgin Islands.

ATTACHMENTS:

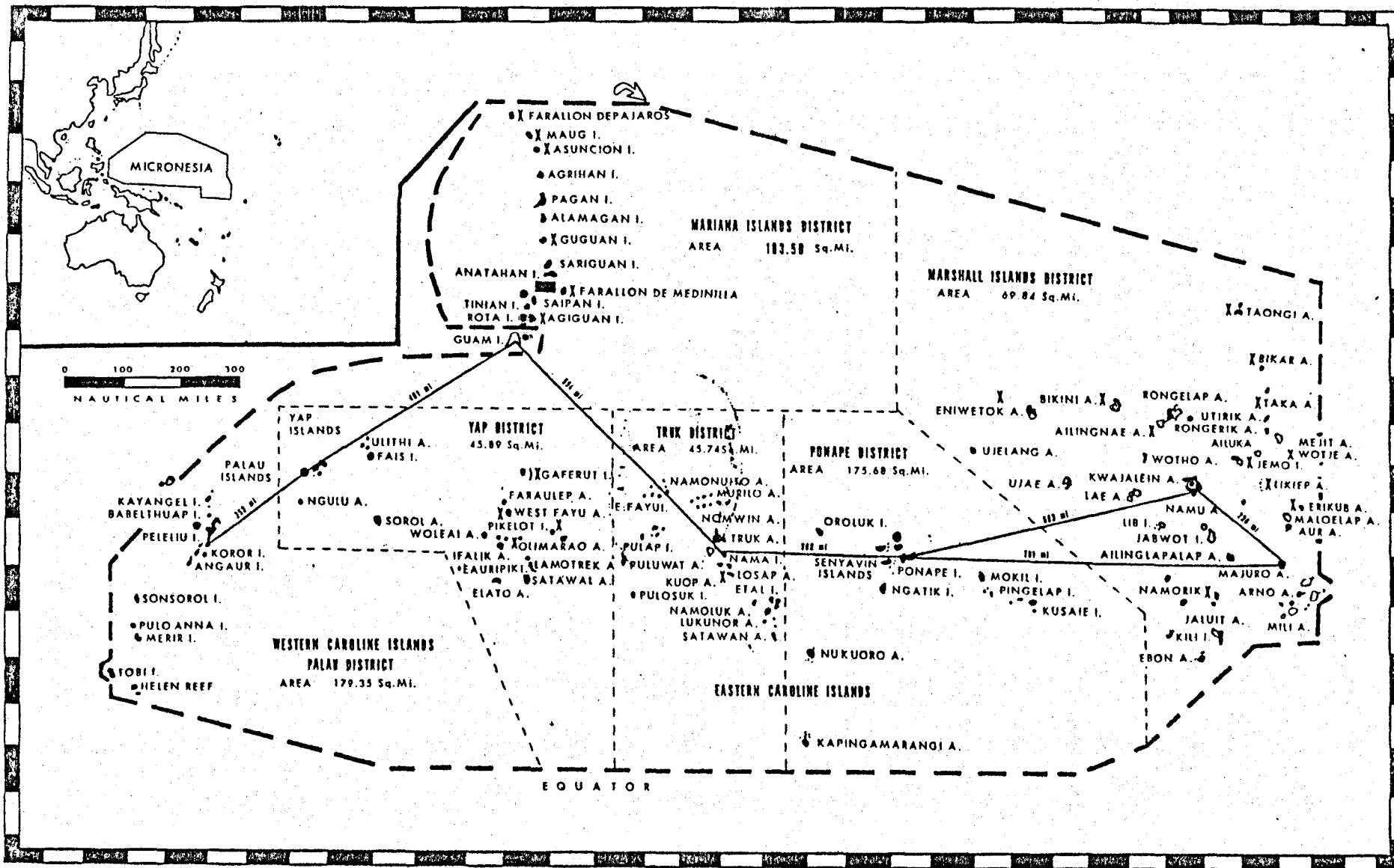
MAPS OF THE PACIFIC, MICRONESIA, GUAM AND SAMOA



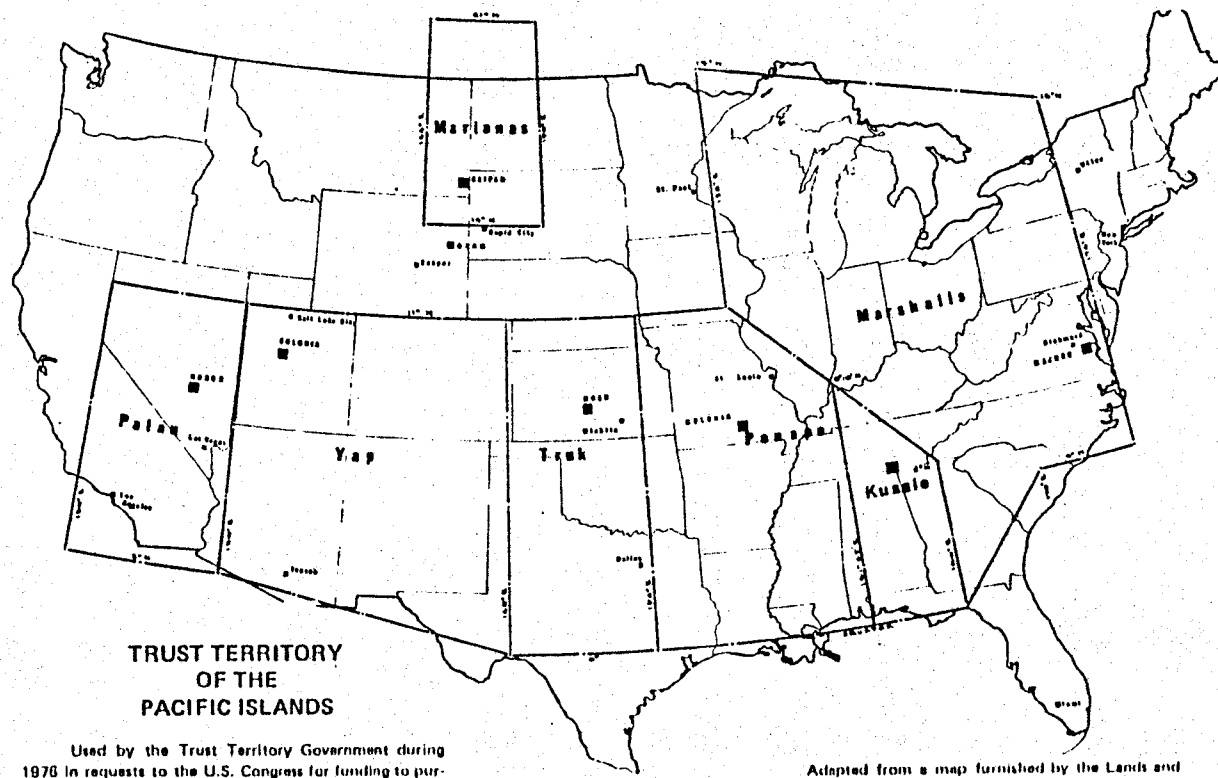
DJANE STORMONT

DISTANCES (0000) are in kilometers
from Suva, FIJI *

PROJECTION: Lambert's Zenithal Equal-Area

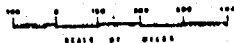


Map of Guam and Micronesia

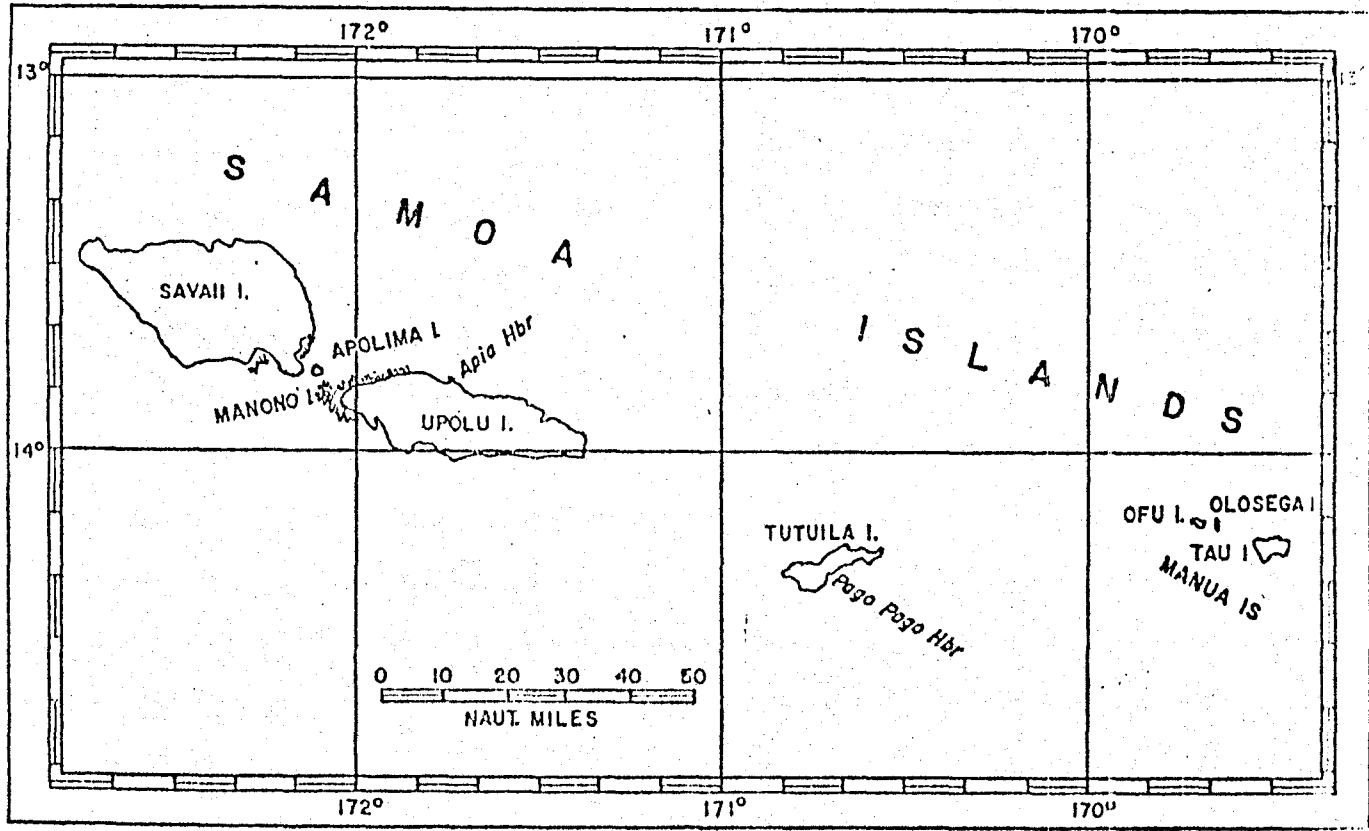


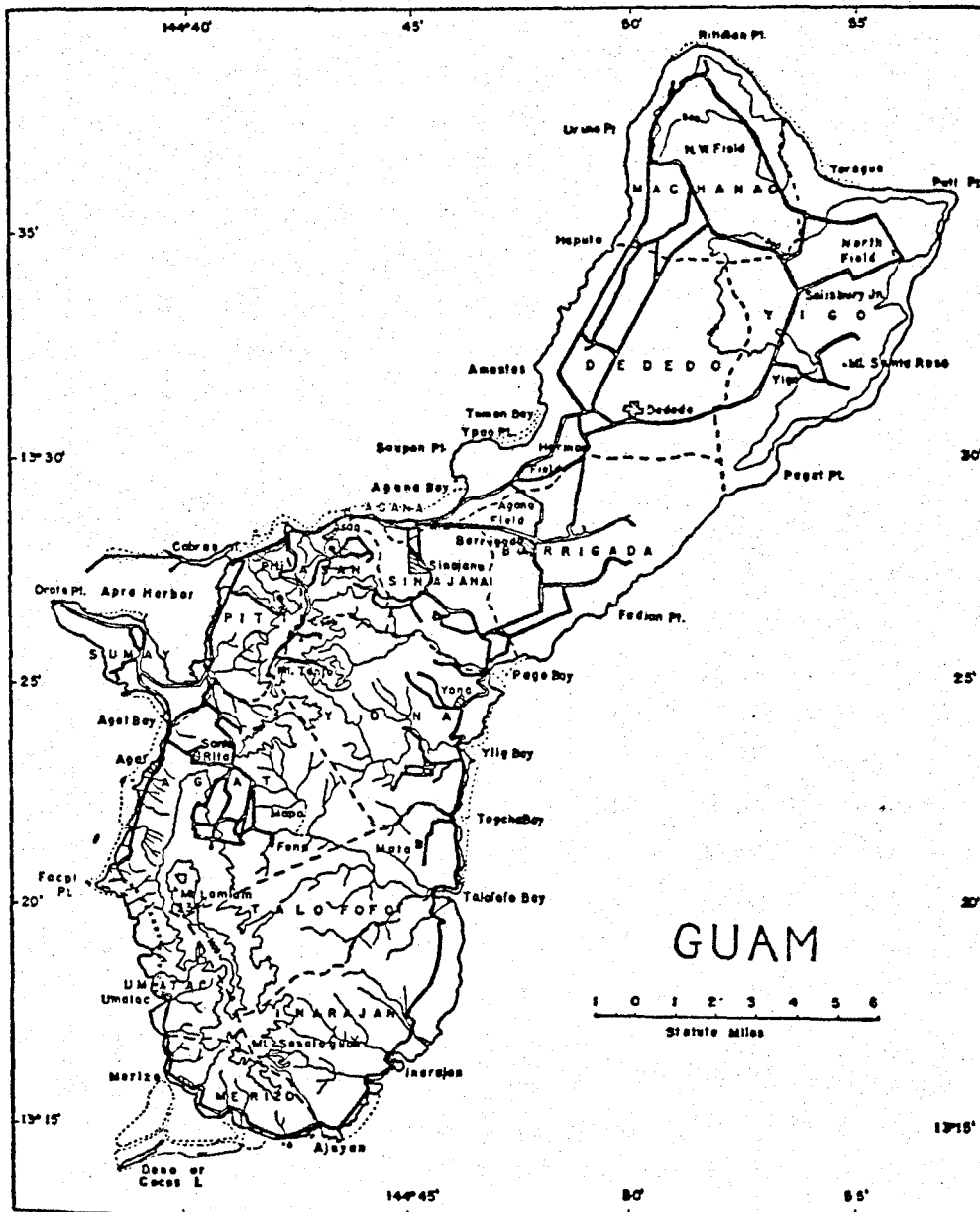
**TRUST TERRITORY
OF THE
PACIFIC ISLANDS**

Used by the Trust Territory Government during 1976 in requests to the U.S. Congress for funding to purchase new ships adequate for the immense ocean areas of Micronesia.



Adapted from a map furnished by the Lands and Survey Division, Department of Resources and Development, Trust Territory of the Pacific Islands, Saipan.





Postwar Guam, 1946