7-9-93

Ada: If we can't have full ~~out~~ representation, we don't want any representation in Congress

Our options are 3

(1) Colony

(2) Independence

(3) Partnership - ~~mut~~ mutual consent - commonwealth

Federal Task Force reneged on agreements they made ~~in report issued~~ just hours before Bush Admin. left office.

We want Clinton to appoint a special rep.

Bruce Babbitt agrees

Conference should be called "A Time for Change"

In Guam the time for examining options is over. We have had our plebescite & made our choice.

Lieberwitz - Benjamin Harrison was not an expansionist -- he was not in favor of territories & if they were acquired, they should become states (??!!)

Decolonization as a word or a style doesn't play in Washington. Discussions turns to issues of fairness & economic issues.

Rqmt for Asst Sec of Territories - totally unfamiliar w/ territories & politically correct. We should downgrade this position to figure territorial governors more power.

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2-9-93

Jose Enrique Garriga --

US will have to decide what to do with statehood petition from PR.

Disappearance of Sec 936 Tax Benefits is expected.

Commonwealth has no future.

⇒ Become part of a state that already exists.

Independence is also obsolete. ⇒ because of NAFTA?

S. 244 (89-90) – offered a cooperative independence

Independence within NAFTA, still using US$.

All status formulas are obsolete. New innovations are needed.

Coproduction, Antrivialism, Neg/set.

Carlyle Corbin

US security interests in the territories has declined.

New relationships must emerge

Decolonization is the issue.. UN should be used.

Franklin Delano Lopez (statehood)

Status of PR was a big issue before US took over - coned PR have a full seat in the Spanish parliament (during its brief period of functioning).

1959 - efforts to clarify Commonwealth status Illinois Main also in 1960s.

1964 - US-PR Status Commission

NPP - Statehood Party.

Status plebescite in 1993 - parties should work together to develop options. Carter Center should supervise. Get out of Territory Clause.

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Manual Rodriguez Orellana (Independence)

Twin bros. of ignorance & arrogance traveling in the colonial ship.

Everything US has done in Guam it has done more & better in PR.

All PR factions agree that Spanish is non-negotiable

James Beirne

Perkins, Denial of Empire

Ruth Van Cleve, Office of Ter. Affairs

Arnold Leibowitz, Defining Status

Jeff Farrow

Does decolonization play in Washington?

Its inaccurate to say US wouldn't respond if similar areas worked together to present a proposal.

Aspirations must be realistic. Responsibilities as well as benefits must be acknowledged.

Free association must be discussed more openly.

What is the minimum federal power to justify keeping US citizenship.

Clinton has supported statehood for DC.

" does not have a territorial policy per se. He's committed to working with the governor re self determination

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2-9-93

Leland Bettis

Islanders know they are not self governing.

Mansur

Should Const apply fully, in part, or not at all? If it applies in full, responsibilities must be accepted as well, including taxes.

Failautusi Avegalio

If you are self defined, you are self determined
US Const forbids titles of nobility -- matai titles conflict
Nonalienability of land. Must have Samoan blood to own
Samoan land.
The breezes of change are blowing, but is the sail torn?

Dutch & UK are extending further into their colonies? Will US follow?
London has coined new administrative relations to deal with their dependent territories.

Guadalupe & Martinique want to be FAS instead of departments of France - because they don't want full immigration from Europe. France rejected plebiscite & made Guadalupe a departement d'outre mer.

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2-10-93

Carlos Gorrin

Insular Cases are still good law & the "best law" for dealing with the territories.

They provide sufficient leeway to provide flexibility to allow for devolution of the territories.

Quotes & relies on Harlan's dissent in Downes & Bidwell

Stan Laughlin

Justice White's concurring opinion in Insular Cases became the law of the case → as formalized in Balzac (1920)

King v. Morton

Should be a presumption that US Const applies in territories unless it can be shown that such application is impracticable & anomalous

Wabol - synthesis of Reid & Insular Cases — if Const provision would be destructive of culture or wouldn't work then it doesn't apply

Hurst Hannum

1953 - PR deleted from list of nonself governing territories

1990 - TTPI dissolved by UN

Is "commonwealth" an acceptable outcome of self determination struggle

Refers to Declaration of Friendly Principles

Can't to self determination be exercised more than once?

→ Yes. No continuing unilateral right to secede. Neither permitted nor prohibited under international law

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2-10-93

Hurst Hannum

Independence is not desired in the territories.
Does art 1 self determination give them the right to forge a desirable relationship?
They have the right to be independent, but not necessarily to dictate terms to the territories.
Art. 73 does impose ~~duty~~ certain obligations -
- must negotiate in good faith
- Give advancement of territories priority
- Grant real self government to them.

3 principles that should govern
1) Rt to self-determination exists
2) US is bound to put portion of territories first & to promote their advancement.
3) Flexible arrangements should be entered into to address particular needs of each territory; US domestic law should not interfere with such arrangements.

Timothy S. Elliott Dept of Interior

Guam - agreements to disagree - all exec branch spent a lot of time addressing Guamanian concerns.
USVI - Referendum will be held later this year.
Water Island - 40 yr lease - owned by US - in St. Thomas harbor.

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2-10-93

Jesus Borja - CNMI Sup Ct

Verne Hodge USVI - discussed Tuaua case v. US + Scalia's role.

Michael Cruze - Am Samoa High Ct.

The reef fish that ventures into deep water is likely to be eaten by the deep fish.

Our people have repeatedly rejected change. If it ain't broke don't fix it

Certain aspects of Fa'a Samoa are eroding - can we continue to claim exemption from US Const/Statutes.

Alberto C. Lamorena

Controversial provisions of GCA -

Special rights for Chamorro People -- & special vote to them..

Fed Task Force rejects it -- racial discrimination strict scrutiny.

" " " also rejects Chamorro Land Trust.

Erroneous const'l analysis.

Q is whether this Const provision should apply to ~~the~~ Guam.

Wabol does not require 14th A to apply to Territories.

"Impractical/anomalous" test

Treaty of Paris requires US to provide special protection for native people of Guam.

Courts have deferred to Congress on these matters.

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2-10-93

Juan Torruella, 1st Cir.

Insular Cases - Cro Magnum decisions - must be overturned legally & politically.

Only one justice different from Plessy v. Ferguson

Dred Scott applied Const. in total to the territories then involved (also an earlier case).

The theory of unincorporated territories was a figment of the imagination of Harv Law articles written just before these decisions.

Also racist.

I guess you can tell I'm not very much in favor of the Insular Cases.

Torruella - self-D decision must be made by people who are "free & knowledgeable". In fact, PR decisions on status have been tainted by prosecution of Independentistas.

Lamberena - Wabol case gives new/good gloss on Insular Cases.

Agrees that there is only one shot at self-D.

Although we used to hate Insular Cases, we should now appreciate the opportunity it provides.

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2-10-93

Is Territory Clause constrained by UN Charter?
Timingel case (Dist Ct) used Dec of HR for decision.
Juan Garcia Passalaqua Miami Herald
Insular cases is the most racist case still in our books

Interpret them to be consistent
Cong showed adhere to UN Charter.

7 choices from 3 major grouping

Sept 7 - Referendum in VI -
Commonwealth is an option -
Territorial Clause has been removed.
Can it work? Is VI unique - with immigration coming every minute
Can VI protect "native people" as of 1917.

Terroulla - apply const
Lamorena - don't/we need to protect Chamorros
Ref to Fed Task Force
There is a solution? → Morton v. Mancari (197
< Wabol too >
rational basis
BJCruz
impractical/anomalous

→ Can you self determine yourself out of the rt to self ~~interpre~~ determination.

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2-10-93

Al Stayman

S. 712 - Enhanced commonwealth

Is citizenship incompatible with FAS?
Equal footing barrier to statehood?

Don Farrow - Marianas

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2-11-93

Juan Fernandez

Roger Clark -- Free association

Free Association is passé.

Disagrees w/ Hurst Hannum.

Reso 742 of GA.

Reso 748 - 26-16-18 - vote to take PR off list of nonself governing states.

Reso 1541

FAS - Irreducible minimum - unilateral rt to sever relationship on both states.

Cooks have never joined UN. But is a member of many regional & int'l orgs - no diplomatic relations w/ other countries. Cook Islanders & Niue - remain NZ citizens

Otis difficult for FSM & RMI to opt out - so they're not FAS?

But UN thought otherwise.

RMI has dip. relations w/ 30 nations & is a member of UN.

The often vote against us at UN.

But they have refrained from joining SPNFZ because of FAS w/ US.

Passé -- No one is negotiating FAS status now.

Mini states now become members of UN

Liechtenstein - 1990

San Marino - 1992.

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2-11-93

Roger Clark

Disagrees w/ Hannum that people can agree on any relationships whatsoever.

Unacceptable to agree to become slaves; or a bantustan.

I believe CNMI falls on the wrong side of the line

UN wouldn't hear CNMI Governor

Also disagrees that there is only one shot at self determination.

Nothing supports that proposition. PR / Cooks / Newfoundland.

Lots of examples of changes.

Belinda Aquino

Philippine independence was with strings -- McArthur imposed Marcos corrupt leaders on them. Military bases. Economic ties.

Clark AFB was larger than Wash DC

Work for a genuine ~~to~~ independence w/o strings

Norm Meller

Hawaiian CG?

Significant economic impact of statehood

How legis team could protect Hawaii's interests.

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2-11-93

Howard Hills

US has never exercised its defense veto re FSM/RMI [but might do so re SPNF2]

Why is it so hard for US to accept change initiative from territories?

TTPI was not covered by Territory Clause. Ct Claims agreed.

Nothing unconstitutional about US + insular areas operating on a plane of mutuality

Vince Diaz - U of Guam.

Howard Willens

What criteria to determine status relations other than 3 in Reso 1541.

What is freely entered into?

Reso 2625?

Roger Clark -- NMI politicians knew, but later regretted their decision.

→ Must be from a position of equality.

CNMI is not FAS because no opt out provision.

Solution: let them vote for President.

Killing FAS is like killing Superman -- we all know he's coming back.

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2-11-93

R. Loghia - PNG / Head of Special Committee Decolonization Committee

A world free of colonialism
We do not accept that the era of colonialism is over.
Seminar at PNG in 1993.
Gov Guam volunteered, but US would also have to agree (& it doesn't!)

Does not agree that there is an intl colonialism imposed by us.

Deplores military bases in nonself governing territories.

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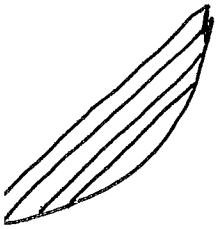
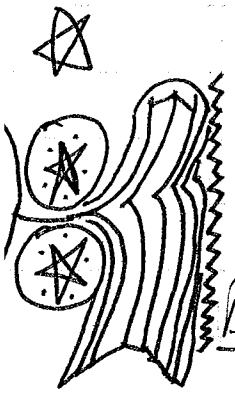


VI Commonwealth
Local agreement
Authority
200 mile zone
VI - 45% - native (born in VI)



Barry Israel
Mutual consent - application of territorial clause would continue

Rosenblatt
What is negotiated autonomy
Not statehood, ~~Commonwealth~~ independence or free association
Mutually agreed quantum of self govt.

Negotiated commonwealth is really more like free association

Tuana'itau - US should treat each insular area separately.
1969 Am Samoa status commission visited V.I & P.R

3:52 - 4:10 Santos
1994 mtg on Guam when weather is as warm as the participants
Every Japanese-Am interned in WW2 received $20,000; but Guamanians who suffered at the hands of Japanese in WW2 received nothing.

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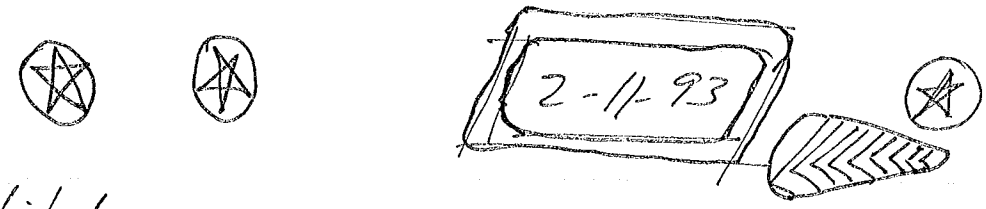
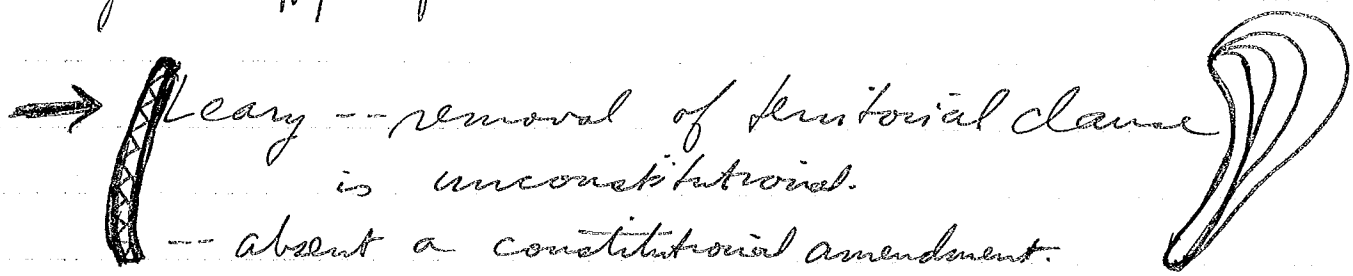


4:11 Senator McClintock

PR should be sensitive to other territories.
Father is from Texas

John Duffy - Sp Asst to Babbitt



leary -- removal of territorial clause is unconstitutional.
-- absent a constitutional amendment.

Would it be uncons to establish a FAS w/ citizenship?

Annexation into a state?

How to phrase the amendment to exclude PR?
Amendment -- could solve constitutional problem w/o solving colonial problems.

Pat Chapman, Micronesian Institute
Federal govt can be inflexible

USVI named a colony by UN in 12/91 or 12/92?

Can one Congress bind another?

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Feb 10, 1993 —

BT Cruz voided opinion upholding Gram Chamorro Trust Land Act incorporating the Points & Authorities in the brief of T.

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4-13-93

Transcript - will be prepared of the Feb mtg
- papers & VHS will be available

[2 my papers]

PR - $15,000 from Univ.
50 " leg.
75 U VI
75 U Guam
(~ 200-225,000 Budget.)

PR - Fall vote on ind/statehood/comm
VI - Sept vote on pol. status
Guam - Comm bill has been reintroduced in Cong.

Staymen is Dep Asst Sec
Asst Sec hasn't been approved yet.

Paul goes DC in May.

Next Conf - June

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Panels ☆

4-13-93

☆ FAS

Topics — Other types of arrangements
Kingdom of Neth agreement
British
French

French entities are being encouraged to participate in intl orgs.; US are not.

Get Fed govt more involved in a dialogue!

Reorg of OTIA will go thru (by exec order?)
Inter-agency group chaired by State but bringing together all Fed agencies.

☆ Practical economic issues - role of NAFTA/JCC

Do the territories want to be inside or outside NAFTA?
They don't know. They think they want to be outside.
Interior argues territories don't need to worry about NAFTA.

① ☆ Political status developments

Pres will appoint a sp rep for Guam & CNMI stationed in OTIA.

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4-13-93

June 1994? in DC

Peter Leon Guerrero is gone → into private sector.

Middle of 3 day mtg → small working groups; use rapporteur system

☆ Palau → it may be FAS by then? → not a complete panel. add them to FAS panel.

☆ Relationship between indigenous rts & status.

British called Antigua, St. Kitts as FAS (but UN never accepted); now they are independent.

Who? We make suggestions!

☆ Valid int'l principles on self determination.
- Once you make a decision, are you stuck?!

VI - Status Comm. is moving toward Free Association.

Indigenous Rts
Who are the indigenous people
Who are the persons who can vote in a self determination exercise?
What are the implications for the non-indigenous people.

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John Dorrance, The US & the Pacific Islands

CSIS, Prague

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4-14-93

Antoine Frasseto
Charles Louis Le Guern

Martinique & Guadeloupe are provinces of France.

Cook Islanders have NZ citizenship

Regional Fund for the Pacific
Min of Foreign Affairs
Min of Overseas Territories.

Baton Kamoudetty
Draliers

2 weeks ago - US/Fr mtg in DC on SPREP - US position remained rigid - only US could represent US. entities.

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5-19-93

G. Boughton, Ed King, Terry Norm.

May 23, 1994 date ? week of

75,000 VI
75,000 Guam
65,000 PR

Nov 1993 - PR Plebescite
Sept 1993 - 1st of 4-6 VI plebescites.

Brenda Foster
Palani Vaughn
Lee Efavaia
} George met with them next morning.

suggested seeing Don Malcolm.

Panel on alternate forms of representation

Status Update
alternate Forms of Assoc
Sovereignty - Scholarly panel
Somethings on economics - transportation ? Shipping ??
trade, telecommunications ???

Smaller interactive sessions
Jurisdictions Rts
Land Issues.
Self. Determination ?

publication

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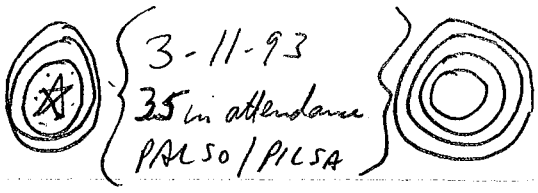

Poster
Article

12:50 - Kiste

12:58 Lidy Aquino

Strong statehood movement in Philippines well into the 1960s.
Philippines paid a high price for its independence.
Corrupt political leadership appointed by MacArthur.
Mil bases
Econ links
An independence w/ strings.
In WW2, Manila suffered more damage than any other place except Warsaw -- mostly from US bombs.
What good is political democracy if there is no economic infrastructure for it.

1:17

1:31 Norm Meller - CRB used to be part of UH
Hawaii's delegate in territory times had no vote in committees!
UN voted unanimously w/ 17 abstentions to remove Hawaii from list of nonself governing territories after statehood.

"Incorporation" - when was Hawaii incorporated -
Norm says Hawaii & Alaska were deemed to be incorporated -- as of teens 1910s! - & distinguished from the other territories - brought in VI (1917) no intention to give it incorporation status.
Also Hawaii & Alaska never reported to US State Dept

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Thursday talk

Start with → Dec. of Friendly Principles (Hunt)

Can want exercise of self-D more than once?

Is commonwealth an acceptable outcome?

Missing → Participation in US Cong/Pres

Control over resources

Can you self-determine yourself into slavery?

Must it be consent to a "non-colonial status"?

Indep

FAS

Integration

CNMI Cov [previous position]

Guam Draft Cov

PR Senate docs

Compare to FAS.

Are citizenship & FAS incompatible? → No Cooks/Niue/NZ

What is the essence of citizenship?

Immigration

$

Stamps / Zip codes

Bush Admin

Nothing between State + Territory

FLAG

Guam - No mention of Morton v. Mancari or Wabol v. Villacrusis

Howard Hills -

A mutual partnership is possible.

Nothing unconst about operating on a plane of equality.

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