

TRUST TERRITORY OF THE PACIFIC ISLANDS

Office of the High Commissioner, Saipan

TO : See Distribution Below

DATE: June 4, 1971

FROM : Deputy High Commissioner

SUBJECT: Briefing Materials for Ambassador Haydn Williams

As you may know, Ambassador Haydn Williams, Personal Representative of the President in the negotiations on the future political status of the Trust Territory, is expected to visit the Territory for approximately a month for an orientation or briefing tour. He will be visiting all six districts. The exact date of his arrival remains uncertain, but it will probably be toward the end of this month.

In connection with that visit, John Dorrance, the State Political Advisor, is preparing a briefing book for the Ambassador's personal use. We will require your assistance in its preparation. Attached is a list of materials required from each of the addressees. The requested memoranda should be directed to myself, with a copy to John Dorrance. Particular care should be taken in their preparation, as it is planned to place the memoranda, as is, in the briefing book. The absolute deadline for their receipt by my office is June 14.

Where separate memoranda are requested on a district-by-district basis, these may be attachments to a single covering memo, but coverage of each district should start on a new page of each memo. (Those separate district presentations will go in separate district sections of the briefing book. Accordingly, the heading of each should be self-explanatory; e.g. "Truk District - Land Programs, Policies, and Problems.")

To save time, there is no objection to utilizing the materials originally prepared for the FY 1973 Program Memorandum, with the following reservations. As necessary, such materials should be updated, and reorganized to meet the specific requirements outlined in this memorandum. Further, every effort should be made to highlight local problem areas with particular emphasis on district political and traditional leadership attitudes to the programs and problems in question. In short, no punches should be pulled.

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I realize the time element is short and regret having to burden you with this additional chore. However, I believe we all recognize the importance of Ambassador Williams' visit. Consequently, he should have our full and energetic cooperation.

If you have any questions about the substance or format of the requested submissions, please contact John Dorrance, telephone 2103.

/s/ Peter T. Coleman

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BACKGROUND PAPERS
Page 64

02353

INFORMATION REQUIRED FOR AMBASSADOR WILLIAMS' BRIEFING BOOK

FROM

Chief, Lands and Surveys Division

A. Brief memorandum outlining policy, programs, and problems with respect to public lands, land commissions, Land Cadaster Program, and any other appropriate facet of lands on TTPI-wide basis.

B. Brief memoranda on district-by-district basis outlining land problems peculiar to each district. Particular emphasis should be given to local attitudes and grievances.

COPY

BACKGROUND PAPERS
Page 65

02354

June 1971

LAND PROBLEMS AND LAND ISSUES COMMON TO ALL DISTRICTS

1. The impact of the foreign administrations of four powers (three European, one Asiatic) over a period of only 85 years has resulted in great confusion in the validity and applicability of the remaining available official land records and the type of land tenure system applicable to each district and to areas within a district.
2. The virtual complete loss of official land records, property maps and property boundary markers during the Pacific War (1944 and 1945) and also in subsequent years, which have created insurmountable and costly title and boundary restoration problems in every district.
3. The power of eminent domain, though rarely invoked by the Trust Territory Government is both a political and emotional issue and is fiercely contested by most Micronesian leaders. They dispute the Trust Territory Government's claim to be sovereign and insist that sovereignty rests only with the Micronesian people. Unfortunately most eminent domain proceedings in the last 10 years have been for the acquisition of land or interests in land for military purposes.
4. Title to marine areas below high water mark in both sea and tidal areas are legally vested in the Trust Territory Government. However, Micronesians in most districts (except the Marianas) claim that Micronesians have proprietary and exclusive use rights to reef and lagoon areas. Such rights may be an extension of title or rights to land adjoining (above) high water mark. On a number of occasions the Congress of Micronesia has introduced and passed legislation to this effect, which has been subsequently vetoed.
5. There is a general hostility and suspicion on the part of most Micronesians to Government involvement in any aspect of land administration, whether it be associated with public lands or private lands. These adverse attitudes have been strengthened by Administration indecision with regard to the future of the public lands, the difficulties associated with the acquisition of title and interests in private land for the capital improvement program and a refusal to recognize the Administration's right and title to most of the public lands acquired by the Alien Property Custodian from Japanese interests. One of the major land issues in the Trust Territory today is the future status of the vacant public lands. Efforts to homestead public lands have created far more problems than were solved.

6. As no Micronesians are currently undergoing professional training and as there are no Micronesians in universities undertaking degree courses oriented specifically to land and survey office employees, no relief in the executive level personnel situation can be foreseen. Except for surveying and drafting, courses at the technician level are generally unavailable in overseas countries. Some in-service training courses are in operation.
7. There has been no overall standards governing land office procedures and practices until the last few years. Establishment of new procedures reflecting the views of both the Attorney General's office and personnel in Lands and Surveys has been extremely time consuming. This has led to considerable confusion especially in technical matters and records keeping operations.
8. Laxity in basic district land administration, namely, the enforcing of mandatory development conditions on agricultural and residential homesteads and administration of leases of public land - including collection of rentals.
9. The past, and in some instances the continuing, inability of the U.S. Military to decide specific land requirements for their future foreseeable use and their apparent reluctance to release the balance of unoccupied and unused military retention lands. In some instances the U.S. military has refused to permit use and occupancy (sub-leasehold) of some areas of unused military lands by Micronesians and even the Trust Territory Government. The U.S. Military has not given adequate public explanations of the role and need for these lands.
10. Section 51 of Title 4 of the Code of the Trust Territory provides for municipal governments to levy taxes on real property. To date no land taxes have been imposed by any municipalities because of a number of political, economic and administrative factors.
11. For years the lack of master plans for planned land use and physical facilities of the district centers and their environs held up expansion of programs for the homesteading of public lands, leasing of public lands and general development of the areas. Micronesians were told to expect great things after master plans were developed for each district center and although these master plans were accepted in December 1968 they are today hardly recognized at all levels of government as an authoritative land use plan because of deviations from the plan by the Government, apparent disinterest in holding to the plans by

Territorial and District Administration personnel, and lack of district planning legislation.

12. Prior to the establishment of the Congress of Micronesia in July 1965, only a limited number of laws and regulations pertaining to land was in the Code of the Trust Territory. Since 1965, it has been extremely difficult for the Government to secure the passage of any Administration legislative proposals on land matters.

This Administration has been unable to secure the passage of even minor items of land legislation in recent years.

13. Complaints in some districts that certain Micronesian supervisors and land management officers engage in nepotism and political favoritism in the recruitment and promotion of subordinate staff and in the allocation of public land offices are composed of either close relatives of the supervisor or members of his political party. As a consequence the image of the district land office in the eyes of the general public as an instrument of impartial administrative action is severely damaged.

14. The Trust Territory is a collection of many diverse groups of people, mostly with strong prejudices against other Micronesians. Consequently, any effort to relocate people from areas where land is in surplus (Ponape, Kusaie, Saipan, Tinian, Rota, Babelthuap) will almost certainly founder on reluctance of the ones to be moved because they would automatically go to the lower levels of the political and social ladder. Furthermore, a low islander's pattern of wresting a living from the sea and a few economic plants on the land makes him a poor candidate for success on a parcel of land beyond walking distance to the sea. He is a gatherer and not a farmer.

The only Micronesians who have a history of successful resettlement are (a) the Chamorros of Tinian and Saipan, (b) the present Carolinians of Saipan descended from migrants from various islands, especially from the western islands of Truk and eastern islands of Yap, and (c) substantial groups of Trukese, Pingelapese and Mokilese who were shifted to Ponape by the German Administration.

15. There has been no inventory of Land Use Capability for the land areas of Micronesia. As a result Land Use Planning accomplished to date is based to a degree on assumption, engineering construction feasibility or other unilateral considerations.
16. There has been no inventory of the resources of the land areas of Micronesia upon which to base sound Resource Management Programs.
17. There is a lack of unification of land use or Land Resource Management Planning within the Governmental structure.

June 1971

MARIANA ISLANDS DISTRICT

1. Destruction of the official land records and boundary monuments of the Japanese Saipan Branch Government during the U.S. Invasion of Saipan and Tinian in 1944 and the inability of the U.S. Administration to reconstruct or secure duplicate copies of the official land records is the number one cause for land disputes.
2. Since 1944 there have been changes of the U.S. agencies administering the Mariana Islands District and a constant turnover of U.S. personnel assigned to land offices. This has resulted in poor land office practices, lack of continuity in record keeping, plus outright neglect or destruction of vital records.
3. "Poor land management practices constituted the major administrative problems in the Marianas District in 1951" (Source W.H. McConnell Report) and 20 years later it still is so. Land problems have compounded land problems.
4. Failure of the Trust Territory Government to reconstruct all land ownership records between 1944 and 1970 while the bulk of the older people with land knowledge were still alive has created great problems out of small ones.
5. Apparent neglect and lack of interest in staffing the Saipan and Rota Land Offices with trained, experienced, competent and dedicated U.S. and Micronesian personnel has resulted in considerable public dissatisfaction. The general public is generally uninformed as to the activities and programs of the land offices.
6. There is no active planning commission established for the Marianas, no planning legislation and the printed master plan is virtually forgotten. (legislation failed to pass Congress of Micronesia)
7. No property taxes have been levied for unimproved lands thereby allowing large numbers of agricultural tracts and urban lots to remain non productive. Large areas of vacant lands on Saipan are being acquired or held for speculative purposes. Municipal Governments have the power to levy a variety of property, land use and building taxes. Many agricultural homesteaders received certificates of compliance and promptly let the land go back to jungle.

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8. The privately owned agricultural lands on Saipan were not surveyed even though boundary markers had been lost during the war. People received parcels of public land in exchange for privately held land included in military retention areas and for land damaged during the war or rendered useless for agricultural purposes by U.S. Military construction. The exchange parcels and agricultural homesteads were given to people without knowing whether the land encroached on private pre-war land. Surveying is now being accomplished on the pre-war parcels and serious encroachment problems are being uncovered.
9. The land exchange program on Saipan of the 1950's has come under severe attack from many quarters. The problem originated as a result of the occupation of the entire island of Saipan in 1944 by U.S. Armed Forces. Saipan was seized and used as a B-29 base to bomb Japan. No time was given to determination of ownership of the land until after the U.S. had determined how much of the island would be retained for military purposes. By 1950 the basic decisions had been made with respect to the extent of military retention areas and it was found that over 100 parcels of private land were in areas required by the U.S. Armed Forces. Also, a second category of land parcels were found to be so severely damaged the owners wanted to exchange them for undamaged land. A third category of land parcels were involved in exchanges. The pre-war town of Garapan was totally destroyed and the land parcel boundaries were obliterated beyond reconstruction. Former Garapan owners were offered village lots in the new village of Garapan or other villages on the island in exchange.

In all three cases cited above, landowners were offered other land in exchange for their pre-war land. People who held land which was retained in the military retention areas were offered the choice of other land in exchange which would be of equal value to the land they owned. If they had refused to exchange, the land would have been taken by condemnation. No one insisted on payment in cash. Later some refused to complete the exchanges and these cases are still problems today. In the case of damaged land, many of those who did accept an exchange now want substantial modifications in the exchange. Some want their pre-war land returned. Some want damages. However, the exchange agreements contained a standard waiver of all claims for past use or damage. A few cases have come to light where owners claim they were not notified of the opportunity to take cash or other land. "I was forced to exchange my land." "I did not understand what was in the exchange agreement." "The exchange agreement was made by a land trustee and I didn't know anything about it." These and many more complaints are rampant today and are becoming more violent.

3.

Note the constant complaints of the Marianas District Legislature and protests voiced by political leaders and Attorney William B. Nabors, Legislative Counsel for the Marianas District Legislature.

Perhaps the principal reason there are still so many of these nagging problems with us today is that the Saipan District Land Title Officer, a U.S. Attorney, was replaced in 1962 by a local person who possessed a wealth of detailed knowledge of land matters but little administrative ability and no inclination to tackle the matter of making determinations of ownership which would clear up most (not all) of the land problems arising from the exchange program. He died three years ago but a final replacement has not been made. During the nine years since the Department of the Interior took over administration of the Marianas north of Rota, not one Determination of Ownership has been made by the Marianas District Land Title Officer. If he had handled no more than one case per month during the last nine years, most (not all) of the serious land exchange problems would have been determined.

A great deal can be done toward solution of Marianas land problems by the recruitment of a Land Title Officer for the district. This needs to be a person with ability and free of local impediments. The Land Commission Act should be amended to permit the District Land Commission to handle land disputes the District Administrator finds most urgent and beyond the jurisdiction of the District Land Title Officer.

Pending post secure war claims legislation now in the U.S. Congress includes provisions to permit residents of the Trust Territory to claim damages for the taking or use of land by the Military Government and the Trust Territory Government where no compensation was made or where the compensation received for land or damage to land is considered inadequate. This legislation has passed the House and the Senate in slightly different form. It appears the two houses will be able to reconcile the few differences that exist and pass a war and post secure claims act during the current session of the Congress. This legislation, if enacted into law, will provide means to solve many of the outstanding problems involving land exchanges on Saipan.

June 1971

LAND ISSUES AND LAND PROBLEMS - PALAU DISTRICT

1. Land is the major political and social issue in the Palau District and most aspects of Administration activity and the success of particular programs in Palau are influenced by prevailing attitudes to land by Palauans.
2. Palauans from certain municipalities (mainly from southern and western Palau) contend that the Trust Territory Government has no right or title to most of the former Japanese owned public lands and such other lands now considered to be public lands that were expropriated by the TT Alien Property Custodian from Japanese corporations, associations and individuals.
3. Much of the 'so called' public lands on Babelthuap Island (the largest island in Micronesia) has been idle since 1946 - the date when the Japanese settlers were forced to return to Japan. For the most part, the Administration has not actively used these lands and agricultural homesteading of small areas of these lands to Palauans has not been successful because of insufficient technical assistance, lack of development loans, and lack of incentive on the part of some Palauan homesteaders. There are a number of agricultural homesteads on Babelthuap which have been the subject of homestead permits for many years but deeds have not been issued nor have the permits been revoked. The agricultural program in the Palau District is in a state of limbo.
4. The Trust Territory Government desires to dispose of the excess public lands (public land not required for public facilities or else reserved) in Koror Town to qualified Palauans using the village lot (residential) homesteading program. However, its efforts to date have been thwarted as the Palau District Legislature and others oppose the homesteading of these lands. In fact, the Legislature and certain Koror traditional leaders dispute the Administration's right and title to most, if not all, of the public lands in Koror Municipality. Koror Town, being the urban center, has the most explosive land issues on the Palau District especially because of the influx of outer island Palauans with no social links to the land owning clans on Koror.
5. A considerable number of boundary markers (concrete monuments) set by Japanese surveyors are still in their original locations but the Administration since 1945 has only conducted a very few retracement surveys outside the district center. As a consequence, the time has long past when Administration surveyors can use most of these boundary markers to reestablish the Administration's public land boundaries - local attitudes will probably now prevail against the carrying out of such surveys even if they are made with the stated intention of identifying excess public lands prior to disposal.

June 1971

LAND PROBLEMS AND LAND ISSUES - YAP DISTRICT

1. Four foreign administrations have had very little effect on the complex Yapese land tenure system and in view of the historical circumstances, this had been most fortunate as it has tended to preserve the culture, traditions and stability of Yapese way of life. The establishment of a Land Commission on Yap and subsequent attempts at registration of these complex interests in land may be found to be not feasible or in the best interests of the Yapese at this stage or in the foreseeable future.

2. Prior to, and during, the Pacific War, the urban center of Yap (Colonia) had a large resident "foreign" Micronesian population who were employed as artisans, technicians and clerical workers in the Japanese Administration and in industry. The foreign Micronesians, mainly Chamorro from the Marianas, acquired title and interests in Yapese land which today are not acknowledged by the former Yapese land owners. They claim the Chamorro have emigrated from Yap and their former occupation and use of such lands was a use right only and not title regardless of available documentary evidence to the contrary. These Chamorro claims to title and interests in land in Yap especially to areas around the district center will be refiled when the Land Commission initiates hearings in the district center. Such claims will be bitterly contested by the Yapese.

FINAL DRAFT

June 1971

5. LAND PROBLEMS AND LAND ISSUE - TRUK DISTRICT

1. Indefinite use rights agreements for private land on Moen, needed by the Administration for the placement of public facilities, which were negotiated by the U. S. Naval Administration in the 1950's are the subject of protracted questioning today. Congressmen from Truk have made a major issue out of the need for renegotiation of these agreements but the Administration has refused renegotiation. As long as the U. S. Congress is the source of funds required for further payments, this protest will become louder.
2. There is a number of unheard land claims which were filed by Trukese many years ago. No action has been taken by district land title officer to hear and settle all outstanding claims and the reasons are not known at this headquarters.
3. The volume and magnitude of work relating to the acquisition of rights and title to land required for the expanding capital improvement program is beyond the technical capability of the Truk Land Management at this time and no relief of situation has been administratively accomplished.
4. There is a serious shortage of professional and technical expertise among the staff of Truk land management program and as a consequence the program has suffered considerably. While some members of the staff have received technical training in Hawaii and Guam, this training has been mainly in the surveying and mapping fields.

BACKGROUND PAPERS

Page 75

02364

June 1971

6. LAND PROBLEMS AND LAND ISSUES - PONAPE DISTRICT

1. On Ponape Island after World War 2, the U. S. Naval Administration placed large numbers of people as tenants on the land vacated by the Japanese settlers without adequate documentation or a plan as to the future disposition of these lands. Most of the tracts so occupied were well in excess of the maximum 3 hectare limit imposed on homesteads by the Ponape District Land Advisory Board. For 20 years title to the tracts could not be transferred to the homesteaders because of lack of survey, adherence to the 3 hectare limit, and non-issuance of homestead permits by the district administration. This situation has been partially rectified and deeds are now being issued to homesteaders. The first such deed issued in recent years was in early 1971.
2. The Ponape land management program, while it is considered to be the most vigorous in the Trust Territory, has confined its activities to Ponape Island only. Kusaie Island, which has the largest population (over 4000) of a single island outside any district center in the Trust Territory, has been neglected except for certain surveying work connected mainly with the capital improvement program.
3. Claims for land have been filed on Kusaie, but as yet no decisions have been handed down by the hearing officer even though some claims were heard in the early 1960's. There is confusion as to what is public land and what is private land.
4. More property damage claims emanate from the Ponape District than from any other district. These are as a result of administration activity on private lands connected with the capital improvement program. Some claims, more than 7 years old, have still yet to be adjudicated and paid. There is also a tardiness on the part of certain property owners to file claims in a timely manner but who, nevertheless, expect payment at a later date.
5. There is a strong reluctance on the part of Ponape Islanders to allow outer islanders to settle on Ponape Island and acquire title and interests in public lands by means of the homesteading and leasing program. This is true in all districts.

June 1971

7. LAND PROBLEMS AND LAND ISSUED - MARSHALL ISLANDS DISTRICT

1. The Marshallese system of land tenure provides social, economic and psychological support to all members of Marshallese society. It forms the basis of the system of social stratification of the society. The power of the Iroij (high chiefs.) is dependent on the type and extent of interests they hold in land. The proposed Land Commission program to register interests in land is being strongly resisted by the power structure.
2. The volume and magnitude of land acquisitions for the capital improvement program, the lack of lead time and the difficulty in negotiating with Marshallese to sell or lease their land to the Government for the construction of public facilities, absorb all of the time of the lone U.S. land management officer. He has no qualified and experienced realty staff support either U.S. or Micronesian. (Prior to the appointment of a U.S. land management officer in 1969 the Marshalls Land Management Office was without a professionally qualified program manager for 7 years with the consequent deterioration of the entire program which has not yet been remedied.)
3. Because of the lack of staffing and sea transportation, land management activities have been confined to the district center islands (Majuro Atoll) with little or no attention being given to the outer atolls. This is not as serious as it appears. Most of the problems result from activities in the district center and at the Kwajalein Missile site.
4. There is lack of understanding and appreciation by the Marshalls District Legislature of the current need to have a professional land officer manage the Marshalls land program at least for the foreseeable future. The Legislature wishes to have the present U.S. position abolished and replaced by a Marshallese who neither has the experience, ability or capacity to undertake the work.
5. Lump sum payments by the Administration of large lease rentals in advance to land agents, said to be representing all persons holdings interests in the land, has caused serious friction in the land owning group after distribution is made. Often disagreement with shares so paid is the subject of protracted litigation. This method of payment is unsatisfactory but as the agents for the land owners demand this form of payment, the Administration has no alternative.

FINAL DRAFT

(Marshalls con't)

Page 2.

6. The Marshallese are dissatisfied with the indefinite use rights agreements whereby the Government has the use of private land on Majuro and elsewhere for an undisclosed term with no further rental payments forthcoming. The Administration considers that when the lump sum payments were made, they were based on what was then the fair market value of the land and were really considered as a conditional sale with reversionary rights to the owners when there was no further government use for the land.

BACKGROUND PAPERS
Page 79

02367

LAND CADASTER PROGRAM - TRUST TERRITORY WIDE

JUNE 1971

FINAL DRAFT

02368

THE LAND CADASTER PROGRAM TRUST TERRITORY WIDE

The Land Cadaster Program was officially launched in Saipan on January 10, 1970, by Assistant Secretary Harrison Loesch, assisted by High Commissioner Edward E. Johnston. The Secretary set a survey monument marking a boundary point of the Marianas Civic Center in Susupe.

Funds in the amount of \$1 million to implement the program were obtained from a supplemental appropriation in December 1970.

Specifically the Land Cadaster Program is undertaking the following items:

1. Survey and monument all private and public lands.
2. Establish a central and six district land registries.
3. Determine ownership of all land parcels, public and private and register titles to the land.

The Land Cadaster Program also includes topographic mapping, soil analyses and land classification with respect to use in all districts.

The following actions on the public lands depend upon the orderly development of this program:

1. New townsites
2. Additions to present townsites
3. Identification of agricultural and conservation areas
4. A land use, land classification act

On private lands, this program will provide the basis for the following:*

1. Survey and monumentation of private lands
2. Settlement of conflicting claims (private vs. private and private vs. public)
3. Title issuances in fee simple titles
4. Establishment of a land register
5. Establishment of an appraisal base upon which a realty tax can rely

* See following tabulation of accomplishments and estimates for program through FY 1978.

The subject program officially began with the arrival of B.L.M. and U.S.G.S. surveyors in early January 1970. The original plans were to immediately begin with surveys of privately owned properties in all Districts and establish control (triangulation) stations only as they were needed. We decided to change plans and concentrate our efforts toward establishing all the primary control and most of the major islands throughout the Trust Territory. This has now been accomplished and this plan will save dollars and effort considering the overall program. All surveying personnel assigned to this program will now concentrate their efforts to surveying property boundaries. Progress in this phase should now greatly increase.

Funding for the program provided for the establishment of Land Commissions in the Marianas, Truk and Palau in FY 1970; in the Marshalls and Ponape in FY 1971; and in Yap in FY 1972. We re-programmed to the extent of funding a Land Commission for Yap in FY 1971.

We began recruiting for the positions of Senior Land Commissioners for Truk and Palau in late January 1970. We appointed an Acting Commissioner for Truk in February 1970, and he recruited personnel to fill the positions in that office. The permanent Senior Land Commissioner was appointed in June, 1970.

A Senior Land Commissioner was appointed for Palau in early July 1970. He experienced considerable difficulty in recruiting a staff but succeeded in part by February 1971 when he had to resign and return to the United States because of illness of his wife. We have attempted to recruit a replacement. Up to the present this effort has not succeeded. A replacement on an acting basis has been sent to Palau from Lands and Surveys. The first Preliminary Inquiry was held in June 1971.

A Senior Land Commissioner has been appointed for Yap, and he too is having difficulty in recruiting a staff capable of handling the work of the Commission. The land tenure system of Yap is even more complex than any of the other districts and the Yapese are extremely reluctant to permit any actions toward registration of titles in fee simple which might precipitate wholesale changes not only in their land ownership pattern but in their social organization as well.

A Land Commission was established in Ponape in January 1971. It has turned in a remarkable performance to date. Kolonia Town, mostly public land leased to people who work in the District Center, has been brought under the registration system and the adjoining municipality of Net has held its first public meetings looking toward determination of ownership of land and registration of titles.

FINAL DRAFT

(Land Cadaster con't)
Page 3.

The Marshalls District Legislature has requested postponement of Land Commission work in that district for an indefinite period. This reflects the uncertainty that exists in the Marshalls with respect to land ownership which lies in three or even four levels without definite individual ownership except in a few isolated cases.

There is attached a booklet which was developed when the Land Cadaster Program was started to outline the program for organizational and publicity purposes. Insets have been typed into booklet to show changes which have occurred in the past year and one-half.

Attachment: a/s

BACKGROUND PAPERS
Page 83

02371