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April 16^t, 1973

MEMORANDUM FOR MESSRS. WILLENS, LAPIN AND CARTER

Re: Marianas Political Status -
Virgin Islands Constitution

After checking 1969-1973 in the Reader's Guide and 1970-1973 in the New York Times Index for articles dealing with the Virgin Islands Constitutional Convention, I determined the question was overshadowed by the U.S. Presidential election. There were apparently no articles dealing specifically with the subject, and articles dealing with possibly related subjects did not mention the referendum.

I subsequently spoke with Janet Watlington, assistant to Congressman DeLugo of the Virgin Islands, and Pat O'Malley, one of the architects of the Virgin Islands Constitution and a U.S. Constitutional Law expert. (Barry says he will call O'Malley soon.^{*/}) The statements following are based on these conversations.

First of all, the point was made very clearly that in the Virgin Islands there is no preference for a commonwealth status, but rather a desire to steer clear of from the term entirely. It was suggested that this may be because there is no such thing as "commonwealth" under United States Constitutional Law. An area is considered

St. Joseph's

*/ His telephone number in Michigan is 616-983-6336.

to be either a state or a territory, and since the Virgin Islands is clearly not a state, territory was the term adopted. Moreover, due to an apparent rivalry there appears to have been a desire on the part of the Virgin Islands not to imitate Puerto Rico, which is classified as a commonwealth. (I did not press this issue.) [N.B. During the course of these interviews, the question persisted as to what is a commonwealth? There are those according to O'Malley who still consider Puerto Rico to be a territory even though it is under a Federal Relations Act.]

Secondly, it was felt that whatever the new status might be called, legally there would be no change at all.

However, the issue was and is really one that as a democratic society, the Virgin Islands should have the right to adopt and amend its own constitution. As it stands, Congress is free at any time to alter the Organic Act of the Virgin Islands, to reinstate a naval governor if it so wishes. The Virgin Islands, though still desiring a close association with the United States and not wanting to lose its favorable status as a territory, does prefer to have its own constitution.

The lack of a sizable margin in the Virgin Islands referendum vote (approximately 55% to 45%) could be partially attributed to a lack of understanding as to exactly what the

new constitution meant or why it was being presented. More importantly, considerable apathy prevailed resulting from the feeling that even if the people voted on the referendum, no action would be taken by Congress to affirm it. Also the simultaneous local elections served somewhat to overshadow the referendum. Generally speaking, though, the issues presented by the referendum were not "hot" enough to engender strong approval or disapproval, thus the large number of blank ballots. Apparently, there was no difficulty in mobilizing the people to vote as some 85% voted in the general elections.

As we are not privy to Congressman DeLugo's thoughts with respect to the possible submission of the Virgin Islands Constitution to the U.S. Congress, we can only speculate on what he might do. On the one hand, he appears concerned that the referendum vote did not result in an overwhelming majority. Technically, however, only a simple majority is required to present the issue to the Congress, and Pat O'Malley at least sees this as a strong possibility.

The official United States position is uncertain and no official statements have been made as yet. A conversation with Tom Dunn, the desk officer for the Virgin Islands in the Department of Interior's Office of Territorial Affairs, revealed that the U.S. will support most of

the provisions of the new constitution. However, the U.S. might oppose transferring the power to appoint the Comptroller General from the Secretary of Interior to the Virgin Islands Government. Dunn said the United States has no problem with respect to the Virgin Islands having their own constitution and even calling itself a "commonwealth" if it so desires.

Nancy Schuh

cc: Grant Morris