

01  
4 Manaves

April 30, 1974

The Asia Foundation  
P. O. Box 3223  
San Francisco, California 94119

Attn: Ambassador Franklin Haydn Williams

Dear Ambassador Williams:

The 5 cartons of books were recieved last week and we were pleased with their arrival. The books are in excellent condition. They are very useful and some will be for circulation and others are for reference.

I am now processing them for immediate use by our students and teachers. I deeply appreciate your effort in replenishing our school shelves with increased books.

May I thank you for your interest in our school.

Sincerely yours,

(Mrs.) Sinforosa M. Duenas

cc: Miss Mary Vance Trent ✓  
Liaison Officer for Micronesia  
Status Negotiations  
Saipan, Mariana Islands 96950

*Handwritten notes:*  
The book  
... ..

in the district court upon demand by the defendant or by the Government. 48 U.S.C. § 1616.

The provisions of the Judicial Code governing appeals from the district courts are applicable to the District Court of the Virgin Islands and that court is placed within the Third Judicial Circuit. 28 U.S.C. §§ 1252, 1291, 1292, 1294 41.

III

RECOMMENDATIONS

This section summarizes the major alternatives with respect to those aspects of the establishment of a district court in the Marianas that should be covered by the Status Agreement, discusses the advantages and disadvantages of those alternatives and presents our recommendations as to the treatment of each aspect for consideration by the Commission.

A. Jurisdiction.

An appropriate starting point is the agreement, reflected in the first Joint Communique, that the United States District Court for the District of the Marianas ("the Marianas District Court") have jurisdiction at least equal to that of a United States district court in a State. We see no reason to restrict the jurisdiction of the Marianas District Court to something less than that granted to the district courts in the States. The question then becomes whether the Marianas District Court should, like the United States District Court for the District of Puerto Rico, have the same jurisdiction as that of a district court in a State or whether it should, like the district courts in Guam and the Virgin Islands, have additional jurisdiction to consider matters arising purely under local law and to consider federal causes without regard to the amount in controversy.

1. Local Jurisdiction.

As discussed above, the district courts in Guam and the Virgin Islands have original jurisdiction of cases arising purely under local law. In Guam, the local jurisdiction of the district court is subject to the control of the Guam legislature; in the Virgin Islands, the local jurisdiction of the district court is subject to certain exceptions spelled out in the Organic Act but is not subject to the control of the local legislature. The principal advantage of vesting the Marianas District Court with original local jurisdiction is that it would provide the Marianas with additional judicial resources for handling local cases during the transitional period until such time as the legislature of the Marianas establishes a system of local courts and transfers such jurisdiction to them. In our view, this could be a major advantage if provided, along the lines of Guam, as a non-mandatory option available to the legislature of the Marianas. If the Commission elects to preserve in the Status Agreement the option to vest jurisdiction over local matters in the Marianas District Court, the Status Agreement should make it clear that Congress may neither unilaterally withdraw the local jurisdiction of the Marianas District Court nor unilaterally reinstate such jurisdiction after it has been withdrawn by the Marianas legislature.

→ unless convinced of resources problem, I'd prefer  
Act III of w/ fed diversity juris w/o amt limit,  
and full removal.

08.32

Since the United States Working Draft appears to envision a Marianas district court with jurisdiction similar to that granted the district court in Guam, the United States delegation should not be expected to oppose vesting the Marianas District Court with local jurisdiction subject to the control of the local legislature.

In deciding the question of local jurisdiction, the Commission should also consider several potential disadvantages of such an approach. First, and most important, are the potential disadvantages of vesting authority in the federal court system over purely local matters. As noted above, one of the reasons cited for the recent action of the Guam legislature, withdrawing the local jurisdiction of its district court, was unsatisfactory experience with the handling of appeals by the Ninth Circuit Court of Appeals, which, it is said, did not always fully understand local problems. Thus, the interest in preserving local autonomy and control over local affairs militates against placing cases involving purely local matters within the purview of the federal court system. The magnitude of this potential disadvantage is, of course, lessened to the extent that local jurisdiction in the Marianas District Court is of a limited, transitional duration and subject to the control of the Marianas legislature.

how about this until termination?

The other major reason cited for the recent withdrawal of the local jurisdiction of the Guam district court was to relieve the single district court judge of the burden of a heavy volume of cases. At the present time, this consideration may not be a serious one for the Marianas in view of the small size of its population.

A more serious potential disadvantage that should be considered is the extent to which vesting the Marianas District Court with jurisdiction over local matters might raise questions as to the constitutional status of the court or undercut the position of the Marianas with respect to the limitations on Congress' power under Article IV to legislate for the Marianas after execution of the Status Agreement. The power of Congress to create federal courts exercising jurisdiction beyond the limits imposed by Article III must be derived from some other constitutional grant of power. The only available source of Congress' authority to vest a federal court in the Marianas with local jurisdiction is Art. IV, § 3, cl. 2. Thus, creation of a Marianas District Court with local jurisdiction would constitute a recognition that Congress retains some authority under IV-3-2 to legislate for the Marianas. The retention of such authority, however, need not be viewed as inconsistent with the Marianas' position that, with specific exceptions to

be mutually agreed upon, Congress would have authority under IV-3-2 only to the extent of its authority in the 50 States. While Congress does not have the authority to create federal courts with local jurisdiction in the States, this authority with respect to the Marianas could be one of the specific exceptions set forth in the Status Agreement.

Whether or not granting local jurisdiction to the Marianas District Court would deprive it of Article III status and render it instead a legislative court is a complex question to which there is no clear-cut answer. (See Section I of this Memorandum.) At a minimum, the existence of local jurisdiction would raise questions as to the court's Article III status.



Certainly, the existence of local jurisdiction would bring the Marianas District Court closer in appearance to the legislative courts in Guam and the Virgin Islands than to the Article III courts in the States or to the district court in Puerto Rico.

We also raise for the Commission's consideration whether the major advantage of granting local jurisdiction to the Marianas District Court might not be as well achieved, without raising the associated problems identified above, by providing in the transitory provisions of the Constitution

*going - which transition period?  
once S.A. + ComMTR approved, being; where is TTP.*

COT → that jurisdiction over local matters remain in the courts of the Trust Territories of the Pacific Islands until the Marianas legislature establishes a system of local courts and transfers to them such jurisdiction.\*/

2. Amount in controversy.

The federal jurisdiction of the district courts in Guam and the Virgin Islands is not subject to a minimum amount in controversy requirement, as is the jurisdiction of the district courts in the States and in Puerto Rico. The major advantage of dispensing with the minimum amount in controversy requirement is that, in theory, it would permit more cases to be heard by the Marianas District Court. The experience in the States, however, suggests that the requirement has little practical impact on the case loads of the courts. As discussed earlier, the increase from \$3,000 to \$10,000 in the jurisdictional amount requirements in 1958 did not appear to reduce significantly the congestion in the federal courts. Plaintiffs have simply learned to state their claims in terms of the new requirements when they wish to invoke federal jurisdiction. Moreover, most federal question cases could be brought under one or more of the particular statutory grants of jurisdiction to the district courts, without regard to the \$10,000 minimum requirement of the general federal question statute. Thus, the jurisdictional amount requirement is likely to affect

\*/ The feasibility of this alternative will depend upon future developments with respect to the status of the TTPI and its courts.



only federal cases founded solely on diversity of citizenship, and even there the practical effect may be minimal. And, to the extent that the Commission elects to preserve the option of granting the Marianas District Court local jurisdiction, cases involving less than the \$10,000 jurisdictional amount could be heard by the court pursuant to its "local" jurisdiction.

While dispensing with the jurisdictional amount requirement may effect a small increase in the Marianas District Court's overall level of business, those additional cases which the court would have jurisdiction to hear are likely to be minor in nature and perhaps more appropriately heard in the local courts.

Moreover, retaining the \$10,000 requirement would serve to put the Marianas District Court on a par with the district courts in the States and Puerto Rico -- a status that would be commensurate with the degree of independence achieved by the Status Agreement -- rather than liken the court to those in the unincorporated territories.

Recommendation. The Status Agreement should provide for the establishment of a United States District Court for the District of the Marianas. The jurisdiction of the court, including the amount in controversy requirement, should be the same as that of the district courts in the States. In addition, the Commission should seriously consider whether the benefits of vesting the court with jurisdiction over purely local matters for a transitional period outweigh the disad-

*US interests  
mono ally  
protect this  
way; tho -  
prob many such  
diversity cases.*

*MVS*

*See other way*

vantages. Should the Commission elect to preserve this option, the Status Agreement should provide that the court have such local jurisdiction as the Constitution of the Commonwealth may provide. The Constitution, in turn, should provide for control of the court's local jurisdiction in the Marianas legislature, and the Status Agreement should restrict Congress' power to alter the legislature's decision in this regard.

B. Appointment, tenure and compensation of judges.

1. Appointment.

With respect to all of the district courts studied the appointment of judges is made by the President, with the advice and consent of the Senate. With respect to none of those courts is there an express provision for local control or influence upon judicial appointments. As a practical matter, at least insofar as the States are concerned, substantial influence over presidential judicial appointments is exercised by the Senator(s), from the State involved, of the same political party as the President. While more formal devices for local influence upon judicial appointments, such as the nominating commission established by the recent District of Columbia home rule legislation, <sup>\*/</sup> could be created, it is

---

\*/ Even under the new District of Columbia legislation the provisions for local control apply only to appointments of judges of the local courts which are made by the Mayor, and not to appointments of judges of the United States District Court.

likely that such a proposal with respect to appointment of the judge(s) of the Marianas District Court would prove unacceptable to the United States. There is no precedent for such a procedure with regard to the federal courts, and a proposal to establish one for the Marianas would likely be viewed as an undue encroachment on the prerogatives of the Federal Government

While for the foreseeable future it is probable that only a single judge will be required for the Marianas District Court, flexibility to secure the appointment of additional permanent judges, as needed, should be maintained. With respect to the district courts in Guam and the Virgin Islands, there is also provision for the temporary assignment of additional judges when "necessary for the proper dispatch" of the court's business. 48 U.S.C. §§ 1424b, 1614. Appointment, when necessary, of additional temporary judges for the district courts in the States and in Puerto Rico is governed by Sections 291 through 296 of the Judicial Code. If, as we recommend below, the Marianas District Court is established pursuant to Chapter 5 of the Judicial Code, then these latter provisions would apply automatically. If not, then express provisions for temporary assignment should be included in the Status Agreement.

Recommendation. The Status Agreement should provide for appointment by the President, by and with the advice and consent of the Senate, of a judge or judges for the District Court of the Marianas. There should be provision for temporary appointments when necessary.

*Copy*

2. Tenure.

Consistent with the limitation contained in Article III, the judges of the district courts in the States and in Puerto Rico hold office during good behavior -- that is, they have life tenure. The judges of the district courts in Guam and the Virgin Islands, on the other hand, hold office for terms of eight years and may be removed sooner by the President for cause.

A balancing of the advantages against the disadvantages would seem to favor a life tenure appointment for the judge(s) of the Marianas District Court. Life tenure would provide greater assurance of judicial independence; it would be consistent with the constitutional limitations imposed upon Article III courts; and, in the words of the House Report on the bill to grant life tenure to the district judges in Puerto Rico (p. , supra) "by conferring upon the Federal district court [in the Marianas] the same dignity and authority enjoyed by other Federal district courts," it would be commensurate with the new political status and degree of local autonomy achieved by the Marianas.

The major disadvantage of life tenure appointment is, of course, that if for any reason the judge's performance in office should fall below expectations, nonetheless the judge could not be removed, except in cases of extreme misconduct. While this problem is faced to a greater or lesser degree in

each of the States as well as Puerto Rico, it may loom larger in the Marianas, and those few States, where there is only one Federal district judge. The problem is alleviated somewhat by the requirement that the district judge reside in the district for which he is appointed. 28 U.S.C. § 134(b).

*agree*  
Recommendation. The Status Agreement should provide that the judge(s) of the Marianas District Court be appointed to hold office during good behavior.

3. Compensation.

The compensation of the judges of the district courts in the States and in Puerto Rico is governed by the Judicial Code. 28 U.S.C. § 135. As noted earlier, the compensation of Article III judges is protected from diminution by the Constitution. The compensation of the district judges in Guam and the Virgin Islands is not governed by the Judicial Code but is set by the respective organic acts at the same rate as that set in the Judicial Code for judges of the United States district courts. We see no reason to establish a compensation for the judge(s) of the Marianas District Court different from that set for the judges in the other federal district courts.

*agree*  
Recommendation. The Status Agreement should provide for compensation for the judge(s) of the Marianas District Court at the same rate as that set for judges of the United States district courts.

C. Relationship of federal court to local courts.

1. Appellate Jurisdiction.

The district courts in the States and in Puerto Rico have no jurisdiction to review on appeal decisions in the local courts. The district courts in Guam and the Virgin Islands have such local appellate jurisdiction as may be granted to them by the local legislature. The advantages and disadvantages, discussed earlier, of granting the Marianas District Court with local original jurisdiction apply with equal force to granting the court with appellate jurisdiction over local tribunals. The existence of local appellate jurisdiction would infuse the federal court system with decision-making authority on questions involving purely local matters; it would raise questions as to the constitutional status of the Marianas District Court; and it would constitute an exception to the general limitation on Congress' power to legislate for the Marianas pursuant to Art. IV, § 3, cl. 2. Should the Commission, however, determine to preserve the option of granting the Marianas District Court local original jurisdiction for a transitional period, then it would be sensible also to preserve the same option with respect to local appellate jurisdiction.

Recommendation. Should the Commission determine to preserve the option of granting the Marianas District Court with local original jurisdiction, then the Status Agreement

*offerway*

should also provide that the court have such appellate jurisdiction as the Constitution of the Commonwealth may provide. As with a provision for local original jurisdiction, the Constitution should place control of the court's appellate jurisdiction in the Marianas legislature, and the Status Agreement should restrict Congress' power to alter the court's local appellate jurisdiction.

2. Removal Jurisdiction.

Removal refers to the procedure established by Sections 1441 et seq. of the Judicial Code whereby the defendant(s) in a civil action brought in a State court, and over which the district courts of the United States have original jurisdiction, may remove the action to the federal district court in the district embracing the place where the action is pending. Removal applies only to civil actions brought in a State court, and thus does not apply to actions brought in the local courts of Puerto Rico, Guam or the Virgin Islands.<sup>\*/</sup> Removal would not apply to civil actions brought in the local courts of the Marianas unless express provision is made to define such courts as "State courts."

---

<sup>\*/</sup> For purposes of the removal chapter the term "State" includes the District of Columbia. 28 U.S.C. § 1451.

The basic purpose of the removal jurisdiction is to equalize, in cases of concurrent jurisdiction of the federal and State courts, the opportunity of both plaintiffs and defendants to gain access to the federal courts. Despite the salutary purpose, there appears to be no sound reason for extending removal jurisdiction over the local courts in the Marianas. To the extent that Marianas citizens are defendants in a local Marianas court in an action over which the Marianas District Court would have jurisdiction based on diversity of citizenship, the action would not be removable to the District Court. This is so because such actions are removable only if none of the defendants is a citizen of the "State" in which the action is brought. 28 U.S.C. § 1441(b). Thus, the only actions which could be removed by Marianas defendants from the local Marianas courts are actions involving federal question jurisdiction. [In most of those cases, Marianas defendants would probably prefer that the case be heard by the local forum rather than the federal court.] Where Marianas citizens are defendants in the local courts of a State, they would have the same right of removal as any other defendant in those courts. Where Marianas citizens are plaintiffs and have elected to bring their actions in the local courts of the Marianas, there is no reason to permit their decision to be thwarted by allowing the defendant(s) to remove the action to the Marianas District Court. Moreover, when the provisions for

*why not full removal?*

*give him choice -  
 →  
 asks the feds  
 probly they will  
 otherwise*



transfer from one federal district to another are considered, the existence of removal jurisdiction over the Marianas local courts would in some cases permit non-resident defendants to remove to the Marianas District Court first and then transfer to another district. Such a procedure would make suits by Marianas citizens against non-residents much more difficult and costly.

discretion involved



Recommendation. The Status Agreement should contain no provision relating to removal of cases from the local courts of the Marianas to the Marianas District Court.

no

3. Review by Supreme Court.

If the Marianas District Court is not to have appellate jurisdiction of final decisions of the local county of the Marianas, then provision will have to be made for review by the United States Supreme Court in cases involving constitutional questions. And, in any event, such provision will have to be made for the time when the appellate jurisdiction of the district court is withdrawn by the Marianas legislature.

Recommendation. The Status Agreement should provide for review by the Supreme Court of the United States of decisions of the Marianas local <sup>courts</sup> county in the same manner as such review is provided for with respect to the courts of a State by Section 1257 of the Judicial Code.

agree

D. Constitutional Status of the Marianas District Court.

In our view, it is desirable that the Marianas District Court have the status of an Article III court. Article III status for the court would constitute a recognition that the people of the Marianas had achieved a degree of self-determination and local autonomy similar to that existing in the States and in Puerto Rico. Moreover, creation of the court pursuant to Article III rather than Article IV would be consistent with the position of the Marianas that after execution of the Status Agreement Congress' authority to legislate for the Marianas pursuant to Article IV would be limited to certain specific exceptions enumerated in the Status Agreement.

As we have noted earlier, if the Marianas District Court is to have a judge appointed only for a limited term, rather than for life, then the court could not be one created pursuant to Article III. On the other hand, if the Commission should opt for a life tenure appointment, then the Status Agreement should contain a declaration of congressional intent to the effect that the Marianas District Court is a court created pursuant to Article III. Such a declaration of congressional intent should be included even if it is determined to preserve the option of granting the Marianas District Court some local jurisdiction.<sup>\*/</sup> As we noted earlier, although the question is far from clear-cut, there are reasonable arguments that such local jurisdiction should not deprive the court of Article III status. While the existence of local jurisdiction

<sup>\*/</sup> The United States delegation can be expected to resist such a proposal, since no such declaration of intent has ever been made by Congress with respect to a court that exercised non-federal jurisdiction.

in the court would no doubt raise questions as to its constitutional status, such questions would disappear at such time as the local jurisdiction is withdrawn by the Marianas legislature and transferred to the local courts of the Marianas.

Recommendation. If the Commission elects in favor of life tenure appointment for the judge of the Marianas District Court, then the Status Agreement should provide that the United States District Court for the District of the Mariana Islands is a court "established pursuant to Article III of the Constitution of the United States." (The quoted language is based on the language employed in establishing the United States District Court for the District of Columbia in the 1970 Act. See D.C. Code § 11-101(1).)

E. Implementation of Recommendations.

In accordance with our recommendations with respect to other provisions of the Status Agreement, the provisions dealing with the establishment of the Marianas District Court should be drafted in statutory language that can be enacted directly into positive law. With respect to the Marianas District Court there are two distinct approaches that could be taken. First, the Marianas District Court could be constituted among the regular United States district courts pursuant to Chapter 5 of the Judicial Code, as is the case with the District Court in Puerto Rico. Alternatively, the Marianas District Court could be established by statutory provisions separate from the

Judicial Code, probably in Title 48, "Territories and Insular Possessions," as is the case with the district courts in Guam and the Virgin Islands, with appropriate amendments to various sections of the Judicial Code making those sections applicable to the Marianas District Court. In our view the first approach is far more desirable.

Establishment of the Marianas District Court pursuant to Chapter 5 of the Judicial Code would give the court the same dignity and status as the district courts in the 50 States, the District of Columbia and Puerto Rico. It would leave no doubt that the newly created District of the Mariana Islands is a judicial district of the United States and that the Marianas District Court is a United States District Court and a "court of the United States." It would be consistent with our recommendation above that the Marianas District Court be created pursuant to Article III. Finally, by virtue of the fact that the Judicial Code provisions with respect to jurisdiction, procedure, and administration of the district courts apply automatically to those courts constituted by Chapter 5, it would greatly simplify the task of drafting implementing legislation for the Marianas District Court and provide greater assurance that important provisions are not overlooked.

We anticipate little difficulty in securing United States agreement with such a proposal. The United States District Court for the District of Puerto Rico is a district court

*gives how to put  
this into status  
agreement  
language.*

constituted by Chapter 5.<sup>\*/</sup> Since the new political status achieved by the Marianas will be similar to that gained by the Commonwealth of Puerto Rico, the constitution of the district court in Puerto Rico provides both a precedent and a model for the constitution of the Marianas District Court within Chapter 5.

There should be no difficulty in constituting the Marianas District Court within Chapter 5 even if it is determined that certain provisions with respect to the court should be different from those that apply to the other district courts constituted by Chapter 5. Thus, although a court constituted by Chapter 5, the District Court in Puerto Rico did not have life tenure judges until 1966. Prior to that time there was a provision in Section 134 of the Code excepting the district judges in Puerto Rico from life tenure and instead setting eight-year terms.<sup>\*\*/</sup> Moreover, the additional, non-Article III jurisdiction of the District Court in Puerto Rico which was provided in former Section 863 of Title 48 remained until 1970. Therefore, there is precedent for the establishment of a United

---

<sup>\*/</sup> The former United States District Court for the Territory of Hawaii was also a district court constituted by Chapter 5 in the 1948 revision of the Judicial Code. See former 28 U.S.C. §§ 91, 132, 451 (1949). At that time the judges of the court served for terms of six years. See former 28 U.S.C. §§ 133, 134 (1948).

<sup>\*\*/</sup> A similar exception existed for the judges of the district court in Hawaii before statehood. See fn. <sup>\*/</sup>.

States District Court within Chapter 5 even though the provisions relating to that court are not in all respects identical to those relating to the other district courts and even though that court is not an Article III court.

If it is determined to grant the Marianas District Court some transitional local jurisdiction, the additional grant of jurisdiction should be contained in the Status Agreement, enacted into positive law, and placed in the same Title as the Status Agreement (probably Title 48), without incorporating the additional jurisdictional grant in the Judicial Code. Such was the procedure with respect to the additional jurisdictional grant contained in former Section 863 of Title 48 with respect to the District Court in Puerto Rico. If, as another example, it is decided that the judge(s) of the Marianas District Court should be appointed for a term of years rather than life, this provision as well should be contained in the Status Agreement, enacted into positive law, and become a provision in Section 134 of the Judicial Code excepting the Marianas district judge from the life tenure requirement.

If the above approach is adopted, the Status Agreement need not contain specific provisions relating to, for example, appeals to the United States Court of Appeals and to the United States Supreme Court of decisions and orders of the Marianas District Court; applicability to the Marianas District Court of the rules of procedure promulgated by the

United States Supreme Court in civil, admiralty, criminal, and bankruptcy cases; venue of the Marianas District Court; appointment of a United States Attorney and a United States Marshall for the District of the Mariana Islands; appointment of court officers, such as clerks and bailiffs; and other miscellaneous matters of a procedural or administrative nature.

There are, however, a few remaining subjects that should be specifically covered in the Status Agreement:

1. Judicial Circuit. The Status Agreement should provide for the placement of the District of the Mariana Islands within one of the judicial circuits constituted by Section 41 of the Judicial Code, for purposes of appeals to the Court of Appeals for that circuit. Based on geographic proximity, the logical circuit for the Marianas district would be the Ninth Circuit. However, it has recently been proposed that the Ninth Circuit be split into two judicial circuits. The precise manner in which the circuit will be split is as yet not determined. Since the Ninth Circuit holds session in Hawaii for a few days each year, it would be more convenient for the Marianas district to remain in the same judicial circuit as Hawaii.

Thus, the Status Agreement should provide for placement of the Marianas district in the same judicial circuit as Hawaii.

2. Diversity Jurisdiction. Since the Marianas will not become a State, in order to afford Marianas citizens the right to bring actions in the district courts of the United

States on the basis of diversity of citizenship, it will be necessary to amend Section 1332(d) of the Judicial Code to include the Commonwealth of the Mariana Islands within the word "States", as used in that section. Thus, the Status Agreement should provide for the appropriate amendment of Section 1332(d).

→ This is constitutional?  
Tide water?  
based on IV 3, 2?



IV

UNITED STATES WORKING DRAFT  
(DECEMBER, 1973)

The United States Working Draft contains two provisions that deal with the establishment of a federal court system for the Marianas. Section 404 provides that

The United States will establish a District Court which will have in the Northern Mariana Island powers and jurisdiction equal to those of the District Court of Guam in the Territory of Guam.

Section 405 provides that

The appropriate laws of the United States relating to removal of causes, appeals, and other matters and proceedings as between the courts of the United States and the courts of the several states will govern in such matters and proceedings between the courts of the United States and the courts of the Northern Mariana Island.

In accordance with the current United States position that the Status Agreement will not be enacted into positive law but will require implementing legislation with respect to its various provisions, the proposed provisions establishing a federal court system for the Marianas are written in general terms and do not contain implementing or statutory language. Indeed, enactment of the language proposed by the United States directly into positive law would produce curious results. For example, since the local original and appellate jurisdiction of the District Court of Guam is subject to the control of the

legislature of Guam, a strictly literal interpretation of Section 404 of the United States Draft would require that the jurisdiction of the Marianas District Court expand and contract as the Guam legislature expands and contracts the jurisdiction of the Guam court.

There is, however, a more basic objection to the United States approach. The Guam court differs from our recommendations with respect to the Marianas District Court in a number of respects. It does not have Article III status but is a territorial court established pursuant to Article IV. It does not have a life tenure judge. And a number of the provisions of the Judicial Code do not apply to it as they do to the district courts in the States or in Puerto Rico.

The Guam court should be rejected as a model for the establishment of the Marianas District Court. Rather, the United States should be persuaded that the more appropriate model, given the new political status to be achieved by the Marianas, is the United States District Court for the District of Puerto Rico. The Puerto Rican court has now probably attained Article III status and, in any event, is constituted among the regular district courts in the States by Chapter 5 of the Judicial Code.

To the extent that the Commission decides to depart from the model of the Puerto Rican court in certain respects,

such as granting the Marianas District Court local jurisdiction, then the Guam Court could be cited as precedent for such local jurisdiction.

The basic intent of Section 405 of the United States Draft to treat the local courts of the Marianas in all respects like the local courts in the States appears acceptable. However, as we recommend above, it does not seem desirable at this time to extend to the local courts of the Marianas the procedures for removal of causes from the State courts to the federal courts. And, of course, accomplishment of the desired results should not be left to the general language proposed in the United States Draft, but rather the specific statutory language necessary to implement the intent of Section 405 of the United States Draft should be included in the Status Agreement.