

Y4
. In 8/14

1023

93/14
In 8/14
93-31

93-31

**JURISDICTION OF SUBMERGED LANDS—GUAM,
THE VIRGIN ISLANDS, AND AMERICAN SAMOA**

GOVERNMENT

DOCUMENT

Storage

5 19/4

HEARING

BEFORE THE

**SUBCOMMITTEE ON
TERRITORIAL AND INSULAR AFFAIRS**

OF THE

**COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
HOUSE OF REPRESENTATIVES**

NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 6775, H.R. 4696, and H.R. 6135

TO PLACE CERTAIN SUBMERGED LANDS WITHIN THE
JURISDICTION OF THE GOVERNMENTS OF GUAM, THE
VIRGIN ISLANDS, AND AMERICAN SAMOA, AND FOR OTHER
PURPOSES

HEARING HELD IN WASHINGTON, D.C.
SEPTEMBER 25, 1973

Serial No. 93-31

Printed for the use of the
Committee on Interior and Insular Affairs



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1974



COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

JAMES A. HALEY, Florida, *Chairman*

ROY A. TAYLOR, North Carolina
 HAROLD T. JOHNSON, California
 MORRIS K. UDALL, Arizona
 PHILLIP BURTON, California
 THOMAS S. FOLEY, Washington
 ROBERT W. KASTENMEIER, Wisconsin
 JAMES G. O'HARA, Michigan
 PATSY T. MINK, Hawaii
 LLOYD MEEDS, Washington
 ABRAHAM KAZEN, Jr., Texas
 ROBERT G. STEPHENS, Jr., Georgia
 JOSEPH P. VIGORITO, Pennsylvania
 JOHN MELCHER, Montana
 TENO RONCALIO, Wyoming
 JONATHAN B. BINGHAM, New York
 JOHN F. SEIBERLING, Ohio
 HAROLD RUNNELS, New Mexico
 YVONNE BRATHWAITE BURKE, California
 ANTONIO BORJA WON PAT, Guam
 WAYNE OWENS, Utah
 RON DE LUGO, Virgin Islands
 JAMES R. JONES, Oklahoma

JOHN P. SAYLOR, Pennsylvania, *Ranking*

Minority Member

CRAIG HOSMER, California
 JOE SKUBITZ, Kansas
 SAM STEIGER, Arizona
 DON H. CLAUSEN, California
 PHILIP E. RUPPE, Michigan
 JOHN N. HAPPY CAMP, Oklahoma
 MANUEL LUJAN, Jr., New Mexico
 JOHN DELLENBACK, Oregon
 KEITH G. SEBELIUS, Kansas
 RALPH S. REGULA, Ohio
 ALAN STEELMAN, Texas
 DAVID TOWELL, Nevada
 JAMES G. MARTIN, North Carolina
 WILLIAM M. KETCHUM, California
 PAUL W. CRONIN, Massachusetts
 DON YOUNG, Alaska
 ROBERT E. BAUMAN, Maryland

SIDNEY L. MCFARLAND, *Staff Director and Chief Clerk*

LEWIS A. SIGLER, *Counsel*

CHARLES LEPPERT, Jr., *Minority Counsel*

SUBCOMMITTEE ON TERRITORIAL AND INSULAR AFFAIRS

PHILLIP BURTON, California, *Chairman*

ROY A. TAYLOR, North Carolina
 THOMAS S. FOLEY, Washington
 ROBERT W. KASTENMEIER, Wisconsin
 PATSY T. MINK, Hawaii
 LLOYD MEEDS, Washington
 ROBERT G. STEPHENS, Jr., Georgia
 JOSEPH P. VIGORITO, Pennsylvania
 JONATHAN B. BINGHAM, New York
 YVONNE BRATHWAITE BURKE, California
 ANTONIO BORJA WON PAT, Guam
 RON DE LUGO, Virgin Islands

DON H. CLAUSEN, California
 JOHN P. SAYLOR, Pennsylvania
 CRAIG HOSMER, California
 JOE SKUBITZ, Kansas
 PHILIP E. RUPPE, Michigan
 MANUEL LUJAN, Jr., New Mexico
 KEITH G. SEBELIUS, Kansas
 RALPH S. REGULA, Ohio
 JAMES G. MARTIN, North Carolina

MAURICE J. SHEAN, *Staff Consultant*

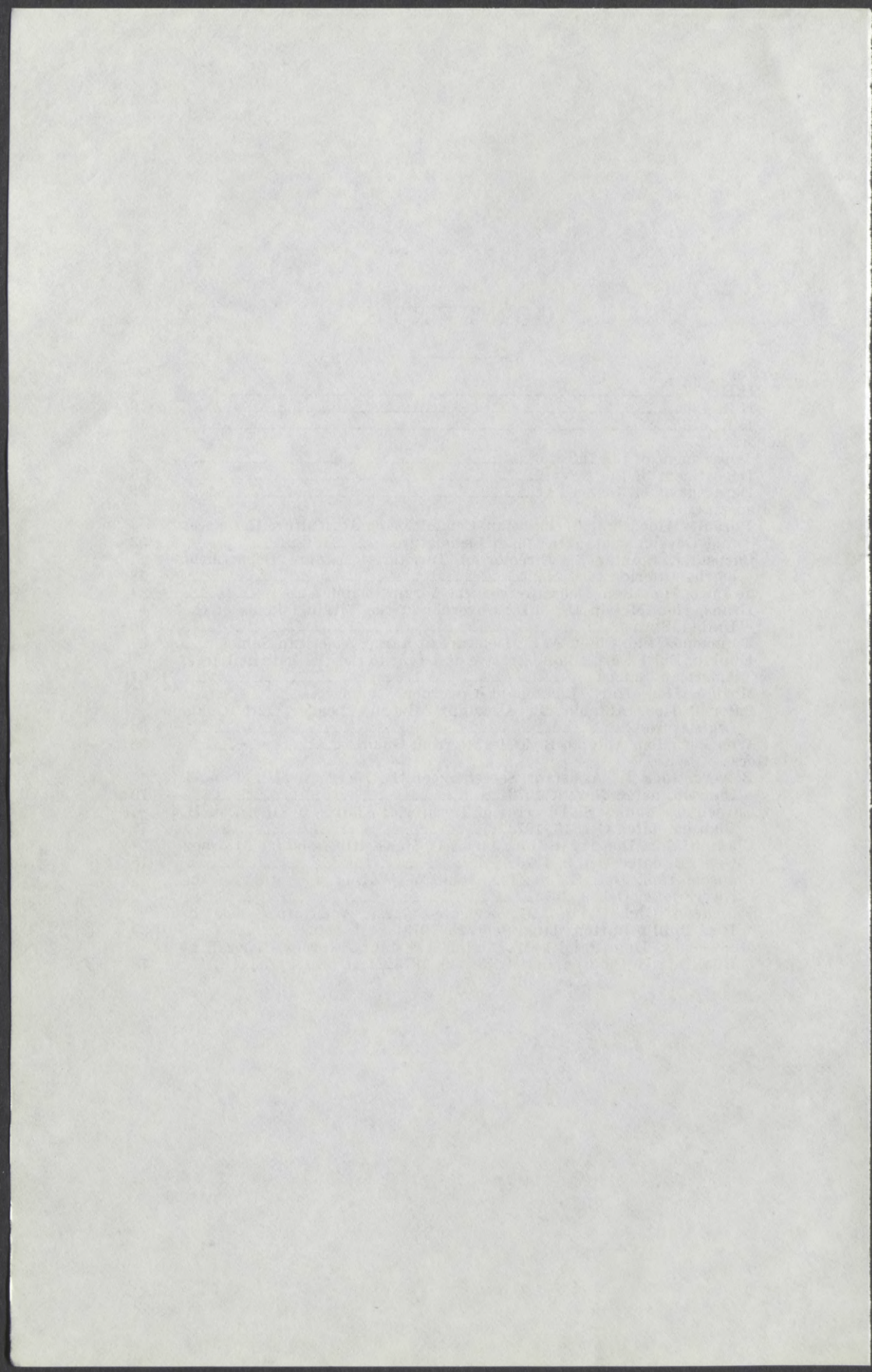
ADRIAN P. WINKEL, *Staff Consultant*

TOM DUNMIRE, *Minority Consultant*

NOTE.—The chairman of the full committee is an ex officio voting member of this subcommittee. The first listed minority member is counterpart to the subcommittee chairman.

CONTENTS

| | |
|---------------------------------------------------------------------------------------------------------------------|------|
| Text of: | Page |
| H.R. 6775----- | 2 |
| H.R. 4696----- | 9 |
| H.R. 6135----- | 15 |
| Reports: | |
| Department of the Interior----- | 22 |
| Department of the Navy----- | 25 |
| Department of Justice----- | 28 |
| Statements: | |
| Bordallo, Hon. Paul J., chairman, Committee on Agriculture Resources and Development, 12th Guam Legislature----- | 53 |
| Carpenter, Stanley S., Director of Territorial Affairs, Department of the Interior----- | 68 |
| de Lugo, Hon. Ron, Delegate from the Virgin Islands----- | 34 |
| Evans, Hon. Melvin H., M.D., Governor of the Virgin Islands of the United States----- | 40 |
| Fuimaono, High Chief, A. U., Delegate at Large, American Samoa----- | 67 |
| Hunkin, Eni F., Jr., administrative assistant to the Delegate at Large, American Samoa----- | 67 |
| Moylan, Hon. Kurt, Lieutenant Governor, Guam----- | 47 |
| Paloma, Hon. Antonio M., Assistant Minority Leader, 12th Guam Legislature----- | 64 |
| Won Pat, Hon. Antonio B., Delegate from Guam----- | 36 |
| Letters: | |
| Bowers, Jack L., Assistant Secretary of the Navy, to Hon. Don H. Clausen, dated Nov. 7, 1973----- | 79 |
| Carpenter, Stanley S., Director of Territorial Affairs, to Hon. Don H. Clausen, dated Oct. 15, 1973----- | 77 |
| Clausen, Hon. Don H., to Hon. James D. McKevitt, Assistant Attorney General, dated Oct. 9, 1973----- | 78 |
| Clausen, Hon. Don H., to Hon. John W. Warner, Secretary of the Navy, dated Oct. 9, 1973----- | 79 |
| Fuimaono, High Chief, A.U., delegate-at-large, American Samoa, to Hon. Phillip Burton, dated Sept. 25, 1973----- | 33 |
| McSweeney, Hon. Patrick M., Acting Assistant Attorney General, to Hon. Don H. Clausen, dated Nov. 15, 1973----- | 78 |



**PLACE CERTAIN SUBMERGED LANDS WITHIN THE
JURISDICTION OF THE GOVERNMENTS OF GUAM,
THE VIRGIN ISLANDS, AND AMERICAN SAMOA, AND
FOR OTHER PURPOSES**

TUESDAY, SEPTEMBER 25, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TERRITORIAL AND INSULAR AFFAIRS
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:55 a.m., in room 1324, Longworth House Office Building, Hon. Phillip Burton (chairman of the subcommittee) presiding.

Present: Representatives Burton, Hosmer, Vigorito, Won Pat, de Lugo, Clausen, Luian and Taylor.

Also present: Maurice Shean, consultant to the subcommittee and Nancy Larson, clerk.

Mr. BURTON. We will have our two colleagues, Mr. de Lugo and Mr. Won Pat take the witness chair and the Subcommittee on Territorial and Insular Affairs is called to order.

Our hearing this morning is on H.R. 6775, introduced by Messrs. de Lugo and Won Pat, and companion bills H.R. 4696 which was introduced by Mr. Won Pat and H.R. 6135 introduced by Mr. de Lugo.

Without objection, the Chair will insert in the record at this point the aforementioned bills and along with it the Department reports dated September 24, 1973 from the Department of the Interior, and the Department of the Navy; a letter from the Department of Justice and a letter dated September 25, 1973 from High Chief A. U. Fuimaono.

[The above mentioned documents follow:]

(1)

93D CONGRESS
1ST SESSION

H. R. 6775

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 1973

Mr. DE LUGO (for himself and Mr. WON PAT) introduced the following bill;
which was referred to the Committee on Interior and Insular Affairs

A BILL

To place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) subject to valid existing rights, all right, title, and
4 interest of the United States in lands permanently or periodi-
5 cally covered by tidal waters up to but not above the line
6 of mean high tide and seaward to a line three geographical
7 miles distant from the coastlines of Guam, the Virgin Islands,
8 and American Samoa, as heretofore or hereafter modified
9 by accretion, erosion, and reliction, and in artificially made,
10 filled-in, or reclaimed lands which were formerly permanently

1 or periodically covered by tidal waters, are hereby conveyed
2 to the governments of Guam, the Virgin Islands, and Ameri-
3 can Samoa, as the case may be, to be administered in trust
4 for the benefit of the people thereof.

5 (b) There are excepted from the transfer made by sub-
6 section (a) hereof—

7 (i) all deposits of oil, gas, and other minerals, but
8 the term “minerals” shall not include coral, sand, and
9 gravel;

10 (ii) all lands adjacent to property owned by the
11 United States above the line of mean high tide;

12 (iii) all lands acquired by the United States by
13 eminent domain proceedings, purchase, exchange, or
14 gift;

15 (iv) all lands filled in, built up, or otherwise re-
16 claimed by the United States for its own use;

17 (v) all tracts or parcels of land containing on any
18 part thereof any structures or improvements constructed
19 by the United States;

20 (vi) all lands that have heretofore been determined
21 by the President or the Congress to be of such scientific,
22 scenic, or historic character as to warrant preservation
23 and administration under the provisions of the Act
24 entitled “An Act to establish a National Park Service,

1 and for other purposes", approved August 25, 1916
2 (16 U.S.C. 1 et seq.) ;

3 (vii) all lands designated by the President within
4 one hundred twenty days after the date of enactment of
5 this Act;

6 (viii) all lands that are within the administrative
7 responsibility of any agency or department of the United
8 States other than the Department of the Interior;

9 (ix) all lands lawfully acquired by persons other
10 than the United States through purchase, gift, exchange,
11 or otherwise;

12 (x) all lands within the Virgin Islands National
13 Park established by the Act of August 2, 1956 (16
14 U.S.C. 398 et seq.), including the lands described in the
15 Act of October 5, 1962 (16 U.S.C. 398c-398d) ; and

16 (xi) all lands within the Buck Island Reef National
17 Monument as described in Presidential Proclamation
18 3448 dated December 28, 1961.

19 Upon request of the Governor of Guam, the Virgin Islands,
20 or American Samoa, the Secretary of the Interior may, with-
21 out reimbursement or with such reimbursement as he may
22 deem appropriate, convey all right, title, and interest of the
23 United States in any of the lands described in clauses (ii),
24 (iii), (iv), (v), (vi), (vii), or (viii) of this subsection to
25 the government of Guam, the Virgin Islands, or American

1 Samoa, as the case may be, if such land is no longer needed
2 by the United States.

3 SEC. 2. (a) Nothing in this Act shall affect the right of
4 the President to establish naval defensive sea areas and
5 naval airspace reservations around and over the islands of
6 Guam, American Samoa, and the Virgin Islands when
7 deemed necessary for national defense.

8 (b) Nothing in this Act shall affect the use, develop-
9 ment, improvement, or control by or under the constitutional
10 authority of the United States of the lands transferred by sec-
11 tion 1 hereof, and the navigable waters overlying such lands,
12 for the purposes of navigation or flood control or the produc-
13 tion of power, or be construed as the release or relinquish-
14 ment of any rights of the United States arising under the
15 constitutional authority of Congress to regulate or improve
16 navigation, or to provide for flood control or the production
17 of power.

18 (c) The United States retains all of its navigational
19 servitude and rights in and powers of regulation and control
20 of the lands conveyed by section 1 hereof, and the navigable
21 waters overlying such lands, for the constitutional purposes
22 of commerce, navigation, national defense, and international
23 affairs, all of which shall be paramount to, but shall not be
24 deemed to include, proprietary rights of ownership, or the
25 rights of management, administration, leasing, use, and de-

1 velopment of the lands and natural resources not in deroga-
2 tion of the United States navigational servitude and rights
3 which are specifically conveyed to the governments of Guam,
4 the Virgin Islands, or American Samoa, as the case may be,
5 by section 1 of this Act.

6 SEC. 3. (a) Except as otherwise provided in this section
7 the governments of Guam, the Virgin Islands, and American
8 Samoa, as the case may be, shall have concurrent jurisdiction
9 with the United States over parties found, acts performed,
10 and offenses committed on property owned, reserved, or
11 controlled by the United States in Guam, the Virgin Islands,
12 and American Samoa. A judgment of conviction or acquittal
13 on the merits under the laws of Guam, the Virgin Islands,
14 or American Samoa shall be a bar to any prosecution under
15 the criminal laws of the United States for the same act or
16 acts, and a judgment of conviction or acquittal on the merits
17 under the laws of the United States shall be a bar to any
18 prosecution under the laws of Guam, the Virgin Islands, or
19 American Samoa for the same act or acts.

20 (b) Notwithstanding the provisions of subsection (a) of
21 this section, the President may from time to time exclude
22 from the concurrent jurisdiction of the government of Guam
23 persons found, acts performed, and offenses committed on
24 the property of the United States which is under the control
25 of the Secretary of Defense to such extent and in such cir-

1 cumstances as he finds required in the interest of the national
2 defense.

3 SEC. 4. Subsection (b) of section 31 of the Revised
4 Organic Act of the Virgin Islands (48 U.S.C. 1545 (b)), is
5 amended to read as follows:

6 “(b) All right, title, and interest of the United States
7 in the property placed under the control of the government
8 of the Virgin Islands by section 4 of the Organic Act of the
9 Virgin Islands of the United States (49 Stat. 1807, 1808),
10 is hereby conveyed to such government, except that all lands
11 and other property which on the date of enactment of this
12 subsection are administered by the Secretary of the Interior
13 as a part of the national park system shall be retained by the
14 United States.”

15 SEC. 5. Section 28 (b) of the Organic Act of Guam (48
16 U.S.C. 4421f (a)) is amended to read as follows:

17 “(b) All other property, real and personal, owned by
18 the United States in Guam, not reserved by the President
19 of the United States prior to November 1, 1950, is hereby
20 conveyed to the government of Guam, to be administered
21 for the benefit of the people of Guam, and the legislature
22 shall have authority, subject to such limitations as may be
23 imposed upon its acts by this Act or subsequent Acts of the
24 Congress, to legislate with respect to such property, real
25 and personal, in such manner as it may deem desirable.”

1 SEC. 6. On and after the date of enactment of this Act,
2 all rents, royalties, or fees from leases, permits, or use rights
3 issued prior to such date of enactment by the United States,
4 and rights of action for damages for trespass occupancies of
5 lands conveyed by this Act, shall accrue and belong to the
6 appropriate local government under whose jurisdiction the
7 land is located.

8 SEC. 7. The Act entitled "An Act to authorize the Secre-
9 tary of the Interior to convey certain submerged lands to the
10 governments of Guam, the Virgin Islands, and American
11 Samoa, and for other purposes", approved November 20,
12 1963 (48 U.S.C. 1701-1704) is hereby repealed.

93^d CONGRESS
1st SESSION

H. R. 4696

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 22, 1973

Mr. WON PAT introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

To amend the Act of November 20, 1963, placing certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Act of November 20, 1963 (77 Stat. 339; 48
4 U.S.C. 1701), authorizing conveyance of certain submerged
5 lands to the territories, is amended to read as follows:
6 That, (a) whatever right, title, or interest the United States
7 has in lands permanently or periodically covered by tidal
8 waters up to but not above the line of mean high tide and
9 seaward to a line three geographical miles distant from the

1 coastlines of Guam, the Virgin Islands, and American
2 Samoa, as heretofore, or hereafter modified by accretion,
3 erosion, and reliction, artificially made, filled-in, or reclaimed
4 lands which were formerly, permanently, or periodically
5 covered by tidal waters is hereby conveyed to the govern-
6 ment of Guam, the Virgin Islands, or American Samoa, as
7 the case may be, to be administered in trust for the benefit of
8 the people thereof.

9 (b) There are excepted from the transfer made by sub-
10 section (a) hereof—

11 (i) all deposits of oil, gas, and other minerals, but
12 the term “minerals” shall not include sand, coral, and
13 gravel;

14 (ii) all lands adjacent to property owned by the
15 United States above the line of mean high tide;

16 (iii) all lands acquired by the United States by
17 eminent domain proceedings, purchase, exchange, or
18 gift;

19 (iv) all lands filled in, built up, or otherwise re-
20 claimed by the United States for its own use;

21 (v) all tracts or parcels of land containing on any
22 part thereof any structures or improvements constructed
23 by the United States;

24 (vi) all lands that have heretofore been determined
25 by the President or the Congress to be of such scientific,

1 scenic, or historic character as to warrant preservation
2 and administration under the provisions of the Act of
3 August 25, 1916 (39 Stat. 535), as amended and sup-
4 plemented; and

5 (vii) all lands designated by the President within
6 one hundred twenty days after the date of enactment of
7 this Act:

8 *Provided*, That upon request of the Governor of Guam,
9 the Virgin Islands, or American Samoa, the President
10 may, without reimbursement or with such reimbursement as
11 he may deem appropriate, convey all right, title, and interest
12 of the United States in any of the lands described in sub-
13 paragraphs (ii), (iii), (iv), (v), (vi), and (vii) of this
14 subsection to the government of Guam, the Virgin Islands,
15 or American Samoa, as the case may be, if such land is no
16 longer needed by the United States.

17 SEC. 2. (a) Nothing in this Act shall affect the right
18 of the President to establish naval defensive sea areas and
19 naval airspace reservations around and over the islands of
20 Guam, American Samoa, and the Virgin Islands when
21 deemed necessary for national defense.

22 (b) Nothing in this Act shall affect the use, develop-
23 ment, improvement, or control by or under the constitutional
24 authority of the United States of the lands transferred by
25 section 1 hereof, and the navigable waters overlying such

1 lands, for the purposes of navigation or flood control or
2 the production of power, or be construed as the release or
3 relinquishment of any rights of the United States arising
4 under the constitutional authority of Congress to regulate or
5 improve navigation, or to provide for flood control, or the
6 production of power.

7 (c) The United States retains all its navigational servi-
8 tude and rights in and powers of regulation and control of
9 the lands conveyed by section 1 hereof, and the navigable
10 waters overlying such lands, for the constitutional purposes
11 of commerce, navigation, national defense, and international
12 affairs, all of which shall be paramount to, but shall not be
13 deemed to include, proprietary rights of ownership, or the
14 rights of management, administration, leasing, use, and de-
15 velopment of the lands and natural resources not in deroga-
16 tion of United States navigational servitude and rights which
17 are specifically conveyed to the governments of Guam, the
18 Virgin Islands, or American Samoa, as the case may be, by
19 section 1 of this Act.

20 SEC. 3. (a) Except as otherwise provided in this section
21 the governments of Guam, the Virgin Islands, and American
22 Samoa, as the case may be, shall have concurrent jurisdiction
23 with the United States over parties found, acts performed,
24 and offenses committed on property owned, reserved, or con-
25 trolled by the United States in Guam, the Virgin Islands,

1 and American Samoa. A judgment of conviction or ac-
2 quittal on the merits under the laws of Guam, the Virgin
3 Islands, or American Samoa shall be a bar to any prosecu-
4 tion under the criminal laws of the United States for the
5 same act or acts, and a judgment of conviction or acquittal
6 on the merits under the laws of the United States shall be a
7 bar to any prosecution under the laws of Guam, the Virgin
8 Islands, or American Samoa for the same act or acts.

9 (b) Notwithstanding the provisions of subsection (a)
10 of this section, the President may from time to time exclude
11 from the concurrent jurisdiction of the government of Guam
12 persons found, acts performed, and offenses committed on
13 the property of the United States which is under the control
14 of the Secretary of Defense to such extent and in such cir-
15 cumstances as he finds required in the interest of the national
16 defense.

17 SEC. 4. Subsection (b) of section 31 of the Revised
18 Organic Act of the Virgin Islands (68 Stat. 497, 510), is
19 hereby amended to read as follows:

20 “(b) All right, title, and interest of the United States in
21 the property placed under the control of the government of
22 the Virgin Islands by section 4 of the Act of June 22, 1936
23 (49 Stat. 1807, 1808), is hereby conveyed to such govern-
24 ment: *Provided*, That with respect to lands and other prop-
25 erties which on the date of this Act are designated pursuant

1 to law for administration by the Secretary of the Interior
2 under the provisions of the Act of August 25, 1916 (39 Stat.
3 535), as amended and supplemented, such lands and prop-
4 erties shall retain the legal status accorded them immediately
5 prior to the enactment of this Act.”

6 SEC. 5. Subsection (b) of section 28 of the Organic Act
7 of Guam (64 Stat. 384, 392) is hereby amended to read
8 as follows:

9 “(b) All other property, real and personal, owned by
10 the United States in Guam, not reserved by the President of
11 the United States prior to November 1, 1950, is hereby
12 conveyed to the government of Guam, to be administered for
13 the benefit of the people of Guam, and the legislature shall
14 have authority, subject to such limitations as may be imposed
15 upon its acts by this Act or subsequent Acts of the Congress,
16 to legislate with respect to such property, real and personal,
17 in such manner as it may deem desirable.”.

93^d CONGRESS
1ST SESSION

H. R. 6135

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 1973

Mr. DE LUIGO introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

To place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) subject to valid existing rights, all right, title, and
4 interest of the United States in lands permanently or periodi-
5 cally covered by tidal waters up to but not above the line
6 of mean high tide and seaward to a line three geographical
7 miles distant from the coastlines of Guam, the Virgin Islands,
8 and American Samoa, as heretofore or hereafter modified
9 by accretion, erosion, and reliction, and in artificially made,
10 filled-in, or reclaimed lands which were formerly permanently

1 or periodically covered by tidal waters, are hereby conveyed
2 to the governments of Guam, the Virgin Islands, and Ameri-
3 can Samoa, as the case may be, to be administered in trust
4 for the benefit of the people thereof.

5 (b) There are excepted from the transfer made by sub-
6 section (a) hereof—

7 (i) all deposits of oil, gas, and other minerals, but
8 the term “minerals” shall not include coral, sand, and
9 gravel;

10 (ii) all lands adjacent to property owned by the
11 United States above the line of mean high tide;

12 (iii) all lands acquired by the United States by
13 eminent domain proceedings, purchase, exchange, or
14 gift;

15 (iv) all lands filled in, built up, or otherwise re-
16 claimed by the United States for its own use;

17 (v) all tracts or parcels of land containing on any
18 part thereof any structures or improvements constructed
19 by the United States;

20 (vi) all lands that have heretofore been determined
21 by the President or the Congress to be of such scientific,
22 scenic, or historic character as to warrant preservation
23 and administration under the provisions of the Act
24 entitled “An Act to establish a National Park Service,

1 and for other purposes", approved August 25, 1916
2 (16 U.S.C. 1 et seq.) ;

3 (vii) all lands designated by the President within
4 one hundred twenty days after the date of enactment of
5 this Act;

6 (viii) all lands that are within the administrative
7 responsibility of any agency or department of the United
8 States other than the Department of the Interior;

9 (ix) all lands lawfully acquired by persons other
10 than the United States through purchase, gift, exchange,
11 or otherwise;

12 (x) all lands within the Virgin Islands National
13 Park established by the Act of August 2, 1956 (16
14 U.S.C. 398 et seq.), including the lands described in the
15 Act of October 5, 1962 (16 U.S.C. 398c-398d) ; and

16 (xi) all lands within the Buck Island Reef National
17 Monument as described in Presidential Proclamation
18 3448 dated December 28, 1961.

19 Upon request of the Governor of Guam, the Virgin Islands,
20 or American Samoa, the Secretary of the Interior may, with-
21 out reimbursement or with such reimbursement as he may
22 deem appropriate, convey all right, title, and interest of the
23 United States in any of the lands described in clauses (ii),
24 (iii), (iv), (v), (vi), (vii), or (viii) of this subsection to
25 the government of Guam, the Virgin Islands, or American

1 Samoa, as the case may be, if such land is no longer needed
2 by the United States.

3 SEC. 2. (a) Nothing in this Act shall affect the right of
4 the President to establish naval defensive sea areas and
5 naval airspace reservations around and over the islands of
6 Guam, American Samoa, and the Virgin Islands when
7 deemed necessary for national defense.

8 (b) Nothing in this Act shall affect the use, develop-
9 ment, improvement, or control by or under the constitutional
10 authority of the United States of the lands transferred by sec-
11 tion 1 hereof, and the navigable waters overlying such lands,
12 for the purposes of navigation or flood control or the produc-
13 tion of power, or be construed as the release or relinquish-
14 ment of any rights of the United States arising under the
15 constitutional authority of Congress to regulate or improve
16 navigation, or to provide for flood control or the production
17 of power.

18 (c) The United States retains all of its navigational
19 servitude and rights in and powers of regulation and control
20 of the lands conveyed by section 1 hereof, and the navigable
21 waters overlying such lands, for the constitutional purposes
22 of commerce, navigation, national defense, and international
23 affairs, all of which shall be paramount to, but shall not be
24 deemed to include, proprietary rights of ownership, or the
25 rights of management, administration, leasing, use, and de-

1 velopment of the lands and natural resources not in deroga-
2 tion of the United States navigational servitude and rights
3 which are specifically conveyed to the governments of Guam,
4 the Virgin Islands, or American Samoa, as the case may be,
5 by section 1 of this Act.

6 SEC. 3. (a) Except as otherwise provided in this section
7 the governments of Guam, the Virgin Islands, and American
8 Samoa, as the case may be, shall have concurrent jurisdiction
9 with the United States over parties found, acts performed,
10 and offenses committed on property owned, reserved, or
11 controlled by the United States in Guam, the Virgin Islands,
12 and American Samoa. A judgment of conviction or acquittal
13 on the merits under the laws of Guam, the Virgin Islands,
14 or American Samoa shall be a bar to any prosecution under
15 the criminal laws of the United States for the same act or
16 acts, and a judgment of conviction or acquittal on the merits
17 under the laws of the United States shall be a bar to any
18 prosecution under the laws of Guam, the Virgin Islands, or
19 American Samoa for the same act or acts.

20 (b) Notwithstanding the provisions of subsection (a) of
21 this section, the President may from time to time exclude
22 from the concurrent jurisdiction of the government of Guam
23 persons found, acts performed, and offenses committed on
24 the property of the United States which is under the control
25 of the Secretary of Defense to such extent and in such cir-

1 cumstances as he finds required in the interest of the national
2 defense.

3 SEC. 4. Subsection (b) of section 31 of the Revised
4 Organic Act of the Virgin Islands (48 U.S.C. 1545 (b)), is
5 amended to read as follows:

6 “(b) All right, title, and interest of the United States
7 in the property placed under the control of the government
8 of the Virgin Islands by section 4 of the Organic Act of the
9 Virgin Islands of the United States (49 Stat. 1807, 1808),
10 is hereby conveyed to such government, except that all lands
11 and other property which on the date of enactment of this
12 subsection are administered by the Secretary of the Interior
13 as a part of the national park system shall be retained by the
14 United States.”

15 SEC. 5. Section 28 (b) of the Organic Act of Guam (48
16 U.S.C. 4421f(a)) is amended to read as follows:

17 “(b) All other property, real and personal, owned by
18 the United States in Guam, not reserved by the President
19 of the United States prior to November 1, 1950, is hereby
20 conveyed to the government of Guam, to be administered
21 for the benefit of the people of Guam, and the legislature
22 shall have authority, subject to such limitations as may be
23 imposed upon its acts by this Act or subsequent Acts of the
24 Congress, to legislate with respect to such property, real
25 and personal, in such manner as it may deem desirable.”

1 SEC. 6. On and after the date of enactment of this Act,
2 all rents, royalties, or fees from leases, permits, or use rights
3 issued prior to such date of enactment by the United States,
4 and rights of action for damages for trespass occupancies of
5 lands conveyed by this Act, shall accrue and belong to the
6 appropriate local government under whose jurisdiction the
7 land is located.

8 SEC. 7. The Act entitled "An Act to authorize the Secre-
9 tary of the Interior to convey certain submerged lands to the
10 governments of Guam, the Virgin Islands, and American
11 Samoa, and for other purposes", approved November 20,
12 1963 (48 U.S.C. 1701-1704) is hereby repealed.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

SEP 24 1973

Dear Mr. Chairman:

This responds to your request for the views of this Department on H.R. 6775, a bill "To place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes."

We recommend enactment of this bill, if amended as suggested herein.

H.R. 6775 would transfer to the Territories of Guam, the Virgin Islands, and American Samoa the title of the United States to tidelands and submerged lands surrounding the three territories and the responsibility for administering those lands, with certain exceptions.

A similar action was taken by the Congress with respect to the coastal states in 1953. (See the Submerged Lands Act 43 U.S.C. 1301.) In addition, Puerto Rico, pursuant to 48 U.S.C. 749, controls the submerged lands around the Islands of Puerto Rico. We see no reason the territories should not be given property rights comparable to the rights previously given these other areas. Moreover, we believe that the territories are fully competent to administer these tidelands and submerged lands under their own laws. Furthermore, section 1(b) i-xi of this bill appears adequate to exempt from transfer lands and minerals necessary to protect the national interest. Enactment of this law would not in any way reduce the territories' responsibility to comply with applicable Federal Air and Water Quality Standards. Moreover, the bill adequately protects the interests of United States foreign relations.

Our suggested amendments center on sections 4 and 5 of the bill. Section 4 would turn over to the Virgin Islands Government title to property which was placed under control of that government by the 1937 Virgin Islands Organic Act (48 U.S.C. 1405 c.) We have no objection to the concept of this section but would recommend that language be inserted to allow this Department some time to review the status of each of the pieces of property transferred by the 1937 Act. By this means, we can determine if there is any overriding reason for having the U.S. Government retain title to any of these tracts for the achievement of Federal goals and responsibilities in the territorial areas and can make appropriate recommendations to the President. Therefore, we would recommend that the language of Section 4 be amended as follows:

"(b) All right, title and interest of the United States in the property placed under the control of the government of

the Virgin Islands by section 4(a) of the Organic Act of the Virgin Islands of the United States (49 Stat. 1807, 1808), and not reserved by the President of the United States within 120 days from the passage of this act, is hereby conveyed to such government, except that any part of said property which on the date of enactment of this subsection is administered by the Secretary of the Interior as a part of the national park system shall be retained by the United States."

With regard to section 5, there is an error in lines 15 and 16, page 6. The statute cited in those lines should read "48 U.S.C. 1421f(b)." We also have a substantive problem with this section. Its thrust is to change the status of "All other property" - as the term is used in Section 28(b) of the Organic Act of Guam - from property controlled by Guam to property owned by Guam. As now worded, the proposed amendment would convey, as of the date the bill becomes law, property acquired by the United States after November 1, 1950, and which is currently owned by the United States. Examples of such later-acquired property are several parcels of land which were decided by the Government of Guam to the Department of the Interior on April 3, 1970, for a proposed "War in the Pacific National Historic Park." In order to clarify that the amendment is meant to apply only to property acquired before November 1, 1950, and not to after-acquired property, we suggest that lines 17-19, page 6, be rewritten as follows:

"(b) All other property, real and personal, owned by the United States in Guam prior to November 1, 1950, and not reserved by the President of the United States prior to that date, is hereby . . . "

We would also recommend that in keeping with the amendments of section 5, the word "control" in section 28(c) of the Organic Act of Guam, 48 U.S.C. 1421f(c), be deleted and the word "ownership" be substituted in its place.

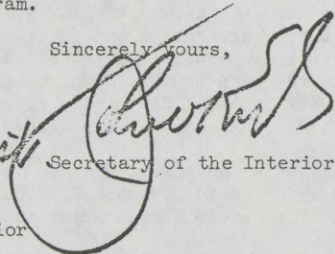
Finally, this Department recommends the adoption of amendments to H.R. 6775 as outlined in the reports by the Departments of Justice and Defense which would:

- amend Section 1(b)(iii) by inserting the word "hereafter" following the word "lands".
- amend Section 1(b)(iv) by inserting the word "heretofore" on page 2, line 1 before the word "lands".

- amend Section 1(b) by adding an additional exception numbered (xii) as described in the Defense report.
- amend Section 1(b), on page 4, line 1, after the words "may be" by deleting the remainder of the sentence and substituting in lieu thereof "with the concurrence of the agency having custody thereof."
- amend Section 2(c) by deleting the last three words in line 1 and all of line 2 on page 5.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

asit 
Secretary of the Interior

Honorable James A. Haley
Chairman, Committee on Interior
and Insular Affairs
House of Representatives
Washington, D.C. 20515



DEPARTMENT OF THE NAVY
OFFICE OF LEGISLATIVE AFFAIRS
WASHINGTON, D. C. 20350

IN REPLY REFER TO
LA-62:ela

24 SEP 1973

Dear Mr. Chairman:

Your requests for comment on H.R. 6135 and H.R. 6775, identical bills "To place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes," and H.R. 4696, a bill "To amend the Act of November 20, 1963, placing certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes," have been assigned to this Department by the Secretary of Defense for the preparation of a report expressing the views of the Department of Defense.

Under the provisions of the Act of November 20, 1963 (Public Law 88-183, 77 Stat. 338) the Secretary of the Interior, upon the request of the Governor of Guam, the Virgin Islands or American Samoa, is authorized to transfer to the government of the territory concerned, under certain circumstances, certain tidelands, submerged lands or filled lands in or adjacent to the territory. The statute provides for notification to Congress, reservation of certain rights and concurrent jurisdiction.

H.R. 6135 and H.R. 6775 would repeal the Act of November 20, 1963 and would convey such lands to the governments of Guam, the Virgin Islands, and American Samoa, as the case may be, subject to valid existing rights, and subject to eleven exceptions set forth in those bills. Among the excepted lands not conveyed by the bills are "all lands that are within the administrative responsibility of any agency or department of the United States other than the Department of the Interior", as set forth in Section 1(b) (viii) of the bills. The Secretary of the Interior may, however, upon the request of the appropriate territorial Governor convey to the territorial government certain of the excepted lands, including those within the administrative responsibility of the Department of Defense, if such lands are no longer needed by the United States.

H.R. 4696 is similar to H.R. 6135 and H.R. 6775 in its general effect, but with certain notable differences. It would amend the Act of November 20, 1963 to effect the conveyance of such lands to the governments of Guam, the Virgin Island and American Samoa. Although the bill provides seven exceptions from such transfer, it does not except "all lands that are within the administrative responsibility of any agency or department of the United States other than the Department of the Interior" as does H.R. 6135 and H.R. 6775. In addition, H.R. 4696 provides that the President, vice the Secretary of the Interior, may, upon request of the appropriate Governor, convey lands no longer needed by the United States.

We are of the opinion that language such as is contained in Section 1(b) (viii) of H.R. 6135 or H.R. 6775, which excepts from conveyance those lands within the administrative responsibility of any agency or department of the United States other than the Department of the Interior, is necessary to preserve the interests of the Department of Defense in its land holdings in Guam, the Virgin Islands and American Samoa. However, to the extent that the final paragraph of Section 1(b) of H.R. 6135 and H.R. 6775 would permit the Secretary of the Interior to convey land excepted under 1(b)(viii) without the prior approval of the Secretary of Defense, the Department of Defense is opposed. It would be inimical to the interests of national security to permit a federal agency not familiar with the needs of the Department of Defense to determine if such lands are no longer important to the Department of Defense and that such lands should be conveyed to a territorial government, without first obtaining the approval of the Secretary of Defense.

In addition, it is noted that the Department of the Navy has pending a land exchange agreement dated April 1972 with the Government of Guam which provides for the exchange of land relative to construction of the Sella Bay Ammunition Pier authorized by the Military Construction Authorization Act, 1971 (Public Law 91-511, 84 Stat. 1204), as amended by section 201 of the Military Construction Authorization Act, 1973 (Public Law 92-545, 86 Stat. 1135). The effectiveness of such agreement has been deferred by a court decision until such time as the agreement is approved by the Guam legislature, which has not yet occurred. Under these circumstances, the exceptions from the proposed statutory conveyance in H.R. 6135, H.R. 6775 and H.R. 4696 would not extend to the land to be acquired by the Navy for the ammunition pier, unless the exchange is consummated prior to enactment of the bills.

It is also noted that under all three bills, the exception in section 1(b) (ii) is subject to two interpretations since it is not clear whether the words "above the line of mean high tide" modifies "lands" or "property." It is presumed that it was intended to modify "property" and this interpretation is required in order to protect the needs of the Department of Defense. Accordingly, it is recommended that the ambiguity be clarified by inserting the words "which is" before "above the line ..." in any bill which is favorably considered.

Because of the explicit disclaimer in each bill of intention to affect various control rights (notably naval airspace restrictions in section 2(a)), it is recommended that the bills contain a specific exclusion of the effect on control under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.), the primary authorization for airspace control.

The words "in trust" contained in section 1 of each bill could be construed to impose an obligation on the island governments that would not otherwise exist with respect to the lands conveyed. It is therefore recommended that the words "in trust" be deleted from these sections.

In summary, the Department of the Navy, on behalf of the Department of Defense, is opposed to H.R. 6135, H.R. 6775 and H.R. 4696 as written, because of the deficiencies in each as noted above. We are not opposed to the general intent of the bills and would have no objection to a bill similar to H.R. 6135, if such bill contained the following provisions in addition to those already contained in H.R. 6135:

(1) In section 1 (b) starting on page 4, line 1, after the words, "may be" delete the remainder of the sentence and substitute therefor the following: "with the concurrence of the agency having custody thereof".

(2) An additional exception under section 1(b) to the general conveyance, in substance, as follows:

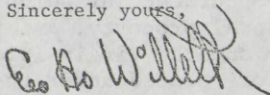
"(xii) all lands adjacent to property required for completion of the Department of the Navy Land Acquisition Project relative to the construction of the Sella Bay Ammunition Pier authorized by the Military Construction Authorization Act, 1971 (84 Stat. 1204), as amended by section 201 of the Military Construction Authorization Act, 1973 (86 Stat. 1135)."

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report on H.R. 6135, H.R. 6775 and H.R. 4696 for the consideration of the Committee.

For the Secretary of the Navy.

Sincerely yours,



E. H. WILLETT
Captain, U.S. Navy
Deputy Chief

Honorable James D. Haley
Chairman, Committee on Interior
and Insular Affairs
House of Representatives
Washington, D. C. 20515

~~Department of Justice~~
 Washington, D.C. 20530

SEP 24 1973

Honorable James A. Haley
 Chairman, Committee on Interior and
 Insular Affairs
 House of Representatives
 Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Justice on H.R. 4696, H.R. 6135, and H.R. 6775, three bills to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes. Because the three above-mentioned bills are substantially identical, our comments will be directed to H.R. 6775 as a matter of convenience.

H.R. 6775 would give the Governments of Guam, the Virgin Islands and American Samoa title to the tidelands and lands beneath the 3-mile territorial sea adjacent to those territories, with exceptions; it would give those territorial governments concurrent jurisdiction with the Federal Government over federal property, and it would give to the Governments of Guam and the Virgin Islands title to federal property heretofore placed under their control by their organic acts. This bill would encourage and facilitate local development, especially through filling in of shallow areas, and would bring federal reservations under the jurisdiction of local laws (domestic and probate law, etc., as well as criminal law).

Presently, Guam has title to and authority over property previously owned by the United States pursuant to 48 U.S.C. 1421f, which provides:

(a) The title to all property, real and personal, owned by the United States and employed by the naval government of Guam in the administration of the civil affairs of the

inhabitants of Guam * * * shall be transferred to the government of Guam within ninety days after the date of enactment of this Act.

(b) All other property, real and personal, owned by the United States in Guam, not reserved by the President of the United States within ninety days after the date of enactment of this Act, is hereby placed under the control of the government of Guam, to be administered for the benefit of the people of Guam, and the legislature shall have authority, subject to such limitations as may be imposed upon its acts by this Act or subsequent Act of the Congress, to legislate with respect to such property, real and personal, in such manner as it may deem desirable.

(c) All property owned by the United States in Guam, the title to which is not transferred to the government of Guam by subsection (a) hereof, or which is not placed under the control of the government of Guam by subsection (b) hereof, is transferred to the administrative supervision of the head of the department or agency designated by the President under section 3 of this Act, except as the President may from time to time otherwise prescribe: Provided, That the head of such department or agency shall be authorized to lease or to sell, on such terms as he may deem in the public interest, any property, real or personal, of the United States under his administrative supervision in Guam not needed for public purposes.

In 65 I.D. 193 (1958) the Solicitor of the Department of the Interior ruled that tidelands and submerged lands, artificially filled or not, were not transferred to the Government of Guam or placed under its control under the foregoing provisions, in view of the general rule that such lands do not ordinarily pass under general statutes but must be specified particularly.

The Act of July 14, 1960, 74 Stat. 529, granted two described parcels of submerged, tide and filled lands to the Government of Guam for park and recreational use, to revert if such use ceased.

The Virgin Islands has authority over property formerly acquired by the United States pursuant to 48 U.S.C. 1405c(a), which provides:

All property which may have been acquired by the United States from Denmark in the Virgin Islands under the convention entered into August 4, 1916, not heretofore or within one year hereafter reserved by the United States for public purposes, is hereby placed under the control of the Government of the Virgin Islands * * *.

By statute, Congress has established a local territorial government in the Virgin Islands consisting of three branches with the territorial legislature exercising powers comparable to the "police powers" of the individual States in the United States. 48 U.S.C. 1541.

The present territorial rights and status of American Samoa are set forth in 48 U.S.C. 1661, et seq.

There is some uncertainty regarding the extent to which federal jurisdiction over federal reservations and property in Guam, the Virgin Islands and American Samoa is exclusive of or concurrent with jurisdiction of the territorial governments. See H.Rept. No. 1827, 87th Cong., 2d sess., pp. 4-7, 11-12, 16-17 (1962). See also, United States v. Borja, 191 F. Supp. 563 (D. Guam 1961). Section 3(a) of H.R. 6775 would remove that uncertainty. Certain other provisions in H.R. 6775, however, need clarification.

Section 1(b)(iv) excepts from the grant of submerged lands to the territories "all lands filled in, built up, or otherwise reclaimed by the United States for its own use." As presently worded this provision could be construed to except from the grant to the territories any of the submerged lands which the United States reclaims in the future. If

'by this provision, it is intended to except only those parcels reclaimed before enactment of the legislation, the word "heretofore" should be inserted on page 2, line 15 after the word "lands."

Subsection 1(b)(iii), as presently worded, excepts from the grant submerged lands obtained by the United States by eminent domain, purchase, exchange or gift. There is no indication whether this exception applies to submerged lands acquired in the specified ways in the past or only in the future. Consequently, if one could construe the treaty of 1916 between Denmark and the United States, 39 Stat. 1706, under which the United States acquired the Virgin Islands for \$25 million, as a purchase of those islands and the adjacent submerged lands, then the Virgin Islands would obtain nothing by the exception under section 1(b)(iii) of these bills. If, on the other hand, the intention is to except from the grant those lands acquired in the specified ways after the passage of this legislation, the word "hereafter" should be inserted on page 2, line 12 after the word "lands."

Section 2(c) sets out the powers retained by the United States under these bills. Except for the last five lines of that section, i.e., lines 1-5, page 5, this section is identical to section 6 of the Submerged Lands Act, by which Congress conveyed the submerged lands to the States. 43 U.S.C. 1314. By these five lines, the bill apparently distinguishes two kinds of lands and natural resources under this bill, those not in derogation of the United States navigational servitude and those in derogation of such servitude. However, by the words at the beginning of section 2(c) of the bill, the United States is not granting any lands and natural resources in derogation of its navigational servitude. Consequently, the last five sentences of this section are confusing and should be amended to conform with section 6 of the Outer Continental Shelf Lands Act. This can be easily accomplished by deleting the last three words in line 1 and all of line 2 on page 5.

Additionally, it appears that on page 6, line 16, 48 U.S.C. 1421f has been erroneously described as 48 U.S.C.

4421f(a), and accordingly the appropriate change should be made.

Whether H.R. 6775 should be enacted involves questions as to which the Department of Justice defers to the views of the Department of the Interior and the Department of State.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Cordially,

MIKE McKEVITT

GOVERNMENT OF AMERICAN SAMOA

OFFICE OF THE DELEGATE-AT-LARGE

HIGH CHIEF A. U. FUIMAONO
AMERICAN SAMOA

25 September 1973

425 - 13TH STREET, N.W., Suite 926
WASHINGTON, D.C. 20004
TEL: 638-2933

TO: The Honorable Phillip Burton, Chairman
Subcommittee on Territorial and Insular Affairs

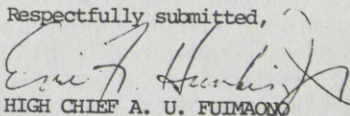
SUBJECT: Statement Concerning H.R. 6775 Reference to Place
Certain Submerged Lands Within the Jurisdiction of
the Governments of Guam, the Virgin Islands and
American Samoa:

I wish to inform the members of this honorable committee that I fully support the substance of H.R. 6775.

Although the proposed legislation identifies to a greater extent the problems directly involving the Territories of Guam and the Virgin Islands, I am pleased, however, that similar considerations are given to American Samoa. This is understandable, of course, in view of American Samoa's unique political association with this great country.

By general observation, I believe the spirit and intent of this proposed bill confirms the growing realization that the subject territories are capable of administration and control of this kind of governmental responsibility.

Respectfully submitted,

for 
HIGH CHIEF A. U. FUIMAONO
Delegate-at-Large

Mr. BURTON. I would like to welcome our respective colleagues. Mr. de Lugo, perhaps we will start with you.

STATEMENT OF HON. RON de LUGO, DELEGATE FROM THE VIRGIN ISLANDS

Mr. DE LUGO. Thank you very much, Mr. Chairman.

Before I begin and I will be very brief, I would like to thank the chairman for scheduling these hearings, knowing how busy Congress is at this time, and I would like to say that if it meets with the chairman's approval and the other members of the committee, I would suggest that Congressman Won Pat and myself make our statements in behalf of the bill. I would like to defer any questions, I will answer any questions following other witnesses because as you know, Mr. Chairman, the distinguished Governor of the Virgin Islands, Melvin Evans, is here today. He has come to the Nation's Capital because of his great interest in this bill. He is on his way to the Southern Governors' Conference where we expect him to be elected chairman tomorrow.

Mr. BURTON. Mr. de Lugo, do you have a prepared statement?

Mr. DE LUGO. Yes, I do.

Mr. BURTON. Without objection, your statement will appear in full in the record at this point and you can proceed either by reading it, by synopsising, whatever you choose.

Mr. DE LUGO. I will read it, since it is very brief.

Mr. Chairman and distinguished members of the subcommittee, I appreciate this opportunity to testify on behalf of my bill, H.R. 6775, which would transfer certain submerged and other lands to the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa.

Basically, this legislation conveys to these three territories all right, title, and interest of the United States in land from the point of mean high tide seaward to a line 3 geographical miles from their respective coastlines. It would in effect grant the territories the same conditions of ownership of offshore lands now possessed by all of our coastal States and the Commonwealth of Puerto Rico.

Among the major exceptions to this conveyance are mineral rights:

(1) All deposits of oil, gas, and other minerals but not including coral, sand, and gravel;

(2) Submerged land adjacent to property owned by the United States;

(3) All lands acquired by persons other than the United States;

(4) All lands designated by the President within 120 days of enactment of this legislation; and

(5) Lands previously determined by the President or Congress to be of scientific, scenic, or historic character and warrant preservation and administration under the National Park Service Act.

Also exempted are those naval defensive sea areas and naval airspace reservations around and over the insular possessions which the President finds necessary for the national defense.

In addition to transferring lands permanently or periodically covered by tidal waters, this legislation would also transfer to the people

of the Virgin Islands many of the most famous buildings and properties in the territory.

Among the better known Federal real property to which the Virgin Islands Government would obtain title under this legislation are Government House the former Marine barracks, now the Senate Building; the Lieutenant Governor's office; the old Public Works headquarters, now housing the Department of Finance; the Budget Office, known as Quarters B; and a parcel of Estate Ross, now housing the Lucinda Millin Home for the Aged.

On St. Croix, Fort Louise Augusta, the Public Works Yard in Christiansted, the former Marine barracks, and the Kingshill Home for the Aged are among the properties to be transferred to the Virgin Islands Government.

All of these properties on St. Thomas and St. Croix have great historic and cultural significance for the people of the Virgin Islands, and have been under the control and maintenance of the Territorial government for many years.

Placing tidal and submerged lands under the jurisdiction of the Virgin Islands, Guam, and American Samoa will eliminate the present cumbersome and duplicative administrative processes which must be undertaken before these lands may be beneficially utilized. For example, even the simplest activity, such as the construction of a dock, requires not only the fulfillment of local administrative rules, but also the approval of the Department of the Interior. The Interior Department in turn must clear the request with the Environmental Protection Agency, and thus the most routine applications may require up to a year before final action is taken. Approval of this legislation will not only avoid time consuming and frustrating delays, but will also free resources of the Department of the Interior from these nonproductive functions for more pressing needs.

The easing of the administrative burden in securing permission to use submerged lands will stimulate their greater commercial development and increase the rental and permit fees available to the Virgin Islands Government. These fees are now payable to and administered by the Department of the Interior, but under my bill they would accrue to the Virgin Islands. While they are only a fractional amount of the Department's budget, they would be a substantial addition to the critical needs of the Virgin Island's Treasury.

Mr. Chairman and members of the subcommittee, I wish to stress to this committee that while additional utilization of Virgin Islands tidal and submerged land may be anticipated, any such development will be subject to existing and future national air and water quality standards as well as the environmental preservation laws of the Virgin Islands. Likewise, permits from the Army Corps of Engineers will continue to be required for activities which come within its jurisdiction. The placing of these lands under local jurisdiction and supervision will lead to stricter adherence to ecological considerations than is possible under the present absentee ownership.

Mr. Chairman, favorable action on this legislation will be an act of recognition that the people and elected governments of the Virgin Islands, Guam, and American Samoa are fully able to manage their own affairs and administer their tidal and submerged lands under their

own laws. Therefore, in addition to the very real substantive changes which this bill provides, there is the no less important symbolic dignification of the fact that the insular possessions have achieved a new status of equality and that the antiquated trappings of colonialism may be discarded.

I thank the Chairman.

Mr. BURTON. We will hear next from Representative Won Pat.

STATEMENT OF HON. ANTONIO B. WON PAT, DELEGATE FROM GUAM

Mr. BURTON. Do you have a prepared statement?

Mr. WON PAT. I do.

Mr. BURTON. Without objection, the statement will be included in the record at this point or you may read it.

Mr. WON PAT. Mr. Chairman, I will read it into the record.

Mr. Chairman and my colleagues on the subcommittee. I appreciate this opportunity to testify in support of H.R. 4696, H.R. 6135, and H.R. 6775. These measures propose to place certain submerged lands within the jurisdiction of the Governments of Guam, the Virgin Islands, and American Samoa. H.R. 4696 was sponsored by me, H.R. 6135 was sponsored by my colleague from the Virgin Islands, Delegate Ron de Lugo, and H.R. 6775 was cosponsored by both of us. As H.R. 6775 is a refinement of the two earlier bills and has the full support of the Delegate to Washington from American Samoa, High Chief A. U. Fuimaono, and the U.S. Department of the Interior, I therefore request that the committee consider H.R. 6775 in this hearing.

The purpose of H.R. 6775 is simple: it provides for the transfer to the governments of each of the three aforementioned territories title to most of the tidelands and submerged lands and those parcels not now actively in use. Title to the territorial submerged lands presently rests with the U.S. Department of the Interior.

This situation is in direct contrast to that which exists in the coastal States and Puerto Rico, all of which hold title to their own offshore areas.

Exc'uded from the transfer would be lands owned by the Federal Government which were acquired subsequent to 1950. Additionally, ownership of all deposits of oil, gas, and other minerals, except coral, sand, and gravel, would remain with the Federal Government, as outlined in section 1, subsection (b) (i-xi) of the bill. (These amendments are in keeping with 48 U.S.C. 1701, which authorizes conveyance of title to offshore areas to the States.)

Section 5 of the bill provides for the transfer of all properties, real and personal, owned by the United States in Guam prior to November 1, 1950, and not reserved by the President of the United States, to the government of Guam. I also propose an amendment to section 5 which will provide that all property, real or personal, owned by the United States in Guam that is not beneficially occupied or actively in use by the U.S. Government be conveyed to the government of Guam. I firmly believe that the Federal Government should assess its present and future needs for real property on Guam, and that any property in excess of its requirements should be released for the benefit and enjoyment of the people.

In this connection, the U.S. Government owns and controls 46,357 acres of lands in Guam, of which 34,768 acres are actively in use, and 11,589 acres are not beneficially occupied or used. The land owned and controlled by the U.S. Government represents approximately one-third of the entire land area of Guam.

In addition, I propose the repeal of 48 U.S.C. section 1704(b), as is recited in section 3(b), (p. 5, line 20) of this bill. This section provides for exceptions to concurrent jurisdiction over persons, acts, and offenses on Federal property which are considered as affecting the interest of national defense. The section does not define or specify what acts or offenses constitute threats to our national interest.

While this section may have had some validity a decade ago, I feel that in the present state of our judicial and political development, it is no longer warranted. It militates against our efforts to destroy the myth of colonialism, and it reflects a discriminatory attitude toward the people of Guam.

Passage by Congress of H.R. 6775 would give the residents of Guam, the Virgin Islands, and American Samoa the same degree of administrative and legal control over their land areas as have residents of the States and Puerto Rico. This is as it should be. Certainly there is no question as to the right of the territories to enjoy this prerogative of local authority.

The Department of the Interior, in its official report on H.R. 6775, states that it is convinced that the "territories are fully competent to administer these tidelands and submerged lands under their own laws."

Enactment of this measure would additionally eliminate administrative problems resulting from the Federal Government's "absentee" ownership of territorial tidelands. At present, the U.S. Department of the Interior must grant final authorization for construction of any structure which extends from the shoreline into the water. As a result, a citizen, or even the Government of Guam, wishing to develop property by the addition of a simple pier, is faced with an incredible maze of bureaucracy in order to gain clearance from officials in Washington.

In the case of Guam, the delay in gaining agency clearances is often a year or more. I think the Department of the Interior has done its best to expedite processing of the necessary documents. But the time lag between requesting permission to build, and actual construction, is frustrating and often deters economic development in the territories.

The Government of Guam is also concerned about several other factors directly related to Federal control of our tidelands. We have reason to believe that a substantial amount of illicit construction of shoreline facilities is taking place by persons who do not want to get involved in the cumbersome paperwork needed to obtain official clearance. Since the Federal Government does not patrol the offshore areas to check for violations, the illegal projects continue without benefit of official sanction and without meeting existing safety and environmental codes.

Some loss of revenue is also being experienced as a result of actions by individuals who know that the Federal Government is unable to collect payment of offshore licensing fees. Since this matter lies within the jurisdiction of the Federal Government, the government of Guam sees no reason at present to follow up on the matter. Passage of this

legislation would rectify both of these problems, of course, and give local officials authority to enforce local and national regulations and to collect all necessary fees for local use.

And finally, passage of this legislation would correct a slight by the Federal Government against the residents of the American territories, one which unjustly implies that territorial residents are incapable of managing their own internal affairs. American citizens of Guam and the Virgin Islands, and the people of American Samoa, are fully competent to administer the tide lands and submerged lands of their respective areas. U.S. territorial policy has come a long way since the turn of the century. And I trust that this committee will assist in relegating this last vestige of colonialism to the history books where it belongs.

I remain open to any questions you may wish to ask, and I thank you for your interest and attention to this important matter.

Mr. BURTON. Thank you very much, Mr. Won Pat.

On behalf of everyone on this subcommittee, I think this is an appropriate point in the record to commend you and our distinguished colleague, Representative de Lugo, for a most effective representation you have given to the people of your respective constituencies, and it would be our hope, upon hearing all of the testimony and reviewing some of the suggestions of the executive department, to act favorably on this legislation.

We may well find that for a variety of reasons, this action may not be taken this morning, but it is our hope that we can process this legislation before the end of the year.

Now, I am just not sure we want to hear from the department while we are awaiting the arrival—

Governor Evans, I did not see you. My view was blocked. Please, Representative de Lugo, would you take the chair with the Governor and introduce our distinguished friend and guest?

Mr. DE LUGO. Mr. Chairman and colleagues on the Subcommittee on Territories, the gentleman on my left here needs no introduction to any of you. Many of you have visited and he has hosted you on those visits, and he has made a very good case on those occasions for the people of the Virgin Islands. I think it is significant that the Governor is here with us today, that he would take time out from his busy schedule, and I mean this literally. Usually that is just a cliché, and just so much verbiage. But in this case, I think that the chairman is aware, as I am, that the Governor had to rearrange his schedule to be here. Tomorrow is an historic day. The Governor will be leaving this afternoon and going down to the Southern Governors' Conference, and we anticipate that tomorrow he will assume the chairmanship of the Southern Governor's Conference, and I would like to join the people of the Virgin Islands and my colleagues in congratulating the Governor.

Mr. BURTON. Thank you, Representative de Lugo.

I assume when you said the gentleman on your left, you were talking about geographical as distinguished from philosophical terms.

Mr. DE LUGO. Yes, sir, I was.

Mr. BURTON. Particularly in light of the prescriptive additional constituencies of Governor Evans. I am sure he would be more pleased if it were in geographical terms.

Governor, before you proceed, let me personally warmly welcome you to our subcommittee. It has been a delight to work with you and it is very good to see you here this morning. I do apologize for not having seen you because of my view being blocked by one of our staffers. I would think that some of my colleagues would have some opening remarks, and we will start with the gentleman on my right who is the ranking minority member, Mr. Clausen.

Mr. CLAUSEN. Thank you, Mr. Chairman.

I am very delighted to have a chance to add my comments to those of the chairman and Mr. de Lugo in welcoming Governor Evans before the committee. There is no question that your input and the number of times you have testified, all the way back from the days you and Mr. de Lugo and others were advancing the legislation to have an elected delegate to the Congress of the United States and other matters, have certainly accrued to the benefit of the Virgin Islands and its territories. Also, the Congress of the United States has benefited in fulfilling its commitments to the people of the territories. I think we are moving generally toward the kind of partnership in government that is so necessary if we are going to fulfill the wishes of the people we all serve.

It is very gratifying for me to have this chance to welcome you and wish you well in this upcoming assignment. This is rather historic and unique that you be selected chairman of the Southern Governors' Conference. This can have a great impact for good throughout the country.

Mr. BURTON. The gentleman from Pennsylvania, Mr. Vigorito.

Mr. VIGORITO. Thank you very much, Mr. Chairman.

I am happy to see you again, Governor, and welcome you here, and Mr. de Lugo, of course, is able to represent the Virgin Islands, and I am sure that this bill before us—I haven't gotten into it in detail, but that is the reason that we are having these hearings. I am sure that we will be more than fair in our consideration of these bills on this subject matter.

We welcome you today.

Thank you.

Mr. BURTON. The gentleman from New Mexico.

Mr. LUJAN. Thank you, Mr. Chairman, for giving us an opportunity to welcome the Governor.

I hope your stay here will be as pleasant as ours always has been in the Virgin Islands although once in a while we hesitate to go down there because no one really realizes that we could go to the Virgin Islands to work. We got in a little trouble once about going down. We have had a most gracious host, and he has always helped us very much in our work. We certainly welcome you.

Mr. BURTON. May I say this, Governor, before you start. First, I am satisfied beyond every doubt, as I am sure you are, that our committee visitations to the Virgin Islands as well as to the other areas in our jurisdiction have played an enormously important role in giving all of us the first-hand knowledge necessary for us to truly work out this partnership. May I assure you that despite our very best efforts to do all that is on our agenda with respect to the Virgin Islands, I fear that at the end of the first session of this Congress, we will still have some

unfinished business. If I can get my colleagues to alter their rather unusual schedules, however, I anticipate we will again visit the Virgin Islands in the next 6 months.

We will have, of course, to try and arrange that scheduling in light of the increasingly burdensome task and responsibilities of the members of this subcommittee. But because of the importance that they have indicated by their diligence in the past to this assignment, I do have hopes that we will get a representative and full delegation to visit the Virgin Islands within the next 6 months.

So, fire away.

STATEMENT OF HON. MELVIN H. EVANS, M.D., GOVERNOR OF THE VIRGIN ISLANDS OF THE UNITED STATES

Governor EVANS. Thank you, Mr. Chairman.

First of all, I want to express my gratitude and appreciation for the many kind things which you and your colleagues have said about me and the Virgin Islands. There has never been any question in our minds that we have friends, friends who are very often critical, but nevertheless friends, and that is the way it should be. We feel that your visits to the Virgin Islands have been perhaps the single most important thing in helping you to understand us, and we to understand you and to advance our cause. I think someone has said that one picture is worth a thousand words, and when you come you see it for yourselves.

We really appreciate that, and would like to extend an invitation 6 months in advance if necessary, and to make sure that you come, you work as well.

Mr. BURTON. Thank you, Governor.

Do you have a prepared statement?

Governor EVANS. I do.

Mr. BURTON. And for the ease of our clerk, we will insert the statement in the record in full at this point, and you can proceed either to read it, extract it, or explain it, or proceed in any manner that is best suited to you.

[The prepared statement of Governor Evans follows:]

STATEMENT OF HON. MELVIN H. EVANS, M.D., GOVERNOR OF THE VIRGIN ISLANDS OF THE UNITED STATES

Mr. Chairman, Congressmen, ladies and gentlemen, thank you for giving me this opportunity to appear here today to testify in support of H.R. 6135 which is a Bill "To Place Certain Submerged Lands Within the Jurisdiction of the Governments of Guam, The Virgin Islands of the United States and American Samoa and for Other Purposes" and Companion Measures.

Permit me, if you will, first to establish the setting in which this Bill comes to the Congress. The Virgin Islands of the United States consists of 29 islands and cays, four of which, comprising 132 square miles, are inhabited. Within the three-mile limits there are submerged lands, exclusively owned and controlled by the Federal Government which might be characterized as shelves with a relatively shallow seawater cover. These areas are protected by barrier reefs, which provide most of our shoreline with its surrounding lagoon-like sea. The total submerged land area within the jurisdiction of the United States Government is approximately three times the firm land area of the Virgin Islands.

The United States Code clearly vests title to it in the Federal Government and makes provision for obtaining both use permits and title to these lands under a very cumbersome, carefully qualified and time-consuming procedure. It is in this setting that I speak to H.R. 6135.

The Congress in its wisdom has seen fit to extend increasing autonomy to Caribbean America. This Committee has, of course, served as the principal architect of this expansion of our constitutional system. Public Law 92-271 gave the Virgin Islands a voice in the deliberations of this august body and with the organization of the 93rd Congress, seated my esteemed friend, Congressman Ron DeLugo, as a member of Congress and of this Committee. Four years earlier the 90th Congress enacted amendments to the Revised Organic Act of 1954, which became Public Law No. 90-496, known to us as the "Elected Governor Act". It is, as you know, my privilege to serve the people of the Virgin Islands as their first elected Governor, pursuant to this landmark legislation.

Permit me, once again, to express for them, as well as for myself, the pride we share as Americans in the exercise of those privileges and obligations which are implicit in this participation in our American system.

But we of the Virgin Islands believe that the significance of our progress towards full membership in the American system reaches beyond the hearts and minds of our small numbers.

Caribbean America is in many ways a laboratory in which the viability of the American system is being constantly tested before large, far-flung and significant audiences in the less developed world. While Puerto Rico addresses the Spanish-speaking nations of Central and South America, the Virgin Islands serves as a window through which the people of the Eastern Caribbean view the American system. More than one-fifth of our population was born citizens of these emerging nations. Many more are related by blood to their citizens.

Our continued orderly assumption of the full rights of American citizenship is thus politically meaningful throughout these many island nations. These considerations are of sufficient political importance, both domestically and internationally, to gain my wholehearted endorsement of this legislation, but there is much more.

As you are aware, the peoples of the Caribbean share common confrontation with a multiplicity of social and economic problems.

That the United States in recent years has addressed increasing attention to this area is evidenced by the recent creation of a full Directorate for Caribbean Countries on a par with Central America within the Bureau of Inter-American Affairs of the Department of State.

A lengthy list of these problems would be inappropriate for these hearings, but a major contributing factor is the relative absence of natural resources and an inordinately high population density. It is in this context that this legislation is extremely timely and vitally important to those of us of the American system who live in the small insular territories. Our latest projections place the population density of the Virgin Islands at twenty-two (22) times that of the United States. Land, and the quest for more of it, to provide living and breathing space for our ever-expanding population is a topic of increasing importance to our Government. Few, if any, Americans are unaware of the interrelationship between most of our contemporary problems and the increasing shortage of land.

The control of internal land and its use is thus of major importance, both symbolically and pragmatically, for local autonomy in matters dealing with public land is to many men an ultimate measure of self-determination.

This legislation proposes to place title to a number of parcels of firm land in our Government. Among them, to illustrate the symbolic importance of this measure, are the seat of the Legislature, the Lieutenant Governor's Office in St. Thomas and Government House in St. Croix.

Direct control of submerged lands, which are defined as those from the mean highwater mark outward from our shorelines, is of major importance to islands which must rely so heavily on waterborne commerce. No matter how minor the incursion, be it an individual homeowner's small boat dock, or a major port installation, all such use today requires the permission of the Federal Government.

We estimate that the average length of time required to obtain a single permit either for dredging or use, or any other form of utilization of Federal ground, that is, submerged lands, is approximately 18 months. Moreover, because there is no Federal agency within the confines of the Virgin Islands charged with this responsibility, employees of the Government of the Virgin Islands are compelled to handle the preliminary work on all such applications. These applications are then forwarded to the Office of Territory, within the Department of Interior, where, after extensive review, usually involving a number of exchanges

of correspondence and numerous phone calls, the application is processed and, in due course, a permit issued.

There are several varieties of permits. To illustrate: should the Virgin Islands Government wish to deepen a channel, or perhaps create a new one, we must obtain a dredging permit. Should we wish to use the dredged material to create additional land, out of the sea, we need a second permit. Finally, after the sea is reclaimed and becomes usable land, we have to have a use permit in order to use the land which has thus been created. Should we wish title to such land, it is necessary for a deed to be prepared by the Department of the Interior and forwarded to this Committee for its approval before the deed can be delivered to the Government of the Virgin Islands. Such matters, Ladies and Gentlemen, are time-consuming and expensive.

This Bill will eliminate the necessity for this expenditure of time and money and give our Government the power to protect the natural beauty of the Islands. Enactment of H.R. 6135 would place the direct management of our potential for expansion in the hands of the elected representatives of the people of the Islands. At such time American citizens of Guam, Samoa and the Virgin Islands can, like those of the several States and Puerto Rico, forge land use policies consistent with priorities established by those most affected.

H.R. 6135, it should be noted, does not extend to us any special privilege not enjoyed by the several States and Puerto Rico. We, as they, must continue to meet the mandate of all Federal laws with respect to environmental quality, control of navigable waters and land use as they are administered by such agencies as the Corp of Engineers, the Environmental Protection Agency and similar regulatory bodies.

We of the Virgin Islands, because we have so little land area, have long recognized land as the precious asset it is. That which man has long squandered, we have long nurtured and conserved. Our environment is a precious heritage which we are determined to protect. Our air is pure. Water pollution, which, at its worst, was minimal by mainland standards, is rapidly becoming a thing of the past.

We are conservationists almost by instinct. Our pollution control laws are stronger than those of the Federal Government. The face of our islands cannot be altered in any manner without an "Earth Change Permit". Dredging or other alteration of the floor of the sea under our control is carefully regulated.

We have the laws and the resources to preserve and develop those few square miles of the United States so they will be as enjoyable for the America of tomorrow as they are today.

We will be ever grateful, if through the enactment of H.R. 6135, you give us the power to fulfill our mission.

Governor EVANS. Actually, as it has been inserted I don't think it needs to be read in full. I would just like to extemporize a little bit, which I can do much more briefly than I can read the statement.

I think that the introduction of the bill H.R. 6775 is another indication of the intent of the Congress to grant more and more self-government as, in its wisdom, it thinks the territories of Guam, the Virgin Islands and Samoa are able to absorb and take part fully in those increased measures of self-government.

Of course, there are many persons who point to the occasional and sometimes not quite so occasional problems that develop in an effort to decry this, but I think that we all recognize that every place has growing pains, and we have to have proper experiences, and we feel very proud we have been able to do as well as we have. As far as these measures are concerned, we feel this is just another measure of self-government, more autonomy. We feel it will have many very definite benefits to the islands. In the first place, it will grant us control over areas that we have to use very frequently.

At that point, I would like to interject for those that would fear that we would abuse those privileges and destroy our natural, or despoil our natural environment, I think we should point out that we

have already in our books, laws which are in many, if not most cases, stronger in the protection of the natural environment than the Federal laws. We have laws, for example, that prevent us from clearing land to build a home unless there is a permit and proper impact studies.

On the other hand, we are also aware of the fact that progress, and I mean progress in the narrow sense, not the very, very wide sense, has often been stymied by the redtape involved in many of the steps that have to be taken. This is particularly true in the use of submerged lands with the multiplicity of the steps needed to go through, because it was not under our own control, which adds measurably to the time involved, the economics involved in our hardships. We are small, we are only approximately 132 square miles. We have a population density in the neighborhood of 22 times that of the United States as a whole, and some land is now at a premium.

We feel that what we will be given here if the Congress in its wisdom sees fit to pass this measure to be signed into law, would be another recognition that we are coming along the road of maturity.

Actually at this point, Mr. Chairman, I think the rest is in the statement. I would not be available for questions or to elaborate on any point which I might not have touched on.

Mr. BURTON. Governor, in general philosophical terms, it is obviously preferable to provide for control by the Government, therefore the people of the Virgin Islands, these lands unconditionally. We have limited control in the most extremely remote possibility that there might be oil and gas discovered. But there is one other limitation, if you will, that just occurred to me this morning. I would like to have your reaction, if I may, about giving control to the Virgin Islands, and other governments, with the requirement that ownership be continued by the Government, rather than permitting, if you will, the sale of these properties, either for the short- or long-term leases? I would like your reactions, philosophically or practically, to that thought.

Governor EVANS. Well, first of all, touching very briefly on the first point, we would prefer that the limitations were not placed on the possibility of discovering oil or gas, but we would not want that to endanger the passage of the bill.

Mr. BURTON. If I may, I would add there are a few Californians that believe that the tidelands, in this respect, should belong to all of the American people. So it was determined that we should not confuse the issue by having speculation that there was some huge oil deposit off of St. Johns or that we were in the process of participating in some kind of a giveaway, but please proceed.

Governor EVANS. As to the other questions, frankly, my personal feeling is that the protection would be there even if it were not written into the law by the Congress. We have already adopted a policy in the Virgin Islands of not selling waterfront property or this type of land, but having it available to all of the people, and even the leases that we have provided, we have provided leases in many occasions which include the provision that access will be provided so that people can use it.

So therefore, I would feel it would not be necessary to include that, because our philosophy now recognizes the limited area we have and the facts necessary to preserve for all of the people and we are already taking those steps. I think the lawyers tell me it is best in that case

not to have restrictive wording of the law. Frankly, I agree with the philosophy, but I would just as soon not see it written in.

Mr. BURTON. How about the situation where we build in the affirmative guarantees that this public land shall be available to the public universally?

Governor EVANS. That I would welcome very much. It would give the strength of Federal law to local law, in local practice. I think it would be welcome. I can't think of any situation where it would be a disadvantage, or have a disadvantage effect. So I think it would put the will of Congress firmly on record.

Mr. BURTON. It would be useful if you would have your attorney general contact Representative de Lugo's office so that some language in this respect might be developed. Just underscore the principle, if you will—it would be written in a way that therefore, in effect it would preclude you from issuing permits or licenses that allow discrimination. I am really seeking no more than a variance of an analogy called the old public accommodation notice, where there could be discrimination based on any consideration that any irrelevant considerations such as race, origin, or what have you.

Governor EVANS. I think we would welcome that. We will certainly do that.

Mr. BURTON. Any other questions?

We are asking the Governor now, because he does have this conference to get to. And I am surprised, since I have always been told that the Governor is quite a professional politician. If that election is to take place tomorrow, I come from the school of politics where you don't assume it takes place until it happens. So, unless you get back to your constituents—

[Laughter.]

Mr. BURTON. You might find it as a last minute entry.

Governor EVANS. I started to mention when Congressman de Lugo was talking that perhaps he was putting goat's mouth on me. It is a local expression, and I hope he hasn't.

Mr. BURTON. Mr. Clausen.

Mr. CLAUSEN. In the departmental report that I have before me from the Department of Interior—and I am not sure that you have had an opportunity to read this. Governor, they make reference to sections 4 and 5 of the bill, which would turn over to the Virgin Islands Government title to property which was placed under control of the Government by the 1937 Virgin Islands Organic Act. And the Department goes on to say, "We have no objection to the concept of this section, but would recommend that language be inserted to allow this Department some time to review the status of each of the pieces of property transferred by the 1937 Act."

They have offered some language in the form of an amendment to permit that time to be made available to the Department, so the Federal Government can do that. Does this cause you any concern?

Governor EVANS. Well, the Department explained it to me. Normally, it would have caused me great concern. I understand the Department needs a little more time to make a complete inventory and see what they actually need. It, of course, offers an area where they might decide to exercise their option of not turning it over. But I

think dealing in good faith, it doesn't seem to be that way. There may be one or two pieces of land or buildings that they would like to check on. There is one section that I came across that talked about oil lands being acquired by the U.S. Government by gift, purchase, or another way, being exempted, but the wording seemed to me to be negating the whole purpose of the bill. I understand that there is a suggestion to insert the wording hereafterward, which would take care of that. That would bother me quite a good deal.

Mr. CLAUSEN. For your information, we have an amendment prepared to conform to your suggestion, that it be only those lands that are acquired hereafter.

Governor EVANS. There are several pieces of property which should normally under usual circumstances, which are still under control of the Federal Government, and we don't think that the Department of Interior or the Federal Government would use this to exercise too much of it, but we hope not, anyhow.

Mr. CLAUSEN. One final question. Do you have in your executive department of the Virgin Islands, plans fairly well formulated as to what the lands themselves would be used for, or will they essentially be kept in their natural state? Is that the reason that you would like to have them under area control?

Governor EVANS. In most cases, yes. We are talking mostly about the submerged lands. In general, submerged lands would be kept in the natural state, maybe some exceptions would be well studied before anything is done. But in general, we have no plans to immediately start anything that would change this statute.

Mr. CLAUSEN. Well, I am glad we have had your comments and your assurances that no degradation of the basic environment will be done here. And you have the basic awareness on the part of the people there that, if anything, you will be more strict in your desires.

Governor EVANS. That is correct.

Mr. CLAUSEN. Thank you.

Mr. BURTON. The gentleman from Pennsylvania, Mr. Vigorito.

Mr. VIGORITO. No questions.

Mr. BURTON. The gentleman from New Mexico.

Mr. LUJAN. Thank you, Mr. Chairman.

Off the record.

[Discussion off the record.]

Mr. LUJAN. Back on the record.

Now—

Mr. BURTON. Can we stay off the record a moment?

[Discussion off the record.]

Mr. BURTON. Mr. Lujan?

Mr. LUJAN. Thank you, Mr. Chairman.

What I gather, as far as the Virgin Islands is concerned, a big portion of this value would be buildings which are used now for the Government of the Virgin Islands?

Governor EVANS. That is part of it, or the vast majority of it.

Mr. LUJAN. That is where your offices are?

Governor EVANS. Yes.

Mr. LUJAN. And in value, that would be the largest amount. However, there are other lands, because I remember when we were down

there, we went down to some of these lands—and discovered there were some areas—or something about what was being charged—and I remember that there was a substantial amount that apparently had been overlooked. We brought back some money, and raised the rent, so to speak.

Governor EVANS. That is one thing. I'm sorry.

Mr. LUJAN. All of this would be going to the Virgin Islands. What kind of money are we talking about?

Governor EVANS. The potential is very great. Part of the problem you touched on came from the old setup, where the Federal Government was owning it and it was charged with its operation, but it isn't on the spot. So it was sort of a divided responsibility, and sometimes you have a little gap, a little hiatus. That, I think, would be all ours, because we would then be on the spot. But for the exact amount of money, I frankly don't know.

Mr. LUJAN. \$1,000, \$100,000, or would it be millions of dollars?

Mr. DE LUGO. If the Governor would yield to me, we have discussed this with the Interior Department, and I think they are prepared to testify as to—to give us a figure today on the amount that we are talking about.

It's substantial to the Virgin Islands government, but a drop in the bucket to the Federal Government.

Mr. LUJAN. As it relates to \$268 billion?

Mr. DE LUGO. I think we are talking about a total amount of income from this, somewhere in the area of \$500,000.

Mr. LUJAN. Thank you, Mr. Chairman.

Mr. BURTON. Mr. Won Pat?

Mr. WON PAT. I would like to, of course, in deference to the Governor and my colleague, Representative de Lugo, just ask to have the letters of the Justice Department. Therefore, I have no questions.

Mr. BURTON. Thank you. I guess that does it, Governor. Under the ground rules, Representative de Lugo graciously agreed to answer questions when we conclude the hearing rather than at this point to permit you to testify and go back and start ringing some doorbells.

Governor EVANS. I would like to express my appreciation to Representative de Lugo who has yielded, and to the committee for the consideration which you have shown. I trust that my answers have been satisfactory.

Mr. BURTON. Yes. Thank you very much, Governor.

Governor EVANS. Thank you.

Mr. BURTON. Mr. Won Pat, I wonder if you would please take the witness chair and introduce your guest, or guests that we have.

Mr. WON PAT. Mr. Chairman and distinguished colleagues, it is my privilege this morning to introduce witnesses from Guam who are here to join me in support of bill H.R. 6775 and other related legislation.

From the administration of the government of Guam, we have the Honorable Kurt Moylan, Lieutenant Governor of Guam. With him, or accompanying him, rather, is Mr. Gerald Perez, director of land management, and Mr. Bill Gibson, assistant to the Governor of Guam.

Would you kindly stand and would you please come up?

Mr. BURTON. Do you have Senator Palomo and Senator Bordallo?

Mr. WON PAT. Then from the legislature, my former colleagues, we have the Honorable Paul Bordallo, chairman of the Committee on Agriculture Resources and Development, and the Honorable Antonio Palomo, Assistant Minority Leader of the Twelfth Legislature.

Do you want them all up together?

Mr. BURTON. You are our colleagues, and you call the shots. You tell me what you prefer.

Mr. WON PAT. I would like to have them come up.

Mr. BURTON. I wanted to be sure that Paul was introduced, or he would shoot me. Aren't you related to Paul in some respect.

Mr. WON PAT. Yes, Paul is the brother of Rickey Bordallo, our State Democratic Chairman.

Mr. BURTON. I didn't want him to be left out, so I thought I'd better be sure Paul was included in the introductions.

Proceed with your friends and colleagues, Mr. Won Pat.

Mr. WON PAT. We have the Lieutenant Governor with us.

Mr. BURTON. Do you have a prepared statement?

STATEMENT OF HON. KURT MOYLAN, LIEUTENANT GOVERNOR, GUAM

Mr. MOYLAN. Yes, I do, Mr. Chairman.

Mr. BURTON. May we at this point, without objection include the prepared statement in full in the record?

Or you may proceed to read it. If it is more comfortable to extract it, you may do that.

Mr. MOYLAN. Thank you very much. I have some corrections to be noted in the testimony, and I would like to read the statement.

Mr. BURTON. The reporter can utilize your copy after you have concluded your testimony if it is the only corrected copy you have.

Mr. MOYLAN. Mr. Won Pat's assistant is assisting us now.

Mr. Chairman and members of this distinguished committee, on behalf of Gov. Carlos G. Gamacho and the people of the Territory of Guam, I am pleased to appear here to testify in favor of H.R. 6775.

If I may, I would like to preface my testimony with a review of the background of Guam's submerged lands.

Under provisions of the Treaty of Paris in 1898, Guam was ceded to the United States by Spain and the Crown Lands included the sweeping tidelands and lagoons from the mean high water mark to the beginning of the 3-mile limit. The submerged lands were entrusted to the U.S. Department of Interior in 1963 by U.S. Public Law 88-183.

The tidelands around Guam have traditionally been vital to the people of the island. Wires, throw nets, and surround net fishing have long provided food for many families. Today, the people are looking more to the sea and the submerged lands to plan an even greater role in the island's economy.

Guam's present and future economy is dependent upon tourism and the development of marine resources. Thus, it becomes essential that submerged lands be placed under local control in order to better facilitate the best use of these areas. The protection and conservation of

Guam's marine ecosystems are overriding priorities in the planning for submerged land use; and very specific legislation will be sought to provide for the development of beaches and for the protection and preservation of the economy of reef areas, lagoons, and sanctuaries. Indeed, the people of Guam have already taken a step in this direction, as evidenced by a recently passed beach law that reinforces the restrictions on shoreline development and guarantees public ownership to Guam's beaches.

The present system of submerged land use permits for both public and private projects is hampered by factors involving time and distance. This has resulted in delays and loss of opportunities on the part of local fishermen, outdoor recreationists, and private and public entrepreneurs. The permit system is both cumbersome and inconsistent in that it does not provide for review procedures between local and Federal agencies. A case in point involves the government of Guam's application for the installation of a sewage treatment plant in the Agana tidelands. This application was under review by Federal agencies for more than a year. The plant siting was based on local considerations involving land availability, the strategic placement of the plant in relation to pumping stations and main lines, and meteorological factors.

Communications difficulties, coupled with Washington's lack of acquaintance with island priorities, have caused a long delay during which construction costs have risen dramatically, and worse still, untreated sewage is still being dumped into the ocean. Applications are now pending for private docks, public marinas and other boating and recreational facilities. These facilities are deemed vital to island residents and visitors as well, and those submitted for permit reviews are projects in consonance with the island's land use master plan.

We on Guam are looking to tourism as a logical means of diversifying the island's economic base. The number of visitors to our island increased by 55.6 percent between 1971 and 1972. Last year, some 185,399 visitors came to Guam, and we expect even more this year. Leisure and recreation facilities for visitors and local residents are somewhat limited at present, thus, boating, sport fishing, and water-related activities are seen as natural and extremely important facets in the development of this new industry.

The government of Guam has reorganized its environmental and ecological control functions with the establishment of an Environmental Protection Agency which, with the assistance and cooperation of other departments, oversees the protection and preservation of the entire environment, including the safeguarding of Guam's seashore. Our Department of Public Health continually monitors the beach areas of Guam for pollution control purposes. The Department of Public Safety has a new harbor division that enforces boating and water safety laws.

I hasten to assure you that if jurisdiction over the submerged lands is given to the territory, the functions and responsibilities of our local enforcement units will be expanded to accommodate the necessary supervision you will expect us to provide. The protection of the natural balance will be guaranteed by all agencies involved, from Public Health, Public Safety, and Fish and Wildlife Division of our Agriculture Department and our Environmental Protection Agency.

There has been illegal encroachment on the tidelands. Unauthorized building, pier construction, development, and dredging have taken place in the tidelands, and the government of Guam is powerless to rectify the encroachment problem because the tidelands are under Federal control. Many of these matters have been referred to the appropriate Federal agencies for corrective action, but strict enforcement of existing standards and submerged lands law is hampered by time and geography. We firmly believe that the protection of the ecology of Guam's reefs, and lagoons, can be more effectively pursued when the submerged lands are placed under Guam's jurisdiction.

If these submerged lands are placed under local supervision, many of the problems of control, proper development, protection and conservation will be resolved. The requests for use of submerged land can be reviewed with a view toward local considerations and priorities and the uniqueness of Guam's island environment can be more readily taken into account. In planning for submerged use, specific legislation, and enforcement of authorized activities can then be more effectively carried out. Furthermore, fishing activities can be guarded and monitored by the preservation of those areas associated with fish wires, throw-net and surround-net fishing.

I would respectfully remind the committee that in many coastal States, many fine beaches are restricted by private ownership. But this is not the case in the territory of Guam. We believe that the beaches and seashores are public resources and our recently enacted Public Law 12-3 guarantees the right of the public to access to the island's shores and beaches. The exceptions to this law are areas held by the Department of Defense.

The Congress has done much to further the political development of Guam, and we see H.R. 6775 as a bill that is certainly in concert with earlier measures that have given Guam more local control. Supervision of the submerged lands around Guam will surely put us on a closer parity with the coastal States of the Union in the matter of increased responsibility for self-government. We are ready to meet this new challenge and we strongly endorse the passage of H.R. 6775.

In closing, I wish to commend Representatives Won Pat and de Lugo for their great vision and concern as expressed in the introduction of this important piece of legislation; and I wish to convey to you, Mr. Chairman, and members of this distinguished committee, my appreciation for the opportunity to present my views to you today. It is always a distinct pleasure to work with you for the benefit of our territory, and I always look forward to appearing before you on matters that affect the people of Guam.

Thank you very much.

Mr. BURTON. Thank you very much, Governor.

Questions?

Mr. CLAUSEN. No questions, but I certainly want to thank you, for your very effective statement, Governor Moylan. We will have an opportunity to peruse it and I am pleased that you are able to present what appears to be a very effective and bipartisan approach between yourself and the administration and Mr. Won Pat. Because, as you well know, this is the one way that I think we have made the kinds of progress we have made in the Congress. That is to have you fellows come up from Guam and some of the other territories, presenting

what, in effect, is a very carefully worked out bipartisan presentation. I think it is certainly to your credit, and I think this is one of the reasons that we have made the progress we have as expeditiously as we have.

I think you for coming.

Mr. MOYLAN. Well, we feel Mr. Won Pat has done an outstanding job.

Mr. CLAUSEN. We agree.

Mr. MOYLAN. We are prepared to follow his advice.

Mr. BURTON. That comes from a Republican. Look how happy Tony looks.

Mr. WON PAT. They cannot deny the fact that I have been cooperating with them.

[Laughter.]

Mr. BURTON. I will never forget during the trials of the delegate bill, when Tony thought it was more useful to follow the Puerto Rican example of the forerunner in a 2-year term, which I thought was a little burdensome.

Congressman Vigorito.

Mr. VIGORITO. No questions.

Mr. BURTON. Mr. Lujan?

Mr. LUJAN. The only difference between this and the Virgin Islands Act is that there are no buildings involved.

Mr. MOYLAN. No, no buildings.

Mr. BURTON. Congressman de Lugo?

Mr. DE LUGO. I would like to commend the Governor for a very excellent presentation and welcome him before the committee.

Mr. MOYLAN. Thank you.

Mr. BURTON. Governor, let me gratuitously advance this thought that is not relevant to today's hearings. If someone is on the heels of the unexpected, the rejection of the voters of opening the door to the people of the Marianas, and that in turn I understand is viewed as a slight by the people of the northern Marianas, who, prior to that time, were looking with some favor on association, and they felt, if we're not wanted we are not going to say we have such an interest, and it is not the role or function or desire of this committee to in any way interfere with the political processes of the people of Guam. However, I am not sure—it may not be a useful idea to consider opening that door again and see whether or not in the future people of Guam and the Marianas might, as a result of their own judgment, see whether or not they want to have some kind of an association.

I don't know what would transpire. The people of Guam would have to decide this, and the people of the Marianas would have to decide this. I advance that thought because I gathered from talking about all of the political leadership, the Guam people were surprised that the vote turned out that way. It was assumed that there would be a vote of approval, that everybody was watching the Governor's election, and they woke up and found out that it didn't work out. Do you care to have any comment in that respect?

Mr. MOYLAN. Yes; I think that the situation was developing in the northern Marianas, and they were able to determine their own political status. We in Guam, of course, with the legislature and Mr. Won

Pat, are developing our own political status. We hope that the two of us will be able to get together through the Congress when the northern Marianas present what status they would like. Guam should be prepared to come before Congress and indicate what status we would like to have. In that respect, the legislature has developed a political status committee. We have developed one and we are working right with them, and we have been advised by Congressman Won Pat about the goals that we hope to shoot for.

We also have approached the northern Marianas delegation, and Ambassador Williams as well has indicated that he would like to work closer with them. We don't of course, wish to determine what status they would like to be. But we would like to know what is happening rather than reading it in the newspaper. In that respect, I think we are drawing closer together. I don't think at this time the people of Guam would accept the merger of northern Marianas and Guam without Congress indicating to the people of Guam as to what they would expect. Like the schools, sewer, and water projects, et cetera. I think they ought to determine their status, what they want to do, and if they want to become Americans, fine, and then eventually the two of us can get together with the sense of Congress, because you have done so much to put Guam on its own feet, and we would look to you to give us some indication as to how you folks feel about this thing, that the northern Marianas and Guam ought to go together or stay separate.

Mr. BURTON. Well, it wouldn't be our role to advise Guam in this respect. It would be our function to try to implement the desires of the people of Guam and the northern Marianas, so I would not consider it appropriate that we tell Guam that here is what you are going to do, and the northern Marianas have talked to some of us about the possibility of a nonvoting delegate. I have indicated that I thought that given all of the characteristics of this particular portion that including the geographical proximity to Guam, that I couldn't anticipate the desires of my colleagues, but I did not anticipate that we would fragment the representation from this area in the Congress.

I anticipate at some point as the credibility and the ability of the representative of Guam, and so ably exemplified by Mr. Won Pat, that we have some prospect looking down the road to have a full-blown, 100 percent Congressman, and that, in part, would depend on the population base, which, of course, would be decimated in terms of its possibilities. It would be fragmented with regards to the representation from the northern Marianas. So, I am not encouraged that the viability of that option is an attractive one, that they are both going to have a nonvoting delegation, because that population is quite small.

I am simply not encouraged over this, and I am not sure necessarily that it would be in the best interests of all of the people of the Marianas. But, it would be useful if I heard that the northern Marianas represented it accurately. I think some portion of their current reluctance is that they will be darned if they are going to hope and then be slapped down again. You see, they don't know what they are going to do, and I don't know what they should be doing, as long as they are trustees for all of Micronesia and I don't want to pass judgment on that. Obviously one option, looking down the road for a number of years, would be the possibility of some kind of relationship with Guam.

That is not anything that we are going to impose. You see, that is something that the people Guam have to decide, along with the northern Marianas, and we will support whatever that proposal will be.

Mr. MOYLAN. Well, the the indications that we have received already from the leaders is that we are looking not only to a delegate election, like Mr. Won Pat's position, but also the Governor as well, and the first indication for the merger of Guam and the Marianas may come in 10 years, or it may come in some other lifetime. What we're saying is if Guam came into Congress and presented its political change, the people of Guam would decide that, and then it would be up to Congress, and maybe to get the two of us together and say, "Well, how long do you want this existence to go." Because we have no representatives sitting in on these talks whatsoever. We have just been given the information that is related to us in the newspapers.

So Guam, through the legislature, ourselves and Mr. Won Pat, are developing our own political status, and that must go to the voters in Guam. When we come before Congress, we will present to you what we would like to see changed, and then you will have the northern Marianas to determine, and you will look at both and say, "listen, how about if you two get together instead of 10 years, maybe 5 years." But they are talking about separate representation.

Mr. BURTON. I tried to not apparently hold myself out as a role of the prophet, to discourage that, because given all of the considerations, there is more really that we have to do than round out the representation in the House. But I am just not sure on balance that either a fruitful or a useful course of action. It would be very foolish, at least I thought it would be foolish if I raised the false hopes about that. The population is just too limited. I don't recall quite what it is, but it is something around 30,000 people. It is a chore that I feel might be a little more burdensome than could be sustained, and particularly in light of my very fond hope—and I hope I will be around here to see this—that with time and events, the natural evolution as far, at least, as representation of the House is concerned, we saw this in Alaska and Hawaii. I hope the same thing that happened with those will take place with reference to Guam.

As I stated earlier, that requires a certain obvious minimal population to sustain the argument that that would be a wise and useful thing. I say all that with full recognition of the fact that in no small measure, I think Tony is viewed among all his colleagues, and Ron de Lugo's repute, both of the Representatives from Guam and American Samoa—the Virgin Islands—have about 99 percent of what is the power of the Congress. They have committee seniority, they vote in committee with a voting committee, the subcommittee, and that is actually where the important decisions are almost invariably made. And so we have done well enough for now, but there is a lot more to do, and the part of the little more to do is the long-term objective that I think we all ought to keep in mind.

Any other questions?

Mr. CLAUSEN. Would the gentleman yield?

Mr. BURTON. Yes.

Mr. CLAUSEN. Inasmuch as we are taking a little time to philosophize the whole question of political status and where we go from here,

it does point out to me—if I read between the lines of your comments and those of the chairman—we must of necessity be very deliberate and very cautious because I think that in many ways, if we move with too much dispatch in the Congress we might have an adverse effect on the people in the area. They may be looking to us for a certain thing or things to be accomplished, and when in fact we may very well be accused of imposing our will. This would be against the objectives of self-sufficiency and self-government.

I will summarize and see if you agree, that if I understand you correctly, Governor Moylan, in your opinion, just as you have worked out your basic political status and the objective, you believe it's necessary for the northern Marianas to make their own presentation and hopefully try to put something together. Then, we can all sit down together and deliberate this question. I think this is about where we stand, and it is fairly consistent with my own point of view, because I know sometimes you move with haste, and often times it is wasteful as far as your objective are concerned. This is a very key area to you and to the United States.

Mr. MOYLAN. Yes, sir.

Mr. BURTON. Thank you very much.

Next we have Senator Bordallo.

Mr. WON PAT. We have two Senators. Senator Palomo.

Mr. BURDON. Senator Bordallo and Senator Palomo. If you could get a third chair there, Congressman Won Pat.

Mr. WON PAT. Senator Bordallo will start out first.

Mr. BURTON. Senator, you have a prepared statement do you not?

STATEMENT OF HON. PAUL J. BORDALLO, CHAIRMAN, COMMITTEE ON AGRICULTURE RESOURCES AND DEVELOPMENT, 12TH GUAM LEGISLATURE

Mr. BORDALLO. I do, Mr. Chairman.

Mr. BURTON. Without objection, your statement will be included in full at this point.

[Mr. Bordallo's prepared statement follows:]

STATEMENT OF HON. PAUL J. BORDALLO, SENATOR, 12TH GUAM LEGISLATURE, BEFORE THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, HOUSE OF REPRESENTATIVES, ON BILL H.R. 4696 TO PLACE CERTAIN SUBMERGED LANDS WITHIN THE JURISDICTION OF THE GOVERNMENT OF GUAM

Mr. Chairman and Members of the Committee. My name is Paul Bordallo. I am chairman of the Committee on Agriculture, Resources and Development of the Twelfth Guam Legislature and I am a member of the Political Status Commission recently created by act of the legislature. Privately, I am a Guam businessman, one of whose principal commercial interests is in boating and fishing. In all three capacities, as legislator, as seeker after a change in our political status, and as private citizen and businessman, I strongly support the enactment of H.R. 4696 which would place within the jurisdiction of our government certain submerged lands surrounding our island. I therefore warmly commend our Guam Delegate, the Honorable Antonio B. Won Pat, for introducing this most important bill, and I would also like to express my deep appreciation to the Committee for having a hearing on this matter and permitting us to testify.

Since, with the exception of the island representatives, you gentlemen are all from continental communities, many, many times larger than Guam, it might be difficult for you to appreciate how important are the tidelands to an island community such as Guam. These waters constitute one of the territory's principal

natural resources and are central in the planning of our future development. Accordingly, to return jurisdiction over these lands to our local government is a matter of crucial concern to all of us and is a question not of peripheral interest as it would be in many of the mainland jurisdictions but of a crucial importance to our government, and to our people.

When one's total land area is under 220 square miles, and one-third of that land is under the direct control of the Defense Department, access to which is prohibited to local residents, the fact that the Federal government also controls the tidelands of our small community means in effect we are no more than an enclave within the Federal reservation which surrounds us. How can we plan for our future development when we have no control over our tidelands which encompass an area roughly equivalent to that part of Guam in civilian hands?

Guam's tidelands and their free and uninhibited utilization by the people of Guam have always been essential to the freedom of the island's inhabitants. When Guam was first brought to the attention of the Western world by Ferdinand Magellan in 1521, a period of over a hundred and fifty years ensued when the Chamorros of Guam cooperated with those Spanish and other explorers of the Pacific who were happy to make use of Guam and its highly skilled sailors in traversing the wide waters of the Pacific. In fact, many of the earlier visitors to Guam expressed keen admiration for the notable skills of the Chamorros who sailed highly efficient, double prowd ocean-going vessel which could tack to the wind and generally sail circles around the awkward and heavy galleons of the Spanish and others. Indeed, the first western name for Guam was the Island of Lateen Sails in recognition of these amazing vessels. It was only in the latter part of the seventeenth century that the Spanish government finally decided that Guam and the Marianas Islands had to be conquered by Spain. The difficult and bloody Spanish-Chamorro War began which lasted for thirty years and was not finally concluded until 1702. The power of the Chamorro chiefs was not finally broken until Captain Quiroga of Spain forcibly removed all of the Chamorros from all of the Northern Marianas Islands and resettled them in Guam, prohibiting any further deep sea activities beyond the reefs of Guam.

This broke the spirit of the Chamorros and permitted the Spanish colonizers to rule the islands of the Marianas in relative peace for the next two hundred years. It was thus the Spanish control of the tidelands, which with their quiet lagoons were essential to the ocean-going culture of the ancient Chamorros, and the prohibition against sailing beyond these lagoons that permitted Spain to hold the people of Guam in bondage. When the United States of America claimed the rights of the Spanish crown in Guam by virtue of the Treaty of Paris in 1898, the United States became the successor in interest to the tyrannical rule of Spain, a result clearly in violation of America's traditional anti-imperialist and anti-colonial role. We therefore warmly welcome H.R. 4696 as recognition of the basic right of the people of Guam to be free to utilize their own resources. No peoples should be held in thrall to others, and enactment of this legislation will give back to the people of Guam rights over their littoral that were forcibly taken away from them by the Spanish Conquistadors 250 years ago.

We submit that the legislation is entirely in keeping with the political trend now underway in the Pacific. While I was in Guam preparing my statement for the Committee, the Thirteenth South Pacific Conference was being held in our territory. This Conference consists of seventeen territories and eight independent countries, and it is now clear that most of these territories will shortly obtain, if not independence, at least a free associated status with the countries now holding protective rights over them. The islands which recently became independent that are members of the South Pacific Conference include Fiji, Western Samoa, Nauru, and Tonga, while those that are rapidly obtaining either independence or free association are Papua-New Guinea, the British Solomons, the Cook Islands, the Gilbert and Ellis Islands, and last but by no means least, the Trust Territory of the Pacific Islands. Thus, with notable political advancement being made on all sides, indeed this tidelands bill returning to the people of Guam jurisdiction over this vital island resource is timely.

We submit that the vital interests of the United States, including the role that it plays in the defense of the free world, would be in no way jeopardized by the enactment of HR 4696 in that the overriding Federal rights in the tidelands are clearly protected. We also submit that the government of the territory of Guam has recently demonstrated a basic understanding of the obligations of government

to preserve and protect its constituents' environment and to make the natural resources of the territory available to all on a reasonable and responsible sustained yield basis. Thus, our Legislature has enacted an open beach law that guarantees access to the Guam beaches for all, very much in keeping with Federal legislation (HR 4933) now pending in Congress. We are now considering an oceanshore protective measure, similar to that of the State of California, which would prevent the overexploitation and overdevelopment of our beaches and tidelands. We are also considering the establishment of a Guam seashore park, and in the meantime the executive branch through its appropriate agencies has adopted a so-called "Paradise Plan" to develop and preserve our beach and recreational areas. We are in the process of establishing a central planning commission to regulate and administer all of our natural resources including our beaches and to develop a land use masterplan, taking into account ecological, environmental and scientific factors, as well as the necessity of preserving Guam's historic sites. In this connection, we have ascertained that the United States Army Corps of Engineers cannot issue permits for improving Guam's tidelands until the territory has a comprehensive water use plan. There has previously seemed to us very little point in adopting such a water use plan if we have no title or jurisdiction over the tidelands which constitute approximately 95% of our waters. Once we obtain title, we assure you such a plan will forthwith be adopted.

An examination of our history since the establishment of civil government in 1950 will demonstrate that both the executive branch and the Legislature are very conservative with respect to our limited resources and are intent on preserving all public lands, but especially our beaches and related areas. We have appropriated over a million dollars to survey these lands, and even in the midst of the very dramatic land boom and tourist development now going on, the territorial government has conveyed to private developers very little land along our beaches. We are therefore confident that with the return to us of jurisdiction over our tidelands, they will be properly preserved and protected for not only our own use but for those of the generations yet to come.

The people of Guam badly need control over these tidelands. They play a vital part in our island life and they cannot be either properly administered or appropriately preserved nine thousand miles away in Washington. As an example, from the small boat harbor in Agana to the southern village of Merizo, whether travelling north around Tarague Beach or directly south, apart from the military operation at Apra Harbor, there is no harbor of refuge and a fisherman caught with the wrong winds or tides between these points can well end up on the high seas heading toward the Philippines because of the absence of an appropriate small boat harbor. For this reason the Legislature has for approximately fifteen years been appropriating money for the planning and construction of a small boat basin in Agat Bay. Although plans have been drawn and the money readied to spend, we have never been able to obtain permission from the Department of Interior to undertake the necessary construction in the tidelands, the reason for our failure to obtain permission being that the Federal government thinks sometime in the distant future it might be desirable to have a national park or monument in the general area of Agat. We certainly welcome the idea of a Federal park or monument but we don't think it appropriate for our fishermen to continue to be jeopardized while the Federal government, in its ponderous way, decides when and if such a park is to be established.

Another example is the local developers who wish to improve the beaches adjacent to their projects by dredging out coral heads and the like waiting months and months and months for permission to undertake quite simple and inexpensive improvements. No criticism of the Department of Interior or its agents or its officials is intended when we state that Federal control of our tidelands has been entirely unsatisfactory since it is inherent in the situation where a large Federal agency with myriad responsibilities has administrative control over tideland utilization in a small community well out from under the eye of these officials that untimely and unnecessary delays occur, and the easy way out of always saying "no" to any proposed changes in tideland uses will too often be restored to. Additionally, there are several egregious examples of illegal landfills of tideland areas where the offenders have never been prosecuted and to this day reap the considerable rewards of their unauthorized landgrabs because the Department of Interior and the local U.S. Attorney have never been able to get together on

taking the necessary steps to prosecute these offenders. The people of Guam have had to stand by and watch unlawful exploiters fill in their precious tidal basins and have been able to do nothing about it. The enactment of H.R. 4696 will permit us to prevent in the future such unlawful activities.

While we very strongly recommend enactment of the bill, we do wish to make known our objections to certain of its provisions and respectfully request that these provisions be deleted or suitably amended. The first such provision to which we respectfully object is item (ii) of paragraph (b) of the first section of the bill, which would include within the exceptions from the transfer all lands adjacent to property owned by the United States above the line of mean high tide. Since over one-third of Guam is owned by the United States and this one-third contains more than one-third of our lee shoreline, it would appear that this description of all lands adjacent to Federal land might well include basically all of our tidelands. We recognize the right and desire of the Federal government to appropriately protect the tidelands next to its bases but we suggest that item (vii) of this section which permits the President to designate within a hundred and twenty days after the enactment of the act, lands to be excepted from the transfer would fully protect Federal rights in this area since it should be a simple matter to designate those particular adjacent properties that the U.S. government wishes to maintain jurisdiction over. With respect to this item (vii), we suggest that it also be amended by adding language to require the President to have a hearing in the territory concerned before excluding any land from inclusion within the transfer.

The only other provision of the bill to which we object is paragraph (a) of Section 2 which appears to specifically permit the President to establish naval defensive sea areas and naval airspace reservations around and over the island of Guam when necessary for national defense. Gentlemen, Guam has traveled this road before, and strongly objects to any claim that the President has the arbitrary power to cut Guam off from access by other Americans at his whim. In our view, based on our experience of life under the Navy security clearance program which is what results when a defensive sea and airspace area is established, the program had no real defense content at all and was intended only to protect the military's quasi-colonial role in supervising the territory of Guam. The reason for our utter cynicism about the so-called defensive sea area is that during its entire history, no security clearance was ever required of the thousands of alien laborers the Navy and Air Force imported to work in Guam, nor of military dependents, nor of military civil service workers, the only people being required to get the security clearance which would or would not be granted entirely at the whim of a particular Navy officer, were other American citizens and those aliens not working for the Defense Department. In other words the Navy was not seriously interested in keeping out subversives or those who might blow up Apra Harbor since it made no effort whatever to check out the thousands of aliens it brought in but was only interested in keeping a tight lid on any civilian development of the territory and in strengthening the utter dependence the civilian economy then had on military defense spending. This was colonialism at its most blatant and, gentlemen, I assure you that if such an arbitrary, discriminatory and utterly undemocratic program is ever imposed on us again, the actions we take will not be limited to mildly worded protests and respectful requests for relief as was the case in the past.

I don't think you realize what it's like to live in a so-called American community where you need in effect a visa from the Navy to come and go. I'll give you several good examples of how this "security" program actually worked: James Underwood was a member of the Marine Corps who came to Guam in 1904. After serving his tour of duty, he was discharged there and married a local girl. He became a permanent member of our community, becoming the postmaster. The only time he left Guam after arriving here so early in the century was during the Japanese occupation when he was forcibly taken to Japan as a prisoner of war. Upon his return to Guam after the war and his retirement from business and government service, he decided it would be nice to go back to North Carolina to see his relatives there whom he hadn't seen for half a century. After a few weeks there, he wished to return to Guam but because he was not a native-born Guamanian nor working for the military, it was necessary for him to apply through the Navy for a security clearance to return to his home. Gentlemen, it took him over five months to be granted permission by the United States Navy to return to the island where he had lived over half a century. This is only one of

hundreds of examples of the arbitrary nature of the whole security clearance program, which permitted no hearings and no appeal from the decision to deny a clearance.

Another ironic example is the case of the former Marine who participated in the Liberation of Guam in 1944 and was on a passenger vessel that briefly touched Guam following the war. He wished to come ashore so he could revisit the scenes of his wartime exploits and reacquaint himself with the people of Guam whom he had helped to liberate. Because he had not applied for a security clearance, he was not even allowed to leave the ship. The example that most clearly demonstrates the real nature of this program was the denial by the Navy of security clearances to American lawyers who wished to come to Guam to help defend the rights of the local people during the days immediately following the Second World War when the Navy was condemning in fee over one-third of the island and paying pittances to the landowners who were unable to obtain qualified counsel to protect their interests because the Navy wouldn't let them on the island.

Frankly, we are deeply distressed that the Congress would seek to preserve this despotic and imperialistic power for the President. What was the point of the people of Guam suffering the highest casualty rate in the Vietnam war of any American community if all we gained by these sacrifices was the right to be again placed under Naval bondage? The original Guam Naval defensive sea area was created in 1940 when, if ever, there were conceivably grounds for this action by the President. However, the program was not abolished until 1962, twenty-two years later and eighteen years after the defeat of Japan, and then the only reason it was at last done away with was because of the personal friendship that our then Governor Bill Daniel, the brother of Price Daniel of Texas, had with Vice President Johnson who persuaded President Kennedy to cancel the program over the unanimous objections of the joint chiefs of staff.

In this question of defensive sea areas, Guam wants nothing more than any other American community. If the President were permitted to impose a Naval defensive sea area over the island of Manhattan, then we on Guam could not complain. However, obviously he cannot, and we see no reason why we should be treated in any different way than inhabitants of any other American community. We lived as slaves under the Spanish for three hundred years not being permitted to go beyond the high water mark without the permission of our colonial masters. The Navy attempted for over fifty years to maintain that state of bondage, and we are convinced to a moral certainty that if the security program is reimposed under the guise of national defense, the Navy will again assert total control over our economy, we will be again at the mercy of those few American businessmen that have the right Navy connections, and our attempt to build an economy and way of life independent of the exigencies of national defense will die aborning. If again imposed on us, such a terrible infringement on our basic civil rights would be completely contrary to the whole thrust of political development in the Pacific Basin. How could Guam continue to serve as America's "Showcase of Democracy in the Pacific" if the Navy becomes again our master? I hope that this plea that such arbitrary power be denied the President not be taken as hysterical or overreactive. We are deadly serious when we say that the reimposition of such a program would cause a crisis in the relationship between the people of Guam and those of the rest of the United States. Our entire political status would have to be re-examined in the light of America's obvious disregard for our welfare and well-being.

To quote Chief Justice Harlan F. Stone in *Minersville School District v. Gobitis* 310 US 586, 604 (1940). "History teaches us that there have been but few infringements of personal liberty by the state which have not been justified . . . in the name of righteousness and the public good, and few which have not been directed . . . at politically helpless minorities." Secretary of State-Designate Henry Kissinger is alleged to have stated that the views of Micronesians, of whom we of Guam are culturally, historically and geographically a part, on the question whether these islands should be used for national defense purposes were unimportant because there were only ninety thousand of them. This view is perhaps appropriate as *realpolitik* but is certainly contrary to the great American traditions. This story, if true, shows the thinking that goes on in the higher reaches of the executive branch of our government, and indeed makes us tremble when we view language such as that to which we object in this bill. We therefore hopefully look to the Congress to preserve and protect us from overzealous bureaucrats in the national defense establishment.

Finally, we object to Paragraph (b) of Section 3 and urge that it be deleted for the same reasons given above. We desire the same relations with respect to the authority of the President as enjoyed normally by any other American community and to include paragraph (b) of Section 3 is to imply a lack of faith in the people of Guam with respect to National Defense or to the National interest. Guam has proven many times its loyalty. It should not be treated less.

Let I be criticized for making too much over a possibly remote contingency or faulted for not unreservedly supporting H.R. 4696 which is indeed a most beneficial bill, let me repeat that there is no more central question facing the people of Guam than its status as an American community, and just as we believe that we are entitled to control over our tidelands as other American communities, have control over theirs, we should similarly never be subjected to the arbitrary imposition of tyrannical security program which would never dare be imposed on any American community in the mainland. What good does it do to have control of your tidelands if at some point in the future the United States Navy can say who can and cannot enter these very lands? Liberty is a seamless garment and our American citizenship is meaningless if our right to live and work in Guam is subject to the caprices and whims of a military commander and his myrmidons.

I therefore respectfully request on behalf of the people of Guam that H.R. 4696 be enacted but that before doing so, it be amended to protect the inhabitants of the island of Guam from any future imposition of arbitrary military control.

Thank you very much for permitting me to testify and for giving this bill of such vital importance to the people of Guam today's hearing.

Mr. BURTON. Before you proceed, let me personally give you my warmest welcome and ask you to extend my highest personal regard to Ricky and Madeline, all right?

Mr. BORDALLO. Thank you, Mr. Chairman.

I would like to just summarize my statement, because it is rather lengthy in a few minutes.

Mr. Chairman, I would begin by thanking you for the opportunity to testify before this committee and also to strongly endorse this bill of Representative Won Pat here in the Congress.

Mr. Chairman, the Samoan people and Guam for centuries have always looked to the sea as part of their heritage. Passage of this, their lagoon and over the reefs gave them freedom and the use of the resources of the sea for which Guam was noted from the time of Magellan, reached their shores. After a century and a half when the Spanish saw fit to conquer the people Chamorros, the Samo people after 30 years, the Spanish-Chamorro War was concluded when Captain Quiroga went to all of the northern islands, the Marianas and brought them to Guam, confined them there, making it illegal for them to go over the reef, and refuse—the free use of their Mariana resources.

In 1898 when the United States occupied Guam by the Treaty of Paris, it became the successor in interest to this right that was obtained by the Spanish under conquest, and the United States has sought to establish and enforce these rights over the years to the point where just prior to the war, it was necessary to get an exit pass in order to leave the Island of Guam. I say this, Mr. Speaker, or Mr. Chairman, that this bill, by giving Guam its submerged lands, recognizes the development responsibility of the people of Guam along the line of self-government. Again, as I say, we strongly endorse it.

However, Mr. Chairman, there are certain reservations that I would like to just express. We feel that the most basic principle of relations among people, the equality of people and states, and it is for this rea-

son we welcome the return of control and ownership of our submerged lands. However, Mr. Chairman, item 2 of paragraph b of section 1—

Mr. BURTON. Will you go a little slower now, so we can follow you?

Mr. BORDALLO. Item 2 of paragraph b of section 1.

Mr. BURTON. Title b, as in boy?

Mr. CLAUSEN. Of H.R. 6775?

Mr. BORDALLO. That is correct. It is 4696.

Mr. BURTON. All right. 4696. That was the first bill.

Item b of section 2, that is on page 3, line 22, of H.R. 4696, and that section reads as follows:

Nothing in this act shall affect the use, development, improvement or control by or under the constitutional authority of the United States of the lands transferred by section 1 hereof, and the navigable waters overlying such lands for the purpose of navigation or flood control or the production of power, or be construed as the release or relinquishment of any rights of the United States arising under the constitutional authority of Congress to regulate or improve navigation or to provide for flood control, or the production of power.

Is that the section you were referring to?

Mr. WON PAT. Mr. Chairman, he is referring to subsection b on page 2, (ii).

Mr. BURTON. I see.

Mr. WON PAT. That is on line 10.

Mr. CLAUSEN. Of H.R. 6775?

Mr. WON PAT. Yes.

Mr. BURTON. Is that the one referring to the deposits, oil, gas, and other minerals?

Mr. WON PAT. No, all lands adjacent to property owned by the United States above the line of mean high tide.

Mr. BURTON. Oh, all right.

Mr. BORDALLO. Mr. Chairman, we feel it would be objectionable to reserve these tidelands adjacent to the property owned by the United States inasmuch as much of the future property owned by the United States is not actually in use by the military for any purpose that had been obtained during the last war, and has not been reverted to the government of Guam. So we feel that rather we should go the other direction and consideration should be given to the thought of returning these surplus beach lands that are now and still under the jurisdiction of the United States.

Second, Mr. Chairman, we objected to paragraph A of section 2.

Mr. BURTON. Is that the one that reads on page 3, line 17, of H.R. 4696:

Nothing in this Act shall affect the right of the President to establish Naval defense of sea areas and Naval air space reservations around and over the Island of Guam, American Samoa, and the Virgin Islands when deemed necessary for national defense?

Mr. WON PAT. That is correct, Mr. Chairman.

Mr. BORDALLO. Our experience in the past has been that that authority of the President hasn't been used to simply reserve all rights and uses of Guam for the military, and it was in effect to quarantine Guam and prevent its development along normal commercial lines. The security clearance established by the President in 1940, Mr. Chair-

man, was not eliminated until 1962, which is a period of 22 years. It had served simply to require a military visa or restrict the travel of fellow Americans to and from the Island of Guam. We feel, Mr. Chairman, that the reimposition of this security clearance would be very disastrous to the people of Guam, and would be very seriously objected to by the people.

Mr. BURTON. In other words, it is your belief that this is more restrictive than the current state of the law or the current practices?

Mr. BORDALLO. Yes, sir, Mr. Chairman. We feel that this provision does not apply to other American communities, such as Hawaii or California. It has only applied to the Territories, particularly to Guam. We feel, of course, we do realize under emergency situations, the President has full control over all of the resources of the territory of Guam for defense, or otherwise. But in absence of an emergency, we feel Guam should be under the protection of the same due process in any restrictions as that enjoyed by any other American community, and the arbitrary imposition of travel to and from Guam by fellow Americans, we feel, Mr. Chairman, should be restricted by this Congress.

Mr. BURTON. Well, I understand your point.

Let me get to the first point you made—is that related to the fact that a lot of the civilian workers are permitted to use beaches in Guam, that Guamanians are not permitted to use—the first point you tried to make—is that the situation in part that you are trying to deal with?

Mr. BORDALLO. With regard to the Presidential authority to declare Guam a naval zone, Mr. Chairman, it is really the authority to, as I say, impose military control over the island so that no one could enter Guam without clearance by the military authorities. This is how it has existed for 22 years, since 1940, until 1962, when President Kennedy abolished the security clearance for Guam.

Mr. WON PAT. May I comment on that further? He is referring to that section on page 4, section 2, subsection A, which reads:

Nothing in this Act shall affect the right of the President to establish Naval defense of sea areas and Naval air space reservations around and over the Island of Guam, American Samoa and the Virgin Islands when deemed necessary for national defense.

You see, at the outbreak of World War II, President Roosevelt issued an Executive order making Guam a sea and air defense area to prevent any vessel or person to come to Guam or to get out of Guam, and that has been held on until 1962, when President Kennedy rescinded it.

Mr. BURTON. Yes.

Mr. WON PAT. By this provision of the act, that would give the President authority to reinstitute that order.

Mr. BURTON. But if the President had the authority in 1962 to discontinue it, you would have to assume the authority to discontinue would have to carry the authority to reinstitute it.

Mr. WON PAT. Right.

Mr. BURTON. So I don't see that language as giving the President any authority that either exists expressly in the law or implicitly in the Constitution.

Mr. WON PAT. I don't know if that is a constitutional authority.

Mr. BURTON. Well, I gather that this language is in the bill, only to state what it would be my view to be the obvious, the national emergency situation that the President has the power, in most respects, at least in the short term, because it takes a while to challenge it in the courts, which is virtually limited, in practical application, whether or not the Constitution contemplates that is somewhat beside the point. I view this merely as avoiding any misunderstanding in this respect, if future needs arise. I do not view this as an effort to reinstitute the practices of pre-1962, at least that is not the inference that I draw from this language.

Mr. CLAUSEN. Would the gentleman yield?

Mr. BURTON. Yes.

Mr. CLAUSEN. I am certainly inclined to concur with the chairman, and I am assuming inasmuch as you have included it in H.R. 6775, Mr. Won Pat, that it was the better part of wisdom on your part to include it for purposes of strengthening the ability of the legislation with the Congress. Is this the kind of question, Mr. Bordallo, that is going to be asked as we make the presentation of the bill on the floor? That is one of the primary interests of the people of the United States and working in concert with the people of Guam, and as you improve your political status in the future, this is something that has been already demonstrated, as you pointed out, by President Roosevelt's Executive order, and the fact that they rescind or replace it, places it into being, is a sort of fact of life, and I think they would be protected constitutionally. I think the inclusion of this section in the bill would greatly enhance the passage of the legislation, whereas if it were to be left out, now that there has been a hearing record developed on this, it conceivably could jeopardize the passage of the legislation.

Mr. BURTON. My general view with respect to Guam is as virtually everywhere, and this is quite applicable to my own area in San Francisco, all institutions are very reluctant to give up anything they have got. In our area we were very fortunate that the military acting out this general human instinct, set aside lands long ago that they never needed, and now fortunately for future generations, it was set aside, and now we will have open recreation areas. But as with respect to Guam, I would be more determined to see that the military carry on its current use rather than leave open the question politically, the question, whether there would be no question, in fact, if I were asked as the manager of the bill on the floor, does this mean, by the passage of the bill, the President would lose emergency authority to the national security, I would have to say, of course not. This language is a little more than I would, as the author of the bill—this would be my interpretation of it. It may carry with it some defensive connotations. I would prefer, although I commend the Senator for highlighting this point, that this committee use its energies to see that the people of Guam are permitted to use these unused areas, not to be tied by some mythology to strip the President of whether it is constitutional or statutory, what in fact would be his or her actions at any time of national crisis, if it were deemed in the national interest. We couldn't put enough words on paper that would alter that effect. So, I don't want to get unduly snarled with that.

Now, I would stipulate it may have some defensive or second-class treatment, if you will, connotations. That does summarize my view in

my expressing that I don't mean to invalidate the point that you are making, merely respond to the point that you made.

I myself have never been unduly impressed and in the main, any institution, particularly the military, in holding on to every piece of authority and every acre of land that they have. In the short term, I can make quite a strong case against that. I can similarly, however, make a pretty strong case as it's worked out, at least in our area, looking from the perspective of 20 generations back, it has probably worked out all to the good. Although for the period of 50 years or 25 years immediately past, we have wished they had given up this land. But looking at it from here, the year 2400, the people in our area will be very grateful that we lucked out that they held on to the land.

Please continue, Senator.

Mr. BORDELLO. May I respectfully submit, Mr. Chairman, this position of military visa was imposed on the people of Guam before the Guamanians became American citizens. As an unincorporated territory, Guam is only covered under the Constitution insofar as it gives Congress the full authority to legislative matters in Guam, and as far as I know, there is no specific legislation that confers this specific authority to the President.

Mr. BURTON. You may well be right on it.

Mr. BORDELLO. I would just like to——

Mr. BURTON. That might be correct on the abstract statement of the law, but you should be concrete in its application. In times of daring national emergencies—I wouldn't want to bet a dime whether it's authorized in the statute or the Constitution exclusively that it would bind anyone.

Mr. BORDELLO. You see, Mr. Chairman, there are no conditions for criteria under which this authority has been spelled out, as far as we know. So I would like to leave that out.

Mr. BURTON. Yes.

Mr. BORDELLO. I submit, I give full consideration to your statement, and I would like to end by just noting a third objection to the provisions of the bill, and that is to paragraph b of section 3.

Mr. CLAUSEN. Are we still dealing with H.R. 6775?

Mr. BURTON. That is on page 5 of H.R. 4696, line 9, I assume.

Mr. BORDELLO. Section 3, again, Mr. Chairman.

Mr. BURTON:

Notwithstanding the provision of section A of this section, the President may from time to time exclude from the concurrent jurisdiction of the Government of Guam persons found, acts performed, and all offenses committed on the property of the United States which is under the control of the Secretary of Defense to such extent and in such circumstances as he finds required in the interest of the national defense.

Mr. BORDALLO. Very briefly, Mr. Chairman, just from my statement, I say we desire the same relations with respect to the authority of the President as enjoyed normally by any other American community and to include paragraph b of section 3 is to imply a lack of faith in the people of Guam with respect to national defense or to the national interest. Guam has proven many times its loyalty. It should not be treated less.

Mr. Chairman, we feel this, that these rights are not compatible with equality within the American family.

Mr. BURTON. Well, of course on that count, I would fully concur with you. I must say, given the political situation and despite the rather undue provocations would lead us in other directions, I might note parenthetically, I would do or perform a disservice to any of the affected areas within the scope of the jurisdiction of this committee if I were not mindful of the political reality that as a Democrat, particularly in areas like this, fight as I will to change the administration's view, I would not be performing with whatever purported experience or political wisdom I had if I ignored the administration's view. It is something in the nature of things that I have tried to insulate this subcommittee from the partisan differences, and I have never belabored in any meeting whatever differences I had with the administration on other matters. There have been a couple of instances in the area of the jurisdiction of this committee that the administration has asked for total warfare on this chairman. I am resisting that personal impulse because I fear it may come out to be a disadvantage to those that we hope this committee would help advance their own interests.

So, though I agree with you on this point and though I will make an effort to see if the Department of Defense can alter its position so that the military personnel on Guam and the military personnel on any other American soil—I must confess I have to acquiesce ultimately to their judgment. If we did not do so, we would invite the rendering of the passing of this bill more difficult. Before given the current climate of things, it could well result in the veto of this bill. That is about as definitive a response or statement that I can give you.

Mr. BORDALLO. Mr. Chairman, in the absence of that provision in the law now, in the last 23 years, I don't know of one incident or one case where there has been one problem with regard to an amicable or an agreeable solution by the civil authorities.

Mr. BURTON. Are you stating that this particular section is added to current law rather than—

Mr. BORDALLO. Yes, Mr. Chairman. There is nothing in the law now that states the authority of the Federal to unilateral—

Mr. BURTON. Well, if this is a supplemental or added provision rather than one that conforms with the current statutes, then I think that is a decisively important point.

Mr. DE LUGO. Mr. Chairman, would the Chair yield?

Mr. BURTON. Yes.

Mr. DE LUGO. I have checked with congressional drafting, Mr. Mike Senger, who is here. Mr. Senger helped in the drafting of this bill, and that statement is not quite correct. I think we should correct the record.

Can we recognize Mr. Senger for a moment?

Mr. BURTON. Mr. Senger.

Mr. SENGEL. I just pointed out to Mr. de Lugo that this language that appears in subsection B of H.R. 6775 is the same language that appears as section 4 of the act that provides for the conveyance of certain submerged lands, so this same problem of concurrent jurisdiction giving the President the right to exclude current jurisdiction from certain persons in Guam is in the law now. It is the same section.

Mr. BURTON. What statute was that?

Mr. SENER. This is in section 1704 of title 48 of the United States Code, and it comes from the act of November 20, 1963, which is conveyance of submerged lands and territories.

Mr. BURTON. I see.

Mr. CLAUSEN. Would the gentleman yield?

Mr. BURTON. Yes.

Mr. CLAUSEN. If I understand you correctly, the reason that you included this is simply as a restatement of existing law?

Mr. SENER. It's what the situation is now with the law.

Mr. BURTON. Well, Senator, that is a point of fact that the committee will have to establish, and it would be my reaction that if this is supplemental and interference with the authority of the governmental process in Guam, your point is decisively made on it. On the other hand, if this is restatement, then we're back in the dilemma of trying to convince the administration to modify its stand. They don't recognize the realities. I think that is probably how you can anticipate it will be processed, at least out of our subcommittee.

I would say as an added provision in this respect, that I would seek with some vigor all alterations of the Administration's provision, but ultimately I would bump by head against a stone wall if I was unsuccessful in that respect.

Mr. BORDALLO. Mr. Chairman, I would like to end by thanking you for permitting me to testify on this very important bill, very vital, —important bill to the people of Guam.

Thank you very much.

Mr. BURTON. Now, one part of this bill—one concept of this bill that I hope we treat wisely is that notion that we give the administration some time frame within which to react, but we must react within that time frame, so that we know what the ground rules are. Then if we don't like them, we can come back again. We do this in reference to—I think it is 120 days to look over the property—that kind of thing. I think given all is a useful mechanism, but it eliminates a lot of the worries that the people may have and we can take a look at what happened. Then if in part or in whole we don't like it, we can come back and try, if you will, alter that Executive judgment by legislative acts. The wiser course is to proceed with the maximum possible support, hopefully with some limited time frame within which the administration must come down with reference to authority so we really know what we are talking about, in specifics, rather than everybody worrying about problems that may or may not prove to be real. I mention that and I hope that the staff will remind me of that at the appropriate time.

Thank you, Senator.

Senator Paloma, would you care to present your testimony?

Do you have a prepared statement?

STATEMENT OF HON. ANTONIO M. PALOMA, ASSISTANT MINORITY LEADER, 12TH GUAM LEGISLATURE

Mr. PALOMA. Yes, sir, Mr. Chairman.

Mrs. BURTON. May I ask unanimous consent to have the Senator's statement included in the record at this point.

Mr. PALOMA. Mr. Chairman, my statement is quite brief, so I would like to go ahead and read it. It is along the same thing that Senator Bordallo's statements have been.

Let me first commend Congressman Won Pat for having introduced this important piece of legislation, and the members of this subcommittee, past and present, for having supported Guam, without fail, throughout the years. I can think of no bill which enhanced the political, economic and social well-being of the people of Guam which did not receive the wholehearted endorsement of this subcommittee.

Our basic law—the Organic Act of Guam—was conceived in this subcommittee some 23 years ago after a romance of half a century between the people of Guam and the American people. The elective Governor bill was nurtured and given meaning by some of the most enlightened members of this subcommittee some 6-7 years ago, and of course, the congressional delegate bill was likewise supported and pushed toward its eventual enactment into law by the members of this subcommittee.

Mr. Chairman. I do not presume to know the sentiments of the incumbent Members of Congress, but on the basis of your actions in the past, I would think that you want Guam to move toward economic self-sufficiency through, among other things, proper control and utilization of its resources, natural and otherwise. I like to think also that you want Guam to have more measure of political home rule not inconsistent with the tenets of American democracy.

In other words, I like to think that you want us to be a community which is as self-reliant as other advanced American communities, and which can and will determine its own destiny, and at the same time be capable of paying for its own fate.

Guam, indeed, has taken bold steps toward building a progressive and dynamic community. Its political framework has improved considerably during the past half decade. Its economy has grown at the rate of not less than 25 percent per annum during the same span of time. And its social fabric has also improved.

But the territory has a long road to travel if it is to achieve its desired level of growth and fulfillment.

I believe H.R. 4696 provides a partial—yet vitally important—answer to our needs.

He cannot—ever—reach even a modicum of self-sufficiency unless our Territorial government exercises control over the island's natural resources—and the tidelands is part of it.

When you consider that Guam is smaller in land size than the smallest county in Texas, you realize how important it is to have jurisdiction over submerged lands surrounding the territory, lands which, if properly controlled and utilized, could mean eventual savings both to the government of Guam, and the Federal Government.

I am convinced that Guam can reach a high level of economic well-being if:

1. The local government controls the island's natural resources.
2. We pursue plans to develop a broad-based economy; that is, an economy that can sustain the island community even if military spending is drastically reduced, or if the bewildering growth of tourism suddenly takes a nosedive; and

3. We adopt and implement a master plan that will insure the well-being of our people without losing our insular identity.

If enacted into law, H.R. 4696 would place tidelands surrounding Guam—with some exceptions—under control of the government of Guam, where it rightfully and historically belongs.

It would permit faster and better land and water use development because of the excessive time and procedural lag involved when requests are made through the Department of the Interior.

It would permit more effective and rapid police action by the government of Guam when misuse or abuse of such lands are discovered.

But more important, Mr. Chairman, enactment of H.R. 4696 would, in effect, mean that the Federal Congress recognizes the inherent right of a group of loyal Americans living in a remote part of the Pacific to control their natural resources and determine their own destiny.

Continued control of the territory's tidelands by a Federal agency half a world away is not only impractical and expensive, but it also feeds on the presumption that Guam does not have the right and capacity to manage its tidelands, as coastal States throughout the country have. On the contrary, all evidence shows that the territory can and has exercised self-control when given the opportunity to manage its internal affairs.

H.R. 4696 is generally acceptable, except for one provision which I feel should be deleted. This provision is section (a) of section 2 on page 3, which authorizes the President to establish naval defensive sea areas and naval airspace reservations around and over the island when deemed necessary for national defense.

This, Mr. Chairman, would relive a tragic era in the history of Guam, and I strongly oppose its revival. If incorporated into the law, this provision would allow one man, on his own whim, to construct a barricade around Guam, permitting entry only to those whom the naval commander, in his personal judgment, are friendly to the military.

I base my strong opposition to this provision on our past experience. Some of you may recall that in 1941, then President Franklin D. Roosevelt, through Executive order, placed the island with a security umbrella, denying entry to anyone not otherwise acceptable to the naval commander. At that time, the order appeared to be a rational measure. War with Japan seemed imminent and protective actions had to be taken. However, as the pages of history later revealed, it neither saved the hapless island from enemy invasion, nor did it protect the Guamanian people from the shackles of conquest.

And as if these were not enough, the security clearance requirement remained in effect for more than two decades—long after peace with the enemy was obtained, long after the cloud of danger evaporated.

If we are to cite one reason why Guam—from the years 1945 to 1962—was virtually in a state of economic stagnancy, it was because of the existence of that wartime Executive order.

It is truly ironic that at a time when the Congress is in direct confrontation with the President relative to his apparently unilateral warmaking powers, we see in his bill the very thing which many Members of this Congress abhor.

I think I speak for all the people of Guam when I say that we have great faith in our country and in the ability of the American people

to do right. We would not have fought so hard for U.S. citizenship had we felt or believed otherwise.

I ask, then, that you trust us in our endeavors to build a better Guam.

When the chips are down, gentlemen, the Congress and President of the United States can count on 100,000 Americans living in Guam. Your fate, whatever it is or will be, is ours to bear also. Meanwhile, permit us, please, to determine and seek our own destiny without unreasonable Federal interference.

I strongly endorse passage of H.R. 4696, if amended as I suggest.

Thank you for your kindness.

Mr. BURTON. Thank you very much, Senator. I have no questions.

Mr. Clausen?

Mr. CLAUSEN. I just want to compliment the Senator on a very effective statement. I tried to follow it very closely as he outlined some of the points that you make, and I want to peruse it, and I am sure all of the members that could not be here today would also like to look at this and make this point clear to them.

Mr. BURTON. Thank you.

Congressman Won Pat?

Good show. We will now have Mr. Hunkin, the Administrative Assistant to the Delegate at Large, American Samoa.

Welcome, Mr. Hunkin. This is your first appearance?

STATEMENT OF ENI F. HUNKIN, JR., ADMINISTRATIVE ASSISTANT TO THE DELEGATE AT LARGE, AMERICAN SAMOA

Mr. HUNKIN. Yes, Mr. Chairman.

Mr. BURTON. Don't get nervous.

Do you have a prepared statement?

Mr. HUNKIN. Yes; I do. On behalf of the High Chief, A. U. Fuimaono, I do have a prepared statement.

Mr. BURTON. Would you like to have that statement entered into the record in full or would you prefer to read it.

Mr. HUNKIN. Before I go on, Mr. Chairman, I would wish to thank the members of this honorable committee for giving me this opportunity, and I hope that in the subsequent weeks and months, we might be able to work in a much better way. I wish to convey the personal regrets of High Chief Fuimaono, who is not in attendance in this committee hearing. He is committed right now to a conference involving agricultural matters. So I am speaking here in his behalf.

I wish at this time to read the prepared statement which High Chief Fuimaono has asked me to convey to the members of this committee.

I quote:

STATEMENT OF HIGH CHIEF A. U. FUIMAONO

I wish to inform the members of this honorable committee that I fully support the substance of H.R. 6775.

Although the proposed legislation identifies to a greater extent the problems directly involving the Territories of Guam and the Virgin Islands, I am pleased, however, that similar considerations are given to America Samoa. This is understandable, of course, in view of America Samoa's unique political association with this great country.

By general observation, I believe the spirit and intent of this proposed bill confirms the growing realization that the subject territories are capable of administration and control of this kind of governmental responsibility.

Respectfully submitted, High Chief A. U. Fuimaono, Delegate at Large.

Mr. Chairman, this concludes the official statement from the Delegate's office.

Mr. BURTON. Thank you very much.

As I indicated to our friends of the Virgin Islands and also our colleagues from Guam, and also I told our colleague Mr. Won Pat, if we can ever find out when this session ends, we shall visit American Samoa about the end of this year. As I have explained it to one and all, I will try to pick a target date that looks safe. We might have to look ahead with it if it is safe or not, and I hope that we are fortunate enough to pick a time at which the House is either not in session or so close to the end of the session that it will be possible for us to visit American Samoa, Guam and then as much of the Territories as that time frame will ultimately permit.

Mr. TAYLOR. Will the gentleman yield?

Mr. BURTON. Yes.

Mr. TAYLOR. By way of encouragement, I was before the Rules Committee this morning in regard to the Big Cyprus bill, and when I left, there was talk about a cutoff date for writing of further rules.

Mr. BURTON. That is great, and if there are no other questions of our witness, then we will proceed with the statement of the Department.

Mr. HUNKIN. Thank you very much.

Mr. BURTON. Thank you.

This is not necessarily as a new day or a different day, but I do think that this is the first piece of legislation that was coauthored exclusively by our two colleagues, it might set a better tone if they and their conference were permitted the first shot out of the bottle.

Now, Mr. Carpenter, you have a prepared statement? Without objection, it will be entered into the record at this point.

[The statement follows:]

STATEMENT OF STANLEY S. CARPENTER, DIRECTOR OF TERRITORIAL AFFAIRS,
DEPARTMENT OF THE INTERIOR

Mr. Chairman and Members of the Committee. I appreciate the opportunity to appear before this committee in support of legislation to transfer to the Governments of the territories of Guam, the Virgin Islands, and American Samoa, the title of the United States to tidelands surrounding the three territories and the responsibility for administering those lands, with certain exceptions.

There have been three bills introduced in the Congress on this subject H.R. 6775, H.R. 6135, and H.R. 4696. The first two bills are identical and we feel are preferable to H.R. 4696. H.R. 4696 simply amends the existing Territorial Submerged Lands Act (48 U.S.C. 1701) while H.R. 6775 repeals the old law and establishes a new one.

We prefer the latter approach which seems tidier and eliminates any confusion as to where the amendment of existing law stops and new law starts.

It is our understanding that Congressman Won Pat, the sponsor of H.R. 4696 and co-sponsor of H.R. 6775, agrees with this position.

We recommend the enactment of H.R. 6775 with the inclusion of certain amendments.

We believe this legislation is a natural step in the granting of a greater degree of self-government to our territorial areas. We feel it is only fitting that the territories of Guam, the Virgin Islands and American Samoa be given control of the Submerged Lands. The Congress with passage of the 1953 Submerged Lands

Act (43 U.S.C. 1301), took similar action with respect to the coastal states. In addition, Puerto Rico, pursuant to 48 U.S.C. 749, controls the submerged lands around the islands of Puerto Rico.

We believe the territories are competent to own and administer these tide-lands and submerged lands for, in fact, even now the Department relies heavily on the various territorial governments' review of permit requests. During these reviews, the territorial governments have exhibited that there are sufficient human resources available to review these permit applications and to ensure that the uses applied for will not result in misuse of these lands or cause an undue degradation of the existing environment. As an example, both Guam and the Virgin Islands have attached to their colleges marine research groups staffed with qualified scientists who have been assisting in assessing the environmental effects of proposed permits.

In addition, the Government of American Samoa has recently added to the Government's staff a number of engineers and an ecologist to assist them in performing the necessary environmental reviews in connection with the issuance of submerged lands permits.

While we support the passage of this legislation, we do recommend that the amendments suggested in the Department's letter to the Chairman of the Interior Committee be adopted.

These amendments center on section 4 & 5 of the bill. Section 4 of the bill would turn over to the Virgin Islands Government title to property which was placed under the control of that Government by the 1937 Organic Act, 48 U.S.C. 1405(c). We do not object to the concept of this section, since most of the properties involved have in effect been under the complete control of the local government since that time. However, we recommend that the Department be given time to review the status of each of the parcels involved in the transfer contemplated under this section to insure that there is no overriding reason for having the U.S. Government retain title.

We also have some problems with section 5 of H.R. 6775. There apparently is a typographical error in lines 15 and 16, page 6. The statute cited in those lines should read "48 U.S.C. 1421f (3)."

We have in addition a substantive problem with this section. It is our belief that the intentions of the section is to change the status of "All Other Property" as referred to in section 6 of the Organic Act of Guam from property owned by Guam. However, as currently worded the proposed amendment would convey as of the date the bill becomes law, property acquired by the U.S. after November 1, 1950, and currently owned by the U.S. Examples of such later acquired property are several parcels of land which were deeded by the Government of Guam to the Department of the Interior on April 3, 1970, for a proposed "War in the Pacific Natural Historic Park."

In order to clarify this section we recommend that the section be amended to apply to property acquired before November 1, 1950, and not after acquired property.

In view of the above we recommend that the suggested amendments to sections 4 and 5 in the Departmental Report be adopted.

We also recommend the adoption of the amendments proposed in the reports of the Departments of Defense and Justice.

To reiterate, the Department supports the passage of H.R. 6775 with the recommended amendments. This concludes my statement. I would be pleased to answer any questions you might have. I am accompanied by Mr. Thomas F. Dunn, Territorial Officer for the Virgin Islands, who is familiar with the details of the Territorial Submerged Lands Program.

Mr. CLAUSEN. Would the gentleman yield?

Mr. BURTON. Yes.

Mr. CLAUSEN. Before you proceed, Mr. Chairman, the thought occurred to me that there may be some questions that we would want to submit to the witnesses that have preceded him after having had a chance to evaluate their testimony, plus the fact that there are some of the members that are not here that may have questions. I would ask unanimous consent that anybody that desires to ask questions of

the preceding witnesses, that they be permitted to ask the questions and they will be inserted in the record.¹

Mr. BURTON. Without objection, it is so ordered.

STATEMENT OF STANLEY S. CARPENTER, DIRECTOR OF TERRITORIAL AFFAIRS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY TOM DUNN

Mr. BURTON. The first page deals with H.R. 6775, because it repeals the old law and establishes a new one, and it appears to be tidier and eliminating confusion, and apparently Mr. Won Pat and Mr. de Lugo concur in this evaluation, is that correct?

Mr. CARPENTER. That is our understanding, yes.

Mr. WON PAT. I did request that H.R. 6775 be considered in this hearing.

Mr. BURTON. All right, let's got on to page 2.

Mr. CARPENTER. We believe this legislation is a natural step in the granting of a greater degree of self government to our territorial areas. We feel it is only fitting that the territories of Guam, the Virgin Islands, and American Samoa be given control of the submerged lands. The Congress with passage of the 1953 Submerged Lands Act (43 U.S.C. 1301), took similar action with respect to the coastal States. In addition, Puerto Rico, pursuant to 48 U.S.C. 749, controls the submerged lands around the islands of Puerto Rico.

We believe the territories are competent to own and administer these tidelands and submerged lands for, in fact, even now the Department relies heavily on the various Territorial governments' review of permit requests. During these reviews, the Territorial governments have shown that there are sufficient human resources available to review these permit applications and to insure that the applications granted will not result in abuse of these lands or cause an undue degradation of the existing environment. As an example, both Guam and the Virgin Islands have attached to their colleges marine research groups staffed with qualified scientists who have been assisting in assessing the environmental effects of proposed permits.

In addition, the Government of American Samoa has recently added to the government's staff a number of engineers and an ecologist to assist in performing the necessary environmental reviews in connection with the issuance of submerged lands permits.

Mr. Chairman, while we support the passage of this legislation, we do recommend that the amendments suggested by the Department's letter to the chairman of the Interior Committee be adopted.

These amendments center on sections 4 and 5 of the bill. Section 4 of the bill would turn over to the Virgin Islands government title to property which was placed under the control of that government by the 1937 Organic Act, 48 U.S.C. 1405(c). We do not object to the concept of this section, since most of the properties involved have in effect been under the complete control of the local government since that time. However, we recommend that the Department be given time to review the status of each of the parcels involved in the transfer

¹ See letters beginning on p. 77, from Mr. Clausen to Assistant Attorney General McDevitt, and Secretary of the Navy John W. Warner, plus answers.

contemplated under this section to ensure that there is no overriding reason for having the U.S. Government retain title.

We also have some problems with section 5 of H.R. 6775. There apparently is a typographical error in lines 15 and 16, page 6. The statute cited in those lines should read "48 U.S.C. 1421f(3)."

We have in addition a substantive problem with this section. It is our belief that the intention of the section is to change the status of "All other property" as referred to in section 6 of the Organic Act of Guam from property controlled by Guam to property owned by Guam. However, as currently worded the proposed amendment would convey, as of the date the bill becomes law, property acquired by the United States after November 1, 1950, and currently owned by the United States. Examples of such later acquired property are several parcels of land which were deeded by the Government of Guam to the Department of the Interior on April 3, 1970, for a proposed "War-in-the-Pacific National Historic Park."

In order to clarify this section, we recommend that the section be amended to apply to property acquired before November 1, 1950, and not after acquired property.

In view of the above, we recommend that the suggested amendments to sections 4 and 5 in the departmental report be adopted.

We also recommend the adoption of the amendments proposed in the reports of the Departments of Defense and Justice.

To reiterate, the Department supports the passage of H.R. 6775 with the recommended amendments. This concludes my statement. I would be pleased to answer any questions you might have. I am accompanied by Mr. Thomas F. Dunn, Territorial Officer for the Virgin Islands, who is familiar with the details of the territorial submerged lands programs.

Mr. BURTON. Thank you, Mr. Carpenter.

I think at this time we will turn over whatever questions there are to our colleague and coauthors, starting with Mr. Won Pat.

Do you have any questions to ask Mr. Carpenter?

Mr. WON PAT. Thank you, Mr. Chairman.

We are not in receipt of the report of the Defense Department, rather the Justice Department, and now I would say that from his statement he has been in contact with the Assistant Secretary, and he is asking that the recommendation of the Justice Department and Defense be considered by this committee.

Now, in the absence of that report, I would just like to find out what those recommendations are.

Mr. BURTON. The Chair has copies of that, and had assumed other members did.

Mr. WON PAT. I think there is one.

Mr. BURTON. Perhaps you could produce those for Mr. Won Pat.

Mr. de Lugo, in the absence of you producing those two reports, do you have any questions?

Mr. DE LUGO. I note you have with you, Mr. Carpenter, Mr. Tom Dunn from the Department, and I understand Mr. Dunn has usually handled the administration of these properties in the Virgin Islands.

Mr. CARPENTER. That is correct. Mr. Dunn has been involved in the details of that.

Mr. DE LUGO. On page 2 of your statement, you quote, "in fact, even now the Department relies very heavily on the Territorial governments for review of permit requests. During these reviews of the Territorial requests, governments have exhibited that there are sufficient human resources available to review these permit applications and to assure that the uses applied for will not result in misuse of these lands or cause a degradation of the existing environment."

My question to you is are you satisfied the local administrations can handle this job of administering these lands?

Mr. DUNN. Yes, sir. Under the current procedure, the permit is first processed by the local government, the Director of Governmental Health, the Virgin Island Training Commissioners, Commissioner of Conservation, Consular Affairs, the Caribbean Research Institute, which is connected with the College of the Virgin Islands, and on very few occasions have we had to overrule any request or approval of permits from this group.

Mr. DE LUGO. Thank you very much.

Secretary Carpenter, I have accepted as an amendment to this legislation, let's call it a safety valve, which would allow all lands designated by the President within a 120-day period of enactment of this legislation to be looked into. In other words, if we found—since we don't have an inventory to present to the committee today—if we find there is a piece of land or property in the national interest should be held by the Government, the Federal Government, then the President has the option of retaining that. I would like to just say that this is a safety valve that we put in here to move the bill along. But I would like to indicate to the Department that I hope that every consideration will be given, and that only in a case where it is in dire national interest that the property will not be turned over to the people of the Virgin Islands, and we will not approach this from the position of how much can we keep, but rather, how much of this can be turned over to the Virgin Islands.

Mr. CARPENTER. That will be the philosophy. We will take a very positive approach on this.

Mr. DE LUGO. As of this time, in looking over the list of properties, I see no reason at this point in time why we couldn't be prepared to return practically all of it to them.

Mr. BURTON. Mr. Secretary, may I interrupt? I think it probably wise that we have this fail-safe. This is much preferred to the Department saying we haven't had time to review this and then it would be months before the bill would be processed. So I think this is a better course to aid this legislation, because it is better to have the legislation enacted into law now with a limited time frame—it would speed the process up a good deal more than if you had to just withhold approval waiting for the interdepartmental clearances.

Mr. CARPENTER. Certainly, it will.

Mr. BURTON. Throughout this point that we have before us, it is my determination that this Congress is going to examine the organic acts and strip them of all of the nonsense that was built in at a point in time so long ago that it's no longer relevant. We should tear them down to the essentials; in fact, set up a mechanism the Department will find acceptable, and this will say to the self-government, do your

own thing, and perhaps there should be some mechanism on what this would be, but for this purpose, Mr. Carpenter, and I will follow up with a letter to you. Would you assume if we were to introduce a bill completely repealing the organic act, both organic acts, with a statement that whatever the Virgin Islands wants to do it can do? That will be the assumption and I will send a letter to you to that effect, although I am not going to introduce this bill at this juncture. Then I would like to have the Department come back and say, well, if that bill would be before us, and if I must introduce the bill, I will do it that way. Then you come back and say, well, that is going too far, we can't accept deleting all by the following circumstances. It's a little silly to me to have us sit and vote on whether you have to be 18 or 21 and 18 or 21 to serve in the legislature, and I take it this subject could come up, how a vacancy is to be filled, et cetera, et cetera.

There has got to be a good deal of language and ground rules that we ought to delete and leave to the political processes of these two respective territories to decide what they want themselves. I would assume that we would not be in a position at this juncture to control, but apart from that, I am not aware of very much that couldn't be handled in a couple of sentences with a simple arrangement as to some safeguards.

The gentleman from California.

Mr. CLAUSEN. The chairman and I have discussed this, Mr. Carpenter, and I think the time has come for us to reevaluate what, in effect, are the U.S. Government's basic interests and try to minimize or eliminate the very time-consuming and possibly duplicative efforts of this committee and the Congress and, at the same time, permit the interest of the governments that are being represented with the basic rights and responsibilities through this evolutionary political process to do the kind of job that they are capable of doing. So I guess in a nutshell what we are trying to say is it might be well, Mr. Chairman, if we had you in the Department sit down—and I know Mr. Dunn is extremely familiar with all these things—and make a determination as to what you think should be congressional business and what should be the territory's basic business, and hopefully through the direction of some sort of a recodification of the organic act, we could resolve this issue.

Mr. BURTON. Would the gentleman yield?

Mr. CLAUSEN. Yes.

Mr. BURTON. For example, on a problem on vacancies—we say vacancies shall be filled in the manner determined by the people of the Virgin Islands. Why should we spend collectively 10 or 15 hours of our time to just—you get that general point, we are not going to sit in here and dot every "i" and cross every "t." There are some fundamentals which we might miss in the first cleanup operations, if you will, but there are also—there are just a great number of areas we can adjust, subject to some fundamental safeguards. We should express our support of this notion, self-determination, by saying that you have got to decide according to your political ground rules what you want in this respect. Now, does that sound too burdensome?

Mr. CARPENTER. No, I don't think so.

Mr. BURTON. Would it be any easier if we just repealed all of the organic acts just for purposes of appeal or for provoking our two Del-

legates, I should say, repealing all of it. Does that make your job easier, or would it be helpful if you got a majority of the subcommittee support for repealing it all? What would be easiest? And I don't anticipate to get this done before this Congress is out, necessarily, although if there is total agreement, we would even attach it to perhaps, get it in some consent calendar arrangement. But what puts you in the best position to be responsive?

Mr. CARPENTER. What I would like to do, Mr. Chairman, is to immediately launch a basic review of the organic acts, with the objective of coming up with the essentials that we have to codify or maybe recodify, and see where we go from there.

Mr. BURTON. How long would that take?

Mr. CARPENTER. I am not sure. I do not think we would go for a complete repeal, but I would like to study the questions.

Mr. BURTON. My only thought on the complete repeal is that you would come back. Obviously complete repeal is unacceptable—but that is a device to induce a definitive response; if you don't need that device, then we could find another one where this conversation, coupled with a followup letter, could do it. Does that latter course give us the same response and quality and time frame as a bill introduced, scheduled for hearing, would?

Mr. CARPENTER. The letter would certainly produce the same results, Mr. Chairman.

Mr. BURTON. It is fairly simple for our two colleagues to introduce a bill repealing it all. Setting this for hearing would be just for the purpose of this kind of statement that you could come in with. That is, that we would cut through all of that. And you know that we want to move in this direction, to the extent that we can get agreement, and I would not consider this to be an adversary, if you will, effort. Next year is the kind of year that my colleagues are not going to be very interested in sitting down as the city council or territorial legislature, or whatever. We would really like to shed ourselves of this unwanted, unnecessary, and kind of irrelevant responsibility.

Mr. CLAUSEN. Would the gentleman yield?

Mr. BURTON. We would safeguard what would be commonsense, we would dictate our central interest. Yes, sir.

Mr. CLAUSEN. I think we are arriving at a basic course of action that we could follow, and it would be my view that we could have prior to the introduction of the legislation, we could have our respective staffs work with you—

Mr. CARPENTER. By all means.

Mr. CLAUSEN [continuing]. In making the evaluation. You could come forth with what you think would be the absolute essentials from the Department and all executive branch points of view, and our people can sit down with you and determine what would be excluded, and so forth, and then we could introduce this legislation simultaneously to delegates.

Mr. BURTON. Yes.

Mr. DE LUGO. Could we go off the record?

[Discussion off the record.]

Mr. BURTON. How long would that take, Mr. Carpenter, for the first draft? I think you did quite well in response to this legislation; our two colleagues, Mr. de Lugo and Mr. Won Pat referred some

credit in that respect. There may be some suggestions that you will find a little burdensome, but I don't anticipate any material difference.

Mr. CARPENTER. May I suggest, Mr. Chairman, that I be permitted a period of 60 days?

Mr. BURTON. That is pretty long, but that is better than nothing.

Mr. CARPENTER. December 1?

Mr. BURTON. I guess in light of what our distinguished chairman, Mr. Taylor, told us, we are likely not going to be doing too much through the Rules Committee, but what I want to do is take advantage of the situation as it exists. I am having a couple of differences with the executive, but I am really just haunted by the thought that if Rogers Morton goes on, we will be starting back from where we won't know where it is at. We will spend a lifetime trying to convince the Department one and one make two. So while Rogers is around, we are, I think, well, we're well advised to proceed. There is another matter while we're on unfinished business—a couple of the American Samoans were in the office, and I urged that they talk with the Secretary, and I gather they did.

Mr. CARPENTER. Yes, they did.

Mr. BURTON. They have their constitutional convention or its equivalent, arrived at a proposal with reference to the elected Governor, which I noted with approbation and with relief that is going to be the right kind of election, rather than the High Chief kind of selection. And before that one gets unscrambled again, we are going to want to move in that direction, and we will be looking for a target date late in 1974, and I just advise you of that. I urge them to talk to the Secretary because that is a year or two earlier than some of us were thinking of. We might see that is not feasible by the time we look at it. But the committee will be going down to American Samoa sometime before the end of this year, and maybe our first order of business will be processing that. I know the bills introduced are going to contain all of the recommendations of the Constitutional Convention, and including whatever runoff procedures. I think they require a majority, and that is fine, and so I would suggest you also be giving that one some thought.

The gentleman from North Carolina.

Mr. TAYLOR. Mr. Carpenter, submerged land, as defined in the bill, includes the land from the high tide to land 3 miles from the coastline. This does include the beaches, does it not, Mr. Carpenter?

Mr. CARPENTER. Yes, sir, it does.

Mr. TAYLOR. The Government now owns the beaches, and the public has a right to use them, is that correct?

Mr. CARPENTER. That is correct, sir.

Mr. TAYLOR. Now, if the beach land is conveyed to Guam and the Virgin Islands and Samoa, does the bill have any provision that the public will still have the right to use the beaches?

Mr. DUNN. If I can respond to that, the Virgin Islands passed a local beach law last year. That is a law on the books, in regard to the public beaches.

Mr. BURTON. Well, I think Chairman Taylor's point was, they have that law now, but nothing is written to prevent that from being changed. It would be useful if we had that incorporated in here, to be sure.

Mr. CARPENTER. There is nothing in the present bill.

Mr. TAYLOR. Yes, that was my thought, whether or not we should have a sentence or two in the bill providing that the public would have the continued right to the beaches, the use of the beaches.

Mr. WON PAT. Would the gentleman yield?

Mr. TAYLOR. I would be glad to.

Mr. WON PAT. With regard to that, the government of Guam, or rather the legislature, has enacted a bill to insure that beaches will be open to the public, irrespective of who owns the beaches.

Mr. TAYLOR. There is no conflict in regard to it. Of course, the government of any of these territories, can change its mind. It might be better for our protection and the protection of our Nation as a whole to place such language in the bill, which seems to be without objection.

Mr. WON PAT. I would have no objection.

Mr. BURTON. I commend Chairman Taylor for that thought. Please proceed.

Mr. TAYLOR. The other question, is there any contemplated difference in the use of the lands expected?

Mr. CARPENTER. Would you repeat that, Mr. Taylor?

Mr. TAYLOR. Is it contemplated that any differences will be made in the use of the lands from what is now being made?

Mr. CARPENTER. No, we do not contemplate any differences.

Mr. TAYLOR. What are the advantages to Guam, American Samoa, and the Virgin Islands of this legislation?

Mr. CARPENTER. Well, we feel the time has come, Mr. Taylor, for the Federal Government to get out of this business. We have had serious problems involved in dealing with the territories because of the great distances, difficulty of communications, and so on. The fact of the matter is, there has been considerable delay in handling certain permits because of the problem of coming to Washington and the distances involved. We feel that the territories themselves are in a better position to administer these lands and to determine that they are used in the best interests of their people there. I think that is the general position.

Mr. TAYLOR. That is all, Mr. Chairman.

Mr. BURTON. Thank you, Mr. Taylor.

The gentleman from Guam and the gentleman from the Virgin Islands.

Mr. WON PAT. I have a question to ask.

Mr. Secretary, I would like to know the reaction of your Department with regard to my proposed amendment on section 5 and that is, of course, that all land and all property owned by the United States that is not beneficially and actively being used by the United States be conveyed to the government of Guam. What is your reaction to that proposal?

Mr. CARPENTER. My initial reaction is that I would be in favor. Mr. Won Pat. I would like to have a chance to review it in more detail.

Mr. WON PAT. Thank you very much.

Mr. BURTON. You won't pursue it. Would you move to adjourn, Tony?

[Laughter.]

Mr. DE LUGO. Mr. Chairman, I would like to commend Chairman Taylor on his suggestion to give the public access to the beaches. This

will strengthen our local beach legislation, and I want to thank the gentleman.

Mr. TAYLOR. Would the gentleman yield?

I would like to say that the Virgin Islands, or the Virgin Island beaches have some of the most beautiful beaches in the world.

Mr. DE LUGO. I would agree wholeheartedly.

Mr. BURTON. Maybe we'd better go back to assure that there hasn't been any deterioration.

[Laughter.]

Mr. DE LUGO. May I also say on one of the other questions raised by the Chairman of the Subcommittee on National Parks, Mr. Taylor—several other parcels would be transferred, or actually parcels of reclaimed land on these parcels, there are school buildings which have been erected and they are used for public purposes at the present time. There will be significant advantage to the people of the Virgin Islands by the passage of this legislation.

Mr. BURTON. The point just occurred to me as a result of Chairman Taylor's questions—I never knew we had lights up here—is this bill worded in a way that we don't cross whatever we have done in the area of parks, such as St. Johns?

Mr. CARPENTER. Yes, sir, it does.

Mr. BURTON. So we're not cutting back on whatever we have done in that respect. Is that correct?

Mr. CARPENTER. That is correct, yes, sir.

Mr. TAYLOR. Would the gentleman yield?

To be more specific, this legislation does not convey any of the beach land on the Virgin Islands National Park to the Virgin Islands. It's still owned and operated by our Government through the National Park Service.

Mr. DUNN. Yes. On page 3, Roman numeral 10 excludes all land within the Virgin Islands National Parks. It is line 12, excuse me.

Mr. BURTON. That is real equal treatment with all of our areas. They are all subject to that, Mr. Chairman.

Mr. CLAUSEN. Mr. Chairman, I have questions that I would like to submit to the Secretary for response. Although I ask unanimous consent that they be included at this point in the record, and of course, I have submitted them to him—

Mr. BURTON. They will be placed in the record at this point without objection. The record will be held open for that purpose.

The letters referred to on p. 69, will also be inserted here.

[The material referred to follows:]

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., October 15, 1973.

HON. DON H. CLAUSEN,
Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CLAUSEN: In response to your October 9, 1973, letter requesting that we submit information for the record of the September 25, 1973, hearing on H.R. 6775, we are furnishing the following information:

Question: With passage of this bill, would you give an estimate of how much revenue, currently generated through the collection of rents, leases and similar transactions, will be lost to the Federal Treasury and diverted to the respective territorial governments?

Answer: Since the Territorial Submerged Lands Act of 1963, the Department has collected \$1,800,000 for use and dredging permits.

Question: Would you specify what one-time Federal administrative costs, if any, would be required to implement this legislation; and similarly, what long-term Federal administrative savings might be anticipated with passage of this act?

Answer: We do not anticipate any costs in implementing this legislation. We anticipate there will be a savings of approximately one-third of a professional staff man's time, as well as one-third of a secretary's time.

If we can be of any further assistance, please let us know.

Sincerely yours,

STANLEY S. CARPENTER,
Director of Territorial Affairs.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., October 9, 1973.

Hon. JAMES D. McKEVITT,
*Assistant Attorney General for Legislative Affairs, Department of Justice,
Washington, D.C.*

DEAR MR. McKEVITT: On September 25, 1973, a hearing was held by the U.S. House of Representatives' Subcommittee on Territorial and Insular Affairs regarding H.R. 6775 (enclosed) which places certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands and American Samoa.

In testimony, several witnesses regarded Section 3(b) of the proposed legislation, although its provisions are extracted from current public law, as inappropriate. Specifically, considering the growth of self-government in Guam, it was contended that Federal executive authority to suspend concurrent jurisdiction over offenses committed on Defense Department property is an unnecessary stipulation and implies a lack of confidence in Guam's governmental institutions. Further, to impose such restraint on the Government of Guam, disregarding the other territories encompassed by the bill, gives cause for public embarrassment.

Accordingly, in light of your review of H.R. 6775 submitted to the Chairman of the Interior and Insular Affairs Committee on September 24, 1973, I solicit your opinion as to what effect deletion of this subsection from the proposed legislation would have on the future interests of the United States.

Since it is my intent to include your response in the official record of proceedings, an expeditious reply is warranted.

Sincerely yours,

DON H. CLAUSEN,
Member of Congress.

DEPARTMENT OF JUSTICE,
Washington, D.C., November 15, 1973.

Hon. DON H. CLAUSEN,
*House of Representatives,
Washington, D.C.*

DEAR CONGRESSMAN CLAUSEN: This is in response to your request for Department of Justice views on the effect of deletion of section 3(b) from H.R. 6775, a bill "To place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes."

H.R. 6775 would transfer to the Governments of Guam, the Virgin Islands and American Samoa title to the tidelands and lands beneath the three mile territorial sea adjacent to those territories. In addition, it would give those territorial governments concurrent jurisdiction with the Federal Government over certain Federal property, except that section 3(b) would permit exculsion from the concurrent jurisdiction of Guam persons found, acts performed, and offenses committed on property of the United States which is under the control of the Secretary of Defense to the extent the Secretary finds such exclusion to be required in the interest of national defense.

Deletion of section 3(b) from the bill would do one of two things. If H.R. 6775 repealed the Submerged Lands Act of 1963 (48 U.S.C. 1701-1704), as it would

as originally drafted, the deletion of section 3(b) would remove from the law the ability of the Secretary of Defense to make Federal law exclusively applicable in certain parts of Guam as he could do now. If H.R. 6775 were enacted without repealing the Submerged Lands Act of 1963, however, deletion of section 3(b) from the bill would have no effect on the law since the same language is now contained in section 4(b) of the Submerged Lands Act of 1963 (48 U.S.C. 1704 (b)). The Department of Justice defers to the Department of Defense and the Department of the Interior on the question whether a provision such as section 3(b) of H.R. 6775 is needed.

Sincerely,

PATRICK M. MCSWEENEY,
Acting Assistant Attorney General.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., October 9, 1973.

Hon. JOHN W. WARNER,
Secretary of the Navy, Department of the Navy,
Washington, D.C.

DEAR MR. SECRETARY: On September 25, 1973, a hearing was held by the U.S. House of Representatives' Subcommittee on Territorial and Insular Affairs regarding H.R. 6775 (enclosed) which places certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands and American Samoa.

In testimony, several witnesses regarded Section 3(b) of the proposed legislation, although its provisions are extracted from current public law, as inappropriate. Specifically, considering the growth of self-government in Guam, it was contended that Federal executive authority to suspend concurrent jurisdiction over offenses committed on Defense Department property is an unnecessary stipulation and implies a lack of confidence in Guam's governmental institutions. Further, to impose such restraint on the Government of Guam, disregarding other territories included in the bill, gives cause for public embarrassment. Accordingly, I solicit your opinion as to what effect deletion of this subsection from the proposed legislation would have on the future interests of the United States.

Additionally, in your letter of September 24, 1973, to the Chairman of the Committee on Interior and Insular Affairs (LA-62:ela), it was recommended that an additional exception to the general conveyance of submerged lands be made, encompassing those lands adjacent to property required for completion of the Department of the Navy Acquisition Project relative to the construction of the Sella Bay Ammunition Pier. It appears to me that such an exception is authorized under other provision of Section 1(b) without making specific reference to the Sella Bay Project. Would you, therefore, further clarify the rationale underlying this proposed amendment to H.R. 6775?

Since it is my intent to include your response in the official record of proceedings, an expeditious reply is warranted.

Sincerely yours,

DON H. CLAUSEN.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D.C., November 7, 1973.

Hon. DON H. CLAUSEN,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CLAUSEN: This is in reply to your letter of October 9, 1973 regarding H.R. 6775 dealing with submerged lands off Guam, the Virgin Islands, and American Samoa.

At the hearing on H.R. 6775 before the Subcommittee on Territorial and Insular Affairs on 25 September 1973, Delegate Won Pat proposed the repeal of Section 3(b) of the bill, which authorizes the President to make exclusions from concurrent jurisdiction in the interests of national defense. Section 3(b) is a

restatement of existing law, 48 U.S.C. 1704(b). This proposed amendment, as well as other amendments offered by Mr. Won Pat, are under study within the Department of Defense and it is anticipated that an additional report will be submitted to the Committee after it is fully coordinated within the Executive Branch.

As noted in our original report to the Committee on H.R. 6775 dated September 24, 1973 the additional exception to the general conveyance of submerged lands, for those adjacent to the Navy Ammunition Pier Project on Sella Bay, Guam, is necessary. Section 1(b)(ii) of H.R. 6775 does except "all lands adjacent to property owned by the United States . . .". The lands for the Sella Bay Ammunition Pier, however, are not now owned by the United States. The bill would make an immediate transfer of jurisdiction, and so the exception from transfer for lands adjacent to United States land would not save from transfer those adjacent to yet-to-be-acquired United States lands. The Navy considers retention of submerged lands adjacent to the Sella Bay Ammunition Pier to be essential.

I trust the above answers your questions. If I may be of any further assistance, do not hesitate to call on me.

Sincerely yours,

JACK L. BOWERS,

Assistant Secretary of the Navy (Installations & Logistics).

Mr. BURTON. Well, I want to thank one and all for this very productive meeting. I most particularly want to commend our two colleagues, Mr. de Lugo and Mr. Won Pat for having done the kind of preliminary homework that has made this hearing so very fruitful. Many times, some of our colleagues, even those who have been on the scene a little longer than our colleagues from Guam and the Virgin Islands, do not do their homework, and it comes out like an eight-ring circus. I think we have been able to focus on most of the problems and it is the Chair's intention that the respective staffs, minority and majority members, get together with the staffs of Mr. de Lugo and Mr. Won Pat and the Department, and we come up, hopefully, with an agreed set of amendments, not amendments agreed in the sense that all that anyone desires, but amendments which will reduce policy votes up or down by the subcommittee on various different proposals.

And with that observation, the committee stands adjourned.

[Whereupon, at 12:15 p.m., the committee adjourned.]