

# United States Virgin Islands

## Progression to Self Determination: The Status Referendum 1993

U.S.V.I. COMMISSION ON

***STATUS***

& FEDERAL RELATIONS

### BACKGROUND INFORMATION

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## I. INTRODUCTION

In the fall of 1993, voters of the United States Virgin Islands, an Unincorporated Territory, will go to the polls and, in a series of referendums, make a crucial decision on their status, the future of their political relationship with the United States.

This Background Information is intended to explain the status process in the Virgin Islands and is published by the Virgin Islands Commission on Status and Federal Relations.

The seventeen member commission was established by the unicameral Legislature of the Virgin Islands. The Senate charged the commission with carrying out the referendums and with conducting a non-partisan public education campaign leading up to the special elections.

The Legislature designated seven status options, divided into three categories. They are:

### A. COMPLETE INTEGRATION WITH THE UNITED STATES

- 1) Incorporated Territory
- 2) Statehood

### B. CONTINUED OR ENHANCED TERRITORIAL STATUS

- 1) Status Quo (Unincorporated Territory)
- 2) Compact of Federal Relations
- 3) Commonwealth

### C. REMOVAL OF UNITED STATES SOVEREIGNTY

- 1) Free Association
- 2) Independence

There are four referendum dates. Two of them are optional. The dates are:

**September 7** - A referendum on the three categories. The winner must receive a majority (50% plus 1) of registered voters.

**October 5** - A runoff between the two categories receiving the most votes September 7, only if none of the three categories received a majority on that date.

**November 2** - A referendum on the options within the winning category. Again, a majority is necessary.

**November 16** - A runoff between the two options receiving the most votes on November 2, only if the category chosen earlier was Continued or Enhanced Territorial Status with the United States, and if none of its three options received a majority on November 2.

Unless the Legislature decides otherwise, the electorate for the referendums will consist of approximately 41,000 voters now registered plus those new voters who register prior to the referendums.

Out of this referendum process will emerge a winner among the seven options. Governor Alexander A. Farrelly has stated that his government will recognize the referendum results as representing the wishes of the more than 100,000 residents of the Virgin Islands. Unless the Status Quo Option wins, the Virgin Islands government then will negotiate with the federal government the implementation of the provisions of the winning option.

At the end of this Background Information is a table comparing the main impacts of each of the seven options.

In addition, associated with the options are draft bills, which are not included in this packet. The provisions in these draft bills are not binding on the Government of the Virgin Islands or the Government of the United States; they are for the guidance of the voters and the governments.

The 1990 census lists the population of the U.S. Virgin Islands as 101,809, including 50,139 on the island of St. Croix, 48,166 on St. Thomas and 3,504 on St. John.

Of the total population, there were 78,003 (76.6%) Blacks, including 5,048 of Hispanic origin, 13,775 (13.5%) Whites, including 1,200 Hispanics, and 10,031 (9.9%) others, including 8,640 Hispanics. The Hispanic population of 14,708 (14.4% of the total population) should not be overlooked in any analysis of the Virgin Islands population or electorate.

A person who registers to vote in the Virgin Islands must be eighteen years old, a citizen of the United States, and must have established residency in the Virgin Islands. Currently there are 40,867 registered voters.

Here are the names of the seventeen members and three professional staff of the Virgin Islands Commission on Status and Federal Relations. All of them intend to participate in the Washington conference and wish it every success.

## **STATUS COMMISSION MEMBERS**

**Senator Lorraine L. Berry**, St. Thomas, *Co-Chairperson*

Member, 20th Legislature of the Virgin Islands; Chairperson, Select Committee on Status and Federal Relations, 1984-85

**Dr. Marilyn F. Krigger**, St. Thomas, *Co-Chairperson*

Professor of History, University of the Virgin Islands

**Judge Verne A. Hodge**, St. Thomas, *Secretary*

Presiding Judge, Territorial Court of the Virgin Islands; Chairperson Status Commission, 1980-82

**Viridin C. Brown**, St. Thomas, *Member*

President, 19th Legislature; Member, Select Committee on Status and Federal Relations, 1984-85

**Eric Christian**, St. Thomas, *Member*

Consultant, Department of Economic Development and Agriculture; Founder/President Black Chamber of Commerce

**Dr. Carlyle Corbin**, St. Croix, *Member*

External Affairs Representative of the Governor of the Virgin Islands

**Dr. Donna Green**, St. Croix, *Member*

Assistant Commissioner of Health; National Committee Chairwoman, Democratic Party of the V. I.

**G. Luz A. James**, St. Croix, *Member*

Attorney; owner major Virgin Islands radio station; member, 12th Legislature of the Virgin Islands

**David Jones**, St. Croix, *Member*

Special Assistant to the Commissioner of Labor; member, Board of Education

**Frank J. Jordan**, St. Thomas, *Member*

Professor of Journalism, University of the Virgin Islands

**Dr. Roderick Moorehead**, St. Croix, *Member*

Dean of Academic Affairs, University of the Virgin Islands

**Robert O'Connor, Jr.**, St. John, *Member*

Member, 17th and 18th Legislatures of the Virgin Islands

**Rupert Ross**, St. Croix, *Member*

Assistant Commissioner of Education; President, 4th Constitutional Convention

**Maria E. Sanes**, St. Croix, *Member*

State Coordinator, Bilingual Education, Department of Education

**Oswin Sewer**, St. John, *Member*

Social Studies Educator, Secondary Level

**Angel Suarez, Jr.**, St. Croix, *Member*

Director, Consumer Protection Services, Department of Licensing and Consumer Affairs; member, 1st Constitutional Convention, 1964-65

**Fred Violet, Jr.**, St. Thomas, *Member*

Attorney

#### **PROFESSIONAL STAFF**

**Gerard M. Emanuel**, St. Croix, *Executive Director*

**Caryn Hodge-Raphael**, St. Croix, *Associate Director for Public Education*

**Malik Sekou**, St. Thomas, *Associate Director for Public Education*

## II. VOCABULARY OF POLITICAL STATUS

When speaking of political status, several terms are used consistently:

1. **Political Status:** The legal position or condition of a government and/or country.
2. **Self-determination:** The right of a people to decide its own form of government without coercion or undue outside influence.

*Note: The principle of self determination has been a fundamental part of U.S. policy since the end of World War II.*

*The right of self-determination could be exercised through a referendum or by military means, i.e. - the thirteen American colonies split from Great Britain.*

3. **Referendum:** A special vote whereby the people decide one or more issues.
4. **Status Quo:** The existing state of affairs. The name for our existing relationship with the U.S.
5. **Territory:** A part of a country or empire that does not have the full status of a principal or main division.
6. **United Nations:** An international organization formed in April, 1945 to "act as a watchdog over the peace."

Principal Organs:

- i) General Assembly
- ii) Security Council
- iii) Economic and Social Council
- iv) International Court of Justice
- v) Secretariat

7. **Trusteeship:** A commission from the United Nations to administer a region, colony, etc.
8. **Trust Territory:** A region, colony, etc. placed under the administrative authority of a country by the United Nations.  
*Note: The Micronesian Islands were a trust territory of the United States.*
9. **Treaty:** A formal agreement between two or more nations.

10. **Resolution:** A formal expression of opinion passed by an official body such as the United Nations .

11. **Veto:** The power of one branch or department of government, usually the executive branch, to reject a bill that a legislative body has passed.

12. **Federal Relations:** The legal and political connections or bonds between a central government and one of its parts (e.g., the U.S. national government and its states and territories.

### III. HISTORY OF FEDERAL / TERRITORIAL RELATIONS

**1787 - NORTHWEST ORDINANCE** - U.S. territorial policy was originally based upon the Northwest Ordinance of 1787, which treated the territories as future states.

- This ordinance was used as the basis for governing territories. All residents of the territories were taxed and covered by the Constitution (*except for sections reserved only for states*), and enjoyed limited self-rule while awaiting their admission into the union.

**1898 - SPANISH-AMERICAN WAR** - The nature of U.S. territorial policy was changed by the Spanish-American War, resulting in the acquisition of Guam, the Philippines and Puerto Rico.

- The treaty that ended the war stated "the civil rights and political status of the inhabitants shall be determined by the Congress."

**1901 - INSULAR CASES** - These supreme court cases led to the Doctrine of Incorporation which declared a fundamental difference between incorporated and unincorporated territories.

- 1) *Downes v. Bidwell*, 1901. Downes brought action against Bidwell, the collector of the Port of New York, to protest the collection of duties upon oranges from Puerto Rico shipped to Downes. Downes claimed that this violated the constitutional requirements that duties should be uniform throughout the United States and that vessels bound from one state cannot be required to pay customs duties in another. (Article 1 sections 8 & 9, generally known as the "Uniformity Clause").

Justice White, in his opinion, distinguished between the older "incorporated" territories and "unincorporated" territories like Puerto Rico. He held that Puerto Rico was "a territory appurtenant to and belonging to the United States but not part of the U.S. within the revenue clauses of the Constitution." Hence, in governing such "unincorporated" territories, Congress was only limited by the Constitution's protections of fundamental human rights. The "non-fundamental" parts, such as the Uniformity Clause, did not restrict Congress' freedom of action. Judge White's unincorporated territory doctrine was adopted by a unanimous Supreme Court in 1922 in the case of *Balzac v. Porto Rico*. *Note: Some historians argue that racial considerations influenced the decision of the court.*

**1946** - Philippines became independent.

**1947** - United States acquired a strategic trusteeship over the Micronesian Islands including the Northern Marianas.

**1952** - Puerto Rico became a commonwealth.

**1959** - Hawaii and Alaska became states.

**1975** - The Northern Marianas became a commonwealth of the United States.

**1982** - The Marshall Islands, Palau, and the Federated States of Micronesia entered into a compact of free association with the United States.

**1983**

#### IV. HISTORY OF VIRGIN ISLANDS POLITICAL STATUS

**2000 B.C. - 1500 A.D.** Aboriginal peoples, Caribs and Arawaks, had independent settlements.

These peoples had their own struggles for control, but those struggles differed from the European imperialism and racism of later centuries.

**1493** - The arrival of Christopher Columbus ended 3,500 years of control for the native Caribbean peoples.

**1630's** - Settlements of Dutch, British and French existed on St. Croix.

**1645 -1650** - Struggle for control among French, Dutch, British and Spanish occurred.

**1650** - The French emerged victorious and retained official control of the entire island until 1733. Africans were brought to St. Croix as slaves and became a substantial part of the population.

**1672** - The Danes established a permanent settlement on St. Thomas.

**1717** - The Danes settled St. John.

**1733** - The Danes controlled all three Virgin Islands.

**1733** - African slaves on St. John organized a rebellion and took control of the island for six months.

**1746 & 1759** - Two African uprisings planned on St. Croix were unsuccessful.

**1848** - African slaves in Frederiksted, St. Croix successfully rebelled and gained physical emancipation.

**1852** - The First Colonial Law prevented the majority of the population from participating in voting or law-making processes by maintaining property and income requirements.

These property and income requirements continued to exclude the majority until the 1936 Organic Act.

Therefore, protests by the African majority were occasionally "illegal" and violent in nature.

**1878** - A laborers' revolt, known as the "Firebun" was led by female laborers to protest harsh working conditions and civil rights abuses practiced by planters and Danish authorities. The laborers burned over 51 plantations before being captured.

**1917 - The Transfer** - The Virgin Islands, under the threat of being invaded by Germany, were sold by Denmark to the United States for \$25 million in gold. The islands were placed under naval government, and the Danish colonial laws were retained.



**1927** - Congress made Virgin Islanders U.S. citizens after 10 years of struggle by labor leaders like D. Hamilton Jackson and Rothschild Francis and through Virgin Islanders living in the United States, especially New York, like Casper Holstein.

*Note: Although Virgin Islanders, Navy governors and the State Department assumed that full United States citizenship had been granted to Virgin Islanders with the Transfer, the Secretary of State at that time stated that Virgin Islanders were U.S. nationals and did not have the "civil and political status of citizens of the United States."*

*The arguments supporting U.S. nationality as opposed to citizenship could be found in the original treaty between the United States and Denmark. The wording of the treaty spoke of granting citizenship "in" the United States as opposed to citizenship "of" the United States for Danish citizens. Also, there was a clause that left the question of citizenship for the rest of the population to be decided by the Congress.*

**1931** - Concurrent with the struggle for greater civil rights for Virgin Islanders was a growing malcontent and resentment towards the naval administration of the islands. There were numerous examples of misconduct by military personnel committed against Virgin Islanders, particularly women. Despite infrastructural improvements by the Navy, the pressure mounted for civilian government. In 1931, President Hoover transferred administrative authority over the Virgin Islands to the Department of the Interior. The first civilian governor he appointed was Paul M. Pearson.

**1936** - Agitation for greater self-government never ceased in the Virgin Islands. Until the passage of the 1936 Organic Act by the U.S. Congress, there was no inter-island government coordination. In fact, the basic law was still the Danish Colonial Law of 1906 which had left unchanged most of the provisions of the Colonial Law of 1863.

*Note: Three major areas of controversy:*

- 1) No provision for joint action between the St. Thomas / St. John Colonial Council and the St. Croix Colonial Council. This magnified the inter-island rivalry.*
- 2) There was continued disenfranchisement of the African majority due to the fact that the governor held allegiance to the metropolitan power and the Colonial Councils represented the planters and merchants. The governor controlled federal funds and had complete veto power with no override by the council.*
- 3) The most controversial problem was the lack of universal suffrage. Out of 25,000 people only 1200 were eligible to vote. In addition, aliens were provided the franchise denied to many Virgin Islanders who were not U.S. citizens.*

The Organic Act resolved all three areas of controversy. There was a provision made for a Legislative Assembly that held at least one joint session annually called by the governor. The Organic Act also established a clear separation of the three branches of the government – legislative, judicial and executive.

The governor's power to veto was restricted to money bills, and any veto could be overridden by a two-thirds majority of the Colonial Council having jurisdiction.

Finally, the property and income requirements needed for voting were eliminated. However, an English literacy requirement remained which was clearly designed to exclude the growing Puerto Rican population.

The only constitutional rights extended to Virgin Islanders were the Bill of Rights, except for indictment by a grand jury. Slavery, child labor, imprisonment for debt, and polygamy were prohibited.

1937 - On St. Thomas, a grassroots political party, The Progressive Guide, was formed by young St. Thomians. The Guide was to educate the public about their newly found civil and political status. However, their primary goal was to organize labor and demand better working conditions, workmen's compensation, and minimum wages and maximum hours.

1954 - The Revised Organic Act of 1954 defined the Virgin Islands as an Unincorporated Territory, denoting Congress' intent at that time to deny the Virgin Islands an opportunity to become an incorporated territory and eventually a state.

The significant provisions of the 1954 Organic Act were the following:

- 1) It prohibited any language requirement for voting.
- 2) It authorized the governor to recommend bills to the legislature.
- 3) It consolidated the Colonial Councils into one legislature, thereby ending local government.
- 4) It formulated a new fiscal policy for the Virgin Islands.
  - a) Permanent residents paid federal income taxes on all income both within and without the Virgin Islands.
  - b) The U.S. Treasury paid an amount equal to the amount due the Treasury on taxes levied on all articles produced in the territory, but not to exceed the amount of local monies raised by the V.I. government.
  - c) The formula gave the larger of two amounts, either \$1,000,000 or the balance of the internal revenues. However, this fund was never to exceed \$5,000,000 and was to be used for "emergency purposes and essential public projects only."

*Note: Monies from the matching fund and the surplus balance needed approval from the President or his representative before being disbursed.*

- 5) It reorganized the administrative agencies of the V.I. government into "not more than nine executive departments." Any desire by the governor or the legislature to add agencies would require the approval of the Secretary of the Interior.

*Note: The 1954 Act was designed to increase administrative efficiency and provide a stable revenue base for the island. It did not significantly expand local self-government or provide national representation. For many Virgin Islanders, the Revised Organic Act of 1954 was a disappointment.*

**1964-1965** - Thirty-three delegates proposed at a Constitutional Convention in 1965 a Second Revised Organic Act. The second revision included a provision for an elective Governor and Lt. Governor for a four-year term, congressional representation, the presidential vote, abolition of the Presidential veto of local laws and other expansions of local authority.

Incidentally, the Convention also issued a Resolution on Status which assuaged congressional fears that approval of any of the proposals would mean a commitment to eventual statehood. The Resolution also asserted that the Virgin Islands was unalterably opposed to independence from the United States of America.

**1968** - The Congress acted on the 1965 proposals on a piece-meal basis. On August 23, 1968, passage of the Elective Governor's Act provided the following:

- 1) Abolition of the presidential veto of local laws.
- 2) The Legislature could override the governor's veto by a two-thirds majority.
- 3) Extension of certain parts of the Constitution: i) Article 4, sections 1 & 2, clause 1 - the full faith and credit provisions; ii) Article 1, section 9, clauses 2 & 3, guaranteeing the writ of habeas corpus and prohibiting bills of attainder and ex-post facto laws; iii) the First through the Ninth Amendments - the Bill of Rights; iv) the Thirteenth Amendment - abolishing slavery; v) the Fifteenth and Nineteenth Amendments - prohibiting the denial of the right to vote on account of race, color, previous condition of servitude, or sex; and vi) the second sentence of section 1 of the Fourteenth Amendment - the equal protection clause.
- 4) An elective governor and lieutenant governor to serve a four-year term.

**1972** - Congress authorized the election of a non-voting Delegate to Congress.

**1976** - Public Law 94-584 authorized a locally drafted constitution, subject to congressional approval. Federal relations issues were excluded.

**1980** - Act No. 4462 of the Legislature created the first Status Commission which approved a list of ten proposals for negotiation with the federal government. The Virgin Islands' current associate membership in several United Nations organizations resulted from the work of this commission. The commission also brought into focus the fact that the people of the Virgin Islands have never determined by referendum the scope of territorial-federal relations.

**1982** - Following the failure to obtain popular approval of two constitutions drafted locally, the V.I. Legislature passed Act No. 4747 which provided a referendum to decide whether the V.I. should address Status before drafting another Constitution. The voters decided to address Status and Federal Relations first.

*1984*

**1984** - The Select Committee on Status and Federal Relations was created by the Fifteenth Legislature in 1984 by the passage of Resolution 1132. Its goal was to solicit public views on status and to submit a report to the Legislature that would include:

- 1) A proposed Compact of Federal Relations.
- 2) A recommendation on a status referendum.
- 3) An outline of a public information program.

The report was issued in 1985 and served as the basis for the establishment of the current Status Commission.

**1988** - A second Status Commission was formed in 1988 by Act No. 5332. It accepted the report of the Select Committee, called for a referendum on status for November 14, 1989, and provided for a public education campaign to precede the vote.

**1989** - A comprehensive public education campaign on status was conducted. Hurricane Hugo hit the islands and Act No. 5469 postponed the referendum indefinitely.

**1991** - The status issue was revived and Act No. 5712 of the Nineteenth Legislature set new dates: September 7, October 5, November 2 & 16, 1993.

*Note: The Status Commission's staff has begun its public education campaign and has created the Community Liaison Committee. This committee is preparing the public for the referendum by involving and educating community leaders and organizations.*