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Foreign yet domestic liberties: the imperial imaginary of the ACLU and the U.S. colonial empire, 1920-1941

Brennan, P.

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Chapter 5: Renewed Advocacy for Civil Government Reform of the U.S. Virgin Islands, 1930-1936

Introduction

In 1928, the Caribbean basin was struck by the San Felipe Segundo hurricane (also known as the Okeechobee). The U.S. Virgin Islands was among the more severely struck of the regions, seeing both a great loss of life and immense economic damage.⁵²² In the wake this devastation, among the casualties of San Felipe Segundo was the civil government reform movement. Only further exacerbating the economic destruction caused by the hurricane was the onset of the Great Depression the following year.⁵²³ Given the material destruction and personal suffering wrought by these combined developments, it is hardly surprising to see that agitation within the islands increasingly turned more toward addressing the social and economic woes of the islands than the kind of political reform embodied by civil government reform.⁵²⁴ Considering these developments, how then did the ACLU continue to interest and involve themselves in the U.S. Virgin Islands as the new decade of the 1930s began? Did they continue to pursue their broader goal of attaining civil government reform via an organic act for the Virgin Islands? What role did their imperial imaginary continue to play in their interest and involvement? What were the consequences and results?

⁵²² Evans, *The Virgin Islands*, 159-169; Dookhan, *A History of the Virgin Islands*, 270.

⁵²³ Boyer, *Civil Liberties in the U.S. Virgin Islands*, 67.

⁵²⁴ *Ibid.*

As this chapter shows, the ACLU took little action in the years that immediately followed. This chapter argues that this was largely due to advocacy for civil government reform dissipating in the wake of more pressing economic needs following the combined devastation of the San Felipe Segundo hurricane and Great Depression. However, as this chapter will further show, circumstances began to alter with the replacement of the islands' U.S. Navy government by a civilian administration. This development did not stem from the efforts of civil government reform advocates, such as the ACLU, but was more due to internal U.S. executive branch motivations. Nonetheless, it is additionally argued that the appointment of a civilian governor and administration marked the tentative beginning of more amiable relations between the ACLU and colonial state authorities, in contrast to their more antagonist relations with the previous naval authorities. It is further argued that from this point on, these increasingly agreeable relations had an accompanying discernable influence upon the imperial imaginary of the ACLU. This development, though, was initially quite limited due to the new colonial government's overriding preoccupation with economic reform of the islands.

It was only toward the end of 1932 that substantial momentum for civil government reform began to gather. As this chapter argues, by this point, the ACLU engaged almost exclusively with federal and colonial administrative actors in pursuit of the act. This resulted in an increasing reliance on lobbying, as well as more direct communication and collaborative working relationship with the governor of the Virgin Islands. This working

relationship, in turn, saw a parallel decrease of the ACLU's former cooperation and communication with Virgin Islands based allies of the kind that the organization had previously been more inclined to work alongside. These tendencies were only to increase with the onset of Roosevelt's New Deal administration shortly thereafter. This chapter further argues that, because of the ACLU's increasing engagement, and even reliance, on colonial state actors, they began to evoke discernable evidence of an imperial imaginary that was increasingly identifying with the discourse and rationale of U.S. colonial state actors. As this chapter demonstrates and argues, this was most evident in the ACLU's compromise with the resulting organic act in 1936.

Final Years of U.S. Navy Rule

Following the passage of the 1927 citizenship act, how did the ACLU continue to interest and involve themselves in the U.S. Virgin Islands? Did they continue to advocate for civil government reform via an organic act? In terms of their pursuit of an organic act, there followed a sharp decrease in their activity on behalf of which over the proceeding years. What accounts for this? One significant factor for the ACLU was that at this time they were deprived of their most consistent and persistent Virgin Islands' based ally, Rothschild Francis. As demonstrated in chapter 3, Francis had been integral to the ACLU's involvement from the outset, especially in terms of keeping them reliably and promptly abreast of developments there, as well as well as for his role in facilitating cooperation between other advocates of civil

government reform. In fact, the ACLU's main preoccupation for the remainder of the 1920s regarding the Virgin Islands was in aiding Francis contest his legal troubles and imprisonment (as discussed in Chapter 3) – a situation which only worsened over the proceeding years.⁵²⁵ In the end, the ACLU found that there was not a great deal they could do for him, with Forest Bailey at one point even declaring that he could “see no hope for Francis excepting as some kind of intervention from without can be brought about.”⁵²⁶ Eventually, when it became clear that the persecution by the colonial authorities had effectively made his life untenable there, Francis departed the Virgin Islands, with the aid of Roger Baldwin, and resettled in New York.⁵²⁷

Yet, while the loss of Francis' contributions plainly played a role in the resulting lack of proactive activity on the ACLU's part, more determinative was the broader decline of advocacy on behalf of civil government reform within the Virgin Islands. Isaac Dookhan has attributed this largely to the apparently more benign atmosphere established under the administration of Governor Waldo Evans.⁵²⁸ While a plausible factor, this unlikely wholly accounts for the decline of civil government advocacy. More likely was that former advocates had begun to re-prioritize their own pursuits in the wake of two pivotal occurrences that followed in short succession of one another.

⁵²⁵ Forest Bailey to Rothschild Francis, 3 January 1928, ACLU Papers (Digitized Microfilm), vol. 350, 723; Forest Bailey to Alphonse Blaine, 25 January 1928, ACLU Papers (Digitized Microfilm), vol. 350, 726.

⁵²⁶ Forest Bailey to Arthur Warner, 14 January 1928, ACLU Papers (Digitized Microfilm), vol. 350, 729.

⁵²⁷ Forest Bailey to Arthur Warner, 21 February 1930, ACLU Papers (Digitized Microfilm), vol. 440, 43; Herbert Francis to Forest Bailey, 22 February 1930, ACLU Papers (Digitized Microfilm), vol. 440, 43.

⁵²⁸ Dookhan, *Civil Rights and Political Justice*, 27. Waldo Evans was the very same former Governor of Samoa whose deportation of Samuel Ripley became the basis of the litigation challenge discussed in Chapter 3.

The first was the highly destructive San Felipe Segundo hurricane (also known as the Okeechobee) that struck in 1928.⁵²⁹ The second, as emphasized by William Boyer, was the onset of the Great Depression in 1929.⁵³⁰ Given the material destruction and personal suffering that had ensued, it is hardly surprising to see that agitation within the islands increasingly turned more toward addressing the social and economic woes of the islands.⁵³¹ Such economic matters, however, were also plainly outside of the ACLU's civil liberties mandate as conceived of it at the time.

There were nonetheless faint signals that changes were on hand for the colonial regime itself, as rumors began to spread that Governor Waldo Evans was going to be replaced.⁵³² Yet no tangible moves were made in that direction over the course of the year.⁵³³ Similar rumors continued into the next year, some even going so far as to suggest that the U.S Navy might be willing concede control over the islands.⁵³⁴ In the end, though, the dissolution of the naval government was not the result of non-state activist pressure emanating from either the colonial periphery or metropole but was instead due to the differing priorities and disagreements between the executive branch and the naval administration.⁵³⁵

⁵²⁹ Evans, *The Virgin Islands*, 159-169; Dookhan, *A History of the Virgin Islands*, 270.

⁵³⁰ Boyer, *Civil Liberties in the U.S. Virgin Islands*, 67.

⁵³¹ Ibid.

⁵³² Forest Bailey to Casper Holstein, 5 February 1929, ACLU Papers (Digitized Microfilm), vol. 378, 1177.

⁵³³ Casper Holstein to Forest Bailey, 8 February 1929, ACLU Papers (Digitized Microfilm), vol. 378, 1179; Forest Bailey to Casper Holstein, 13 February 1929, ACLU Papers (Digitized Microfilm), vol. 378, 1178.

⁵³⁴ Lucius Malmin to Forest Bailey, 1 December 1930, ACLU Papers Microfilm, vol. 440, 44.

⁵³⁵ James Bough and Roy Macridis partly attribute this development to the ACLU. It is clear, however, that the ACLU played no discernable role in the Hoover administration's eventual decision to transfer the Virgin Islands to the Interior Department. See: James A. Bough and Roy C. Macridis (ed.), *Virgin Islands: America's Caribbean Outpost: The Evolution of Self Government* (Wakefield: Walter F. Williams Publishing Company, 1970): 121.

Following a visit to the islands, head of the Bureau of Efficiency, Harry D. Brown, convinced President Herbert Hoover by the end of 1930 of the pressing need for economic regeneration of the Virgin Islands. The aforementioned combination of the great damage done by the San Felipe Segundo hurricane and the onset of the Great Depression had left the islands' economy in a dire condition.⁵³⁶ Brown persuaded the president that it was not advisable to try addressing the situation via the existing form of colonial rule under the U.S. Navy.⁵³⁷ Upon Brown's recommendations, control of the Virgin Islands were then transferred from the Department of the Navy to that of the Interior through an executive order by President Hoover, thereby establishing the beginning of U.S. civilian rule over the Virgin Islands.⁵³⁸

In spite of the glowing (even hyperbolic) praise that the ACLU received from the New York-based Virgin Islands advocate and financial doner Casper Holstein regarding this development, it needs to be emphasized that, even conceding their record of largely antagonistic relations with the naval authorities on the islands over the previous decade, they had not played any significant role in ending the latter's regime there.⁵³⁹ Indeed, Bailey acknowledged as much to Holstein, but nonetheless reaffirmed the organization's commitment to securing civil government via an organic act.⁵⁴⁰

⁵³⁶ Boyer, *America's Virgin Islands*: 150.

⁵³⁷ Dookhan, *A History of the Virgin Islands of the United States*, 271-272.

⁵³⁸ Executive Order 5566, President Herbert Hoover (February 27, 1931), See: <https://www.doi.gov/sites/doi.gov/files/uploads/Executive-Order-5566.pdf> (Accessed on 20-10-23); Krigger, *Race Relations in the U.S. Virgin Islands*, 81-82.

⁵³⁹ Casper Holstein to Forest Bailey, 4 February 1931, ACLU Papers (Digitized Microfilm), vol. 501, 261.

⁵⁴⁰ Forest Bailey to Casper Holstein, 5 February 1931, ACLU Papers (Digitized Microfilm), vol. 501, 262.

It remained to be seen, though, just how the ACLU would engage with the newly established civilian regime.

First Years of Civilian Government

How did the ACLU respond to the appointment and the establishment of a civilian governor and government? Did this development revitalize their interest in the U.S. Virgin Islands and civil government reform via an organic act? The appointment of a civilian government does appear to have modestly reinvigorated the ACLU's interest in the Virgin Islands. A relevant factor contributing to this was the fact that newly appointed governor Paul M. Pearson, a former professor of public speaking at Swarthmore College, also happened to have been an old friend of ACLU Chairman Harry Ward.⁵⁴¹ Baldwin, always more than happy to tap prior relationships in pursuit of personal and organizational goals, reached out to Governor Pearson in March to congratulate him on the appointment and emphasize the pressing need for self-government in the Virgin Islands.⁵⁴²

Yet, for all the encouragement of their initial communications, the Pearson administration prioritized economic development on the islands, relegating civil government reform to the backburner for the time being.⁵⁴³

⁵⁴¹ Krigger, *Race Relations in the U.S. Virgin Islands*, 81; Forest Bailey to Casper Holstein, 5 February 1931, ACLU Papers (Digitized Microfilm), vol. 501, 262.

⁵⁴² Roger Baldwin to Governor Paul Pearson, 24 March 1931, ACLU Papers (Digitized Microfilm), vol. 501, 263.

⁵⁴³ This was indicated in the report that Governor Pearson forwarded on President Hoover in August 1931 on all the work being done in the Virgin Islands. For the proposed organic act was relegated to point 17 among the 24 predominantly economically oriented measures being taken. See: Governor Paul Pearson to President Herbert Hoover, 31 August 1931, See: https://history.house.gov/Records-and-Research/Listing/c_038/

Governor Pearson's administration went about trying to achieve the aims of economic rehabilitation by focusing on such areas as education, land (through a homesteading program), the renovation of port facilities, sought an exemption of the islands from coastwise laws, and engaged in efforts to develop and promote tourism.⁵⁴⁴ He also began to appoint a significant number of Virgin Islanders to administration positions.⁵⁴⁵

With this increasing emphasis upon economic reform by the Pearson administration, how did this effect the ACLU's engagement with the administration? In terms of the ACLU's dealings with Governor Pearson, despite their differing priorities, they did manage to develop something of an amiable and constructive working relationship in seeking reform for the Virgin Islands. Indeed, with the establishment of civilian rule, the ACLU's dealings with the officials of the islands' administration ceased to be as acrimonious as they had been under naval regime (as highlighted in Chapter 2) and became increasingly cooperative. Governor Pearson and the ACLU specifically managed to work together in addressing the previously discussed oversights of the 1927 legislation that extended American citizenship to the people of the Virgin Islands.⁵⁴⁶

This, however, was the kind of dynamic through which the ACLU's imperial imaginary might come to further identify with the priorities and/or

(Accessed 20-10-23); Krigger, *Race Relations in the U.S. Virgin Islands*, 85-88; Dookhan, *A History of the Virgin Islands of the United States*, 271-272.

⁵⁴⁴ Krigger, *Race Relations in the U.S. Virgin Islands*, 87-89; Dookhan, *A History of the Virgin Islands of the United States*, 272-273; Boyer, *America's Virgin Islands*, 135.

⁵⁴⁵ Krigger, *Race Relations in the U.S. Virgin Islands*, 88.

⁵⁴⁶ Governor Paul Pearson to Ida Epstein, 17 February 1932, ACLU Papers (Digitized Microfilm), vol. 588, 56.

perspectives of colonial state actors. In fact, it does appear that Pearson had something of a *quid pro quo* relationship in mind with the ACLU, for he sought their support for a coastwise shipping law amendment in Congress. Baldwin nonetheless respectfully declined to do so as this was too much of an explicitly economic issue without a convincing civil liberties basis.⁵⁴⁷ This nonetheless demonstrated that even a colonial state actor saw value in working alongside the ACLU, indicating the extent to which their formerly unpopular and radical reputation within the U.S. metropole had decreased. This carried the further implication that in their efforts to influence and persuade colonial state actors, there was the potentiality that the influence could very well run in the opposite direction.

A revised citizenship bill for the Virgin Islands gained momentum with its introduction into Congress in the spring 1932.⁵⁴⁸ Lobbying efforts by the ACLU ensued, with them informing Senator Hiram Bingham, the Chairman of the Territories and Insular Affairs Committee, that, in line with the support they have long given to “legislation aimed at giving the Virgin Islanders the same rights as other American citizens, whether in the Island or on the mainland,” that they supported the proposed legislation.⁵⁴⁹ Hence, they very much framed their support for the citizenship amendment as being well in line with the civil liberties universalism they imagined that their efforts were

⁵⁴⁷ Governor Paul Pearson to Roger Baldwin, 17 March 1932, ACLU Papers (Digitized Microfilm), vol. 588, 59; Governor Paul Pearson to Roger Baldwin, 21 March 1932, ACLU Papers (Digitized Microfilm), vol. 588, 68; Roger Baldwin to Governor Paul Pearson, 26 March 1932, ACLU Papers (Digitized Microfilm), vol. 588, 73.

⁵⁴⁸ Dookhan, *Civil Rights and Political Justice*, 29.

⁵⁴⁹ Roger Baldwin to Senator Hiram Bingham, 1 March 1932, ACLU Papers (Digitized Microfilm), vol. 588, 56.

helping secure throughout the empire. Upon receiving news of a substitute bill proposed by Governor Pearson and submitted to Congress, the ACLU reviewed it and signaled their own approval and support.⁵⁵⁰ The revised citizenship bill was eventually passed in Congress on June 28, 1932.⁵⁵¹

Amended citizenship legislation was nonetheless a long way short of the robust civil government reform act they had long claimed was an imperative. That they goal no longer appeared to be prioritizing this goal drew a rebuke from surprising quarters. It just so happened that around this time Rothschild Francis, their longest running and most consistent ally among Virgin Islanders, reached out to Baldwin to voice his concerns about the current state of civil government reform advocacy. This provoked an exchange that evoked compelling evidence of the way in which increasingly amiable interactions with a prominent colonial state actor was having some significant influence upon the imperial imaginary of Baldwin and the ACLU. And while scholar Isaac Dookhan has given a brief account of the exchange that followed between Francis and Baldwin, he neither acknowledged the broader significance of the exchange itself nor highlighted the pertinence of Francis' criticisms therein.⁵⁵²

⁵⁵⁰ Roger Baldwin to Governor Paul Pearson, 13 April 1932, ACLU Papers (Digitized Microfilm), vol. 588, 85; Governor Paul Pearson to Roger Baldwin 2 May 1932, ACLU Papers (Digitized Microfilm), vol. 588, 86; Roger Baldwin to Governor Paul Pearson, 3 May 1932, ACLU Papers (Digitized Microfilm), vol. 588, 89.

⁵⁵¹ Evans, *The Virgin Islands*, 64.

⁵⁵² Dookhan, *Civil Rights and Political justice*, 29-30.

Having come to settle in New York after his earlier ordeal, Francis had reengaged with the broader goal of civil government reform.⁵⁵³ Greatly disappointed with the lack of progress since, as well as with what he deemed to be the disappointing performance of Governor Pearson thus far, Francis reached out to the ACLU to voice his concerns about the situation as it stood and convince them to put further effort into getting a bill introduced into Congress that would extend “permanent government” for the Virgin Islands “compatible with American concepts.”⁵⁵⁴ Roger Baldwin’s response, however, greatly shocked Francis, as it suggested an almost complete reversal of his and the ACLU’s commitments to such. For Baldwin now asserted that it was “not the function” of the ACLU “to prepare organic acts,” and that the organization confined itself to “issues of civil rights and are not interested in forms of government except the general principle of civil versus military rule.”⁵⁵⁵ Yet these descriptions of the ACLU’s actions and advocacy with respect the Virgin Islands were simply not accurate, as the organization had long advocated for (as was demonstrated in Chapter 3) specific provisions of civil government reform. And as if to reinforce this apparent reversal, Baldwin proceeded on to emphasize Governor Pearson’s line that it was the economic problems of the islands that should be given priority over all else.⁵⁵⁶ Therefore, Baldwin’s response provides ample evidence of the

⁵⁵³ Interior Department to Rothschild Francis, 29 March 1932, ACLU Papers (Digitized Microfilm), vol. 588, 74; Representative Butler Hare to Rothschild Francis, 29 March 1933, ACLU Papers (Digitized Microfilm), vol. 588, 75; Senator Hiram Bingham to Rothschild Francis, 1 April 1932, ACLU Papers (Digitized Microfilm), vol. 588, 75.

⁵⁵⁴ Rothschild Francis to Forest Bailey, 12 May 1932, ACLU Papers (Digitized Microfilm), vol. 588, 89.

⁵⁵⁵ Roger Baldwin to Rothschild Francis, 18 May 1932, ACLU Papers (Digitized Microfilm), vol. 588, 91.

⁵⁵⁶ *Ibid.*

influence upon his imperial imaginary that the increased cooperative interactions with a colonial state actor were resulting in – for this reply suggested that he was increasingly identifying with and/or internalizing the perspectives and priorities of the latter.

Plainly rattled by Baldwin's sudden seeming reversals, Francis recognized Baldwin's greater identification with the positions of colonial state authorities when he pointedly observed that, by emphasizing the imperative of the economic issues, Baldwin himself had repeated "the words and contention of the Navy men."⁵⁵⁷ And as far as Baldwin's assertion that the ACLU merely advocated for the general principle, but not specific provisions, of civilian rule, Francis responded that, although the naval administration had been replaced by a civilian one, "the same systems and laws obtain."⁵⁵⁸ Francis then posed the question, that, as the governor has "the same civil, military, and judicial power" that existed under the naval regime, what guarantee was there that "the same outrages will not be perpetuated as heretofore?"⁵⁵⁹ In such circumstances, as Francis' arguments implied, if the ACLU were now merely committed to the broad principle, but not the specific provisions, of civilian government for the Virgin Islands, then this meant that they were essentially consenting to a form of governance that differed no more than superficially than colonial rule under a branch of the U.S. armed forces.

⁵⁵⁷ Rothschild Francis to Roger Baldwin, 25 May 1932, ACLU Papers (Digitized Microfilm), vol. 588, 93.

⁵⁵⁸ *Ibid.* 94.

⁵⁵⁹ *Ibid.*

In response to Francis' penetrating arguments, Baldwin neither acknowledged his own earlier contradictory statements nor engaged with Francis' very pointed criticisms. Instead, Baldwin blithely claimed he was in complete agreement with all that Francis had said and that it was all just a question of how best to go forward.⁵⁶⁰ Francis replied in a more conciliatory manner as well.⁵⁶¹ After their exchange, Baldwin and Francis seem to have resigned themselves to awaiting the next Congress in the hope of getting an organic act back on the agenda.⁵⁶²

Yet, Baldwin's seeming reversal remains striking, especially as it contradicted years' worth of the ACLU's publicly proffered positions and activities toward the Virgin Islands. At the very least it suggested a waning of commitment by the most organization's most prominent figure to robust civil government reform of the Virgin Islands. The most convincing explanation was that this was a byproduct of the ACLU's increasingly cooperative relations with a colonial state actor like Governor Pearson. Indeed, it is notable that the ACLU were by this point much more likely to be engaged with colonial state actors regarding the Virgin Islands, than with locally based, non-state allies, such as had been the case up until the late 1920s. It certainly provides further evidence of the likely influence that colonial state actors were having upon the imperial imaginary of Baldwin

⁵⁶⁰ Roger Baldwin to Rothschild Francis, 27 May 1932, ACLU Papers (Digitized Microfilm), vol. 588, 96.

⁵⁶¹ Rothschild Francis to Roger Baldwin, 3 June 1932, ACLU Papers (Digitized Microfilm), vol. 588, 96.

⁵⁶² Roger Baldwin to Rothschild Francis, 6 June 1932, ACLU Papers (Digitized Microfilm), vol. 588, 98.

and the ACLU, as well as upon their accompanying approach to the U.S. colonial empire.

One final point regarding this exchange that is worth dwelling on is the fact that Rothschild Francis himself does not appear to have fully thought through the substance and implications of his own critique here. For, while civil government reform via an organic act would surely provide an expedient route by which a more representative and rights protective form of governance for the Virgin Islands might be secured, this would not have provided the sort of “guarantee” he so emphasized. Since (as previously discussed) such civil government reform would only be statutorily based, it was ultimately dependent upon the disposition of the U.S. Congress and was not therefore secure in the fashion that Francis so desired. This speaks to an imperial imaginary on the part of advocates of civil government reform for the Virgin Islands, including the ACLU, Baldwin, and Francis himself, accommodating of a position that remained inextricably colonial in substance – however much it might provide an improvement from a rights and representation standpoint. Therefore, whatever their differences, both Baldwin and Francis shared an imperial imaginary seemingly reconciled with an ultimately insecure and colonially particularist civil liberties and civil government dispensation for the Virgin Islands.

Improved Prospects for Civil Government Reform

Following the sharp criticisms of Rothschild Francis, did the ACLU again take up the mantle of civil government reform in the form of an organic act? In

the immediate months that followed, the ACLU did not take up any proactive efforts in this direction. However, during the latter part of the year, Governor Pearson had Lieutenant Governor, Lawrence W. Cramer, prepare a draft of an organic act for the Virgin Islands with the aid of the members of the unrepresentative and racially exclusionary Colonial Councils.⁵⁶³ This became the basis of a bill that Senator Hiram Bingham introduced in the Senate in December 1932.⁵⁶⁴

Having received copies of the bill before the Congressional Committee, the ACLU's first response was to pool the opinions of other non-state advocates for civil government reform such as Casper Holstein, Rothschild Francis, and Adolf Berle on it.⁵⁶⁵ It should be noted, though, that as Francis was now based in New York, they appeared to no longer have been receiving (nor seeking out) much in the way feedback from anyone based within the Virgin Islands. Holstein and Rothschild Francis supported it; with the latter emphasizing that the "draft grants a Bill of Rights compatible with American concepts" and was satisfied to see "general suffrage is assured."⁵⁶⁶ Adolf Berle found the draft sound as well, albeit expressing dissatisfaction with the fact that term limits had not been placed upon the governorship.⁵⁶⁷

⁵⁶³ Evans, *The Virgin Islands*, 249.

⁵⁶⁴ *Ibid.*

⁵⁶⁵ ACLU to Casper Holstein, 5 January 1933, ACLU Papers (Digitized Microfilm), vol. 616, 118; ACLU to Rothschild Francis, 5 January 1933, ACLU Papers (Digitized Microfilm), vol. 616, 118; ACLU to Adolf Berle, 4 January 1933, vol. 616, 117.

⁵⁶⁶ Casper Holstein to Roger Baldwin, 6 January 1933, ACLU Papers (Digitized Microfilm), vol. 616, 119; Rothschild Francis to Roger Baldwin, 9 January 1932, ACLU Microfilm, vol. 616, 121.

⁵⁶⁷ Adolf Berle to Roger Baldwin, 11 January 1933, ACLU Papers (Digitized Microfilm), vol. 616, 124.

Baldwin himself criticized the bill for continuing the practice of appointing “too many American officials to the Virgin Islands.”⁵⁶⁸

Baldwin and the ACLU then compiled all of their remaining criticisms with the proposed bill and addressed them to Senator Hiram Bingham (Chairman of the Territories and Insular Affairs Committee), Governor Pearson and the Lieutenant Governor Lawrence Cramer.⁵⁶⁹ The ACLU informed them that they called for four changes to the bill: the establishment of a non-voting resident commissioner for the Virgin Islands in the House of Representatives; the term of Governorship should be limited to four years; the removal of veto powers from both Congress and the President; and a reduction in federally appointed officials in the Islands.⁵⁷⁰ On this latter issue, they stressed that this not only impaired “self-government for the Islands,” but, more to the point, they regarded it as “untenable the theory” that the islands should be ruled by Washington appointees “most of whom doubtless will be ... white men, who are unfamiliar with the problems of the Islands and too often moved by assumptions of the superiority of the white races.”⁵⁷¹ Hence, the ACLU were explicit about the practice of appointing of white American officials as further exacerbating the issue of racial exclusion in the Virgin Islands. This

⁵⁶⁸ Roger Baldwin (Document unsigned but almost certainly was from Baldwin) to Adolf Berle, 12 January 1933, vol. 616, 126.

⁵⁶⁹ ACLU (Signed by Harry Ward, Arthur Garfield Hays, and Roger Baldwin) to Senator Hiram Bingham, 17 January 1933, ACLU Papers (Digitized Microfilm), vol. 616, 259-260; Roger Baldwin to Lt. Governor Lawrence Cramer, 10 January 1933, ACLU Papers (Digitized Microfilm), vol. 616, 256; Roger Baldwin to Governor Paul Pearson, 26 January 1933, ACLU Microfilm, Vol. 616, 261.

⁵⁷⁰ ACLU (signed by Harry Ward, Arthur Garfield Hays, and Roger Baldwin) to Senator Hiram Bingham, 17 January 1933, ACLU Papers (Digitized Microfilm), vol. 616, 259-260.

⁵⁷¹ *Ibid.*

represented a rare example of the ACLU explicitly addressing the racial iniquities so at the heart of the U.S. colonial empire itself, and not solely confining themselves to their more universally framed civil liberties orientation.

In response to the ACLU's feedback, while Governor Pearson was quite receptive to the points raised, Lieutenant Governor Lawrence Cramer was markedly less so.⁵⁷² Mainly differing with them on the issue of appointments, Cramer argued instead for qualifying examinations, as apparently through such apolitically meritocratic means the contentious 'questions of race preferences ... could be largely obviated.'⁵⁷³ Cramer hence argued for addressing the issue through a more universalist and race-neutrally framed measure. That is, the very kind of argument that might potentially to appeal to the metropolitan-rooted universalism of the ACLU's imperial imaginary. And Baldwin indeed responded by downplaying their substantive differences of opinion and struck a conciliatory note, claiming that he ultimately did not feel that their differences in these matters were great, and suggested that Governor Pearson and himself should go ahead and work out the details of the proposed act, at which point the ACLU could

⁵⁷² Governor Paul Pearson to Roger Baldwin, 28 January 1933, ACLU Papers (Digitized Microfilm), vol. 616, 262; Lt. Governor Lawrence Cramer to Roger Baldwin, 2 February 1933, ACLU Papers (Digitized Microfilm), vol. 616, 263-264.

⁵⁷³ Lt. Governor Lawrence Cramer to Roger Baldwin, 2 February 1933, ACLU Papers (Digitized Microfilm), vol. 616, 263.

then look over the results.⁵⁷⁴ The bill, however, failed in the post-1932 elections lame duck Congress by February 4, 1933.⁵⁷⁵

The ACLU's more amiable, near collaborative, exchanges with Governor Pearson and Lieutenant Governor Cramer with respect to the organic act also provide further evidence of the ACLU's effective abandonment of their antagonism toward colonial state institutions and actors. This, in turn, served to further condition the means and priorities of their engagement toward the colonial sphere of the United States. These more agreeable relations between the organization and colonial state actors were also a byproduct of U.S. metropolitan developments. For the deliberations on the Senate bill happened to coincide with the electoral victory of Franklin Delano Roosevelt and the onset of the New Deal. As noted in the Preface to Part II, the new administration contained a relevant number of figures who were either current or former members of the ACLU, as well as those who had constructive past working relationships with whom.⁵⁷⁶ This notably included Adolf Berle, who had joined the Roosevelt campaign as one of the three members of the President's so-called "Brain Trust."⁵⁷⁷

This being the case then raises the question: did the onset of the New Deal administration produce a discernible effect in the ACLU's pursuit of civil government reform and/or engagement with the Virgin Islands in

⁵⁷⁴ Roger Baldwin to Lt. Governor Lawrence Cramer, 3 February 1933, ACLU Papers (Digitized Microfilm), vol. 616, 264.

⁵⁷⁵ Dookhan, *Civil Rights and Political Justice*, 31.

⁵⁷⁶ Walker, *In Defense of American Liberties*, 96-97.

⁵⁷⁷ William E. Leuchtenburg, *Franklin D. Roosevelt and the New Deal: 1932-1940* (New York: Harper & Row, 1963): 32-33.

general? The first interaction the ACLU had with the administration regarding the U.S. Virgin Islands stemmed from word that the new administration was considering the transferal of the islands back to U.S. Navy control.⁵⁷⁸ Unsurprisingly, the ACLU strongly opposed such a measure. Reflecting how the ACLU now had ample contacts within the Roosevelt administration, they immediately reached out to Adolf Berle and Secretary of Interior, as well as ACLU member, Harold Ickes, to convince them to oppose the move.⁵⁷⁹ In the end, it appears that President Roosevelt, due to additional pressure along these lines, opted not to do so.⁵⁸⁰ And while, on the one hand, the presence of civil libertarian allies within the New Deal administration was plainly a more favorable circumstance than had previously been the case, it also further facilitated the development of the ACLU's more accommodating relations with state authorities.

March of 1933 also saw the ACLU issue their pamphlet "Civil Liberties in American Colonies."⁵⁸¹ As briefly discussed in chapter 4, within this pamphlet, the ACLU provided an overview of the civil liberties situations as they understood them in each of the U.S. colonies, as well as briefly setting out their own stances and recommended measures toward each. This pamphlet can then be taken as their first detailed and broad statement on the U.S. colonial empire. It is necessary to then devote some discussion to its

⁵⁷⁸ Kitty Gellhorn to Roger Baldwin, 27 March 1933, ACLU Papers (Digitized Microfilm), vol. 616, 158.

⁵⁷⁹ ACLU to Adolf Berle, 29 March 1932, ACLU Papers (Digitized Microfilm), vol. 616, 159; Roger Baldwin to Harold Ickes, 17 March 1933, ACLU Papers (Digitized Microfilm), vol. 616, p. 152; Weinrib, *The Taming of Free Speech*, 195.

⁵⁸⁰ Dookhan, *Civil Rights and Political Justice*, 32.

⁵⁸¹ "Civil Liberties in American Colonies: A Survey of Interference with Civil Rights of Natives; and of the Forms of Control; with Proposed Remedies," March 1933, ACLU Records and Publications. Reel 91, 1-31.

contents (discussion of the Philippines and Puerto Rico entries, though, will be reserved for the following two chapters respectively). As alluded to in Chapter 4, the ACLU's pamphlet on the colonies conveyed a misleading, even exaggerated, impression of the scale and scope of the ACLU's interest and involvement throughout the US colonial empire. Relatedly, the pamphlet conveys convincing evidence of that the ACLU's imperial imaginary was increasingly internalizing the particularism of the U.S. colonial empire. The pamphlet thus contains indications that U.S. colonial discourse, most notably that relating to race, was, at an unconscious level at the very least, playing some role in their determination of where and at what scale they involved themselves in the empire, as well as of how they perceived of said empire and its constituent aspects.

With regard to the entry on Virgin Islands, the pamphlet provides an accurate account of the scope and details of the ACLU's preoccupations there.⁵⁸² Within which they continued to stress that "any satisfactory solution" could only be secured by extending "much greater autonomy" to the people of the Virgin Islands and that this would be best attained via an organic act which would "guarantee civil liberties."⁵⁸³ The entry on the Virgin Islands compared most directly with the pamphlet's entries on another two formal colonies without organic acts: American Samoa and Guam. As is evident from the pamphlet, the ACLU identified all three as unequivocally colonial within their imperial imaginary. As they pointed out of Guam, the

⁵⁸² Ibid., 26-27.

⁵⁸³ Ibid., 27.

colonial laws from the period of Spanish rule were still operative and neither ‘the Constitution nor the laws of the United States have ever been extended.’⁵⁸⁴ As they further asserted, since the ‘general situation is much the same as in Samoa’ then ‘much the same remedies are called for.’⁵⁸⁵ Hence in the entries on American Samoa and Guam they call for the replacement of the U.S. Navy governments in the two colonies by civil government reform – that is, reform that (much the same as for the US Virgin Islands) would nonetheless serve to reinforce the particularism of the colonial empire.⁵⁸⁶

Where the similarity ends, though, is in the stark contrast of tangible effort expended by the ACLU in pursuit of civil government reform for either American Samoa or Guam as compared with that which they devoted to the U.S. Virgin Islands. For despite the content of the pamphlet entries, they in no way matched this with the same level of effort as they did regarding the Virgin Islands.⁵⁸⁷ There is evidence within the sourcing that points to the

⁵⁸⁴ *Ibid.*, 25

⁵⁸⁵ *Ibid.*

⁵⁸⁶ *Ibid.*, 24-25.

⁵⁸⁷ In the case of eastern Samoan Islands of Tutuila and Manu’a, as was shown in chapter 4, the ACLU had supported an unsuccessful strategic litigation to challenge to the doctrine of incorporation. By the 1930s, however, it is notable that less, not more, interest and effort was devoted to addressing American Samoa by the ACLU. And this was all the more curious given that they had otherwise expanded the scope of their efforts throughout the US colonial empire over the course of this decade. In fact, it was only from 1934 on, that an effort by the ACLU to pursue civil government reform for American Samoa emerged. This effort was almost solely limited to lobbying Congressional members and federal administration figures. In these tentative efforts, the ACLU acknowledged throughout the role that such factors as the lack of necessary financing, allies, and broader public interest had in limiting whatever efforts they could take in pursuit of such a goal. By 1937, such efforts by the ACLU appear to have ceased for the remainder of the decade. See: J.K. Taussig (Acting Chief of Navy Operations) to Roger Baldwin, 22 May 1934, ACLU Microfilm, Volume 758, p. 126; Roger Baldwin to Senator Homer Bone, 27 November 1933, ACLU Papers (Digitized Microfilm), vol. 675A, 212; Roger Baldwin to Senator Millard Tydings, 19 December 1935, ACLU Papers (Digitized Microfilm), vol. 953, 55; Roger Baldwin to Ernest Gruening, 21 February 1936, ACLU Papers (Digitized Microfilm), vol. 953, 58; Roger Baldwin to Representative Leo Kocialkowski (Chairman of Insular Affairs Committee), 2 March 1936, ACLU Papers (Digitized Microfilm), vol. 953, 59; Arthur Garfield Hays to Senator Royal Copeland, 28 March 1936, ACLU Papers (Digitized Microfilm), vol. 953, 61; Roger Baldwin to Senator Millard Tydings (Document undated), ACLU Papers (Digitized Microfilm), vol. 1062, 92; Roger Baldwin to Margaret Marsh, 29 July 1935, ACLU Papers

great distance of these colonies from the ACLU's New York base and their lack of resources, finances, personnel, and contacts all being a critical factors accounting for this disparity of interest and involvement on their part.⁵⁸⁸

Yet, if in the cases of the U.S. Virgin Islands, American Samoa, and Guam the ACLU could at least point to some measure of tangible effort expended, that is much more than can be said of two other prominent colonial possessions: Hawai'i and Alaska. Given this lack of interest and involvement, their pamphlet's entry on Hawai'i was probably its most misleading. For within this entry, they expressed their opposition to the proposed transference of Hawai'i to the War Department and recommended legislation addressing the abusive contract labor system operative there; thereby conveying the impression that the ACLU were well abreast of and involved in developments there.⁵⁸⁹ Yet, as ACLU correspondence makes

(Digitized Microfilm), vol. 862, 81; Roger Baldwin to Dorothy Detzer, 4 June 1934, ACLU Papers (Digitized Microfilm), vol. 758, 128; Roger Baldwin to Ernest Gruening, 11 January 1935, ACLU Papers (Digitized Microfilm), vol. 862, 76.

In the case of Guam, it was not until 1937, that the ACLU devoted any kind of interest in the long neglected Pacific Ocean based colony, and this was only devoted to some very modest effort in support for a bill that had been introduced to Congress in February which would have extended citizenship to the Chamorros people of Guam. In doing so, they readily acknowledged that even their own efforts of publicity toward which had been largely ineffectual. This endeavor had largely faltered and ceased as well before the end of the decade. See: Roger Baldwin to B.J. Bordallo, 21 June 1937, ACLU Papers (Digitized Microfilm), vol. 862, 5; B.J. Bordallo to Roger Baldwin, 23 June 1937, ACLU Papers (Digitized Microfilm), vol. 1062, 18; Roger Baldwin, "Note on Guam," July 1937, ACLU Papers (Digitized Microfilm), vol. 1062, 18; ACLU News Release, 15 November 1937, ACLU Papers (Digitized Microfilm), Vol. 1062, 20-21; Roger Baldwin to Senator Millard Tydings, 24 December 1937, ACLU Papers (Digitized Microfilm), vol. 2053, 8; Roger Baldwin to B.J. Bordallo, 7 July 1937, ACLU Papers (Digitized Microfilm), vol. 1062, 18; Roger Baldwin to Senator Millard Tydings, 24 December 1937, ACLU Papers (Digitized Microfilm), vol. 2053, 8.

⁵⁸⁸ Roger Baldwin to Margaret Marsh, 29 July 1935, ACLU Papers (Digitized Microfilm), vol. 862, 81; Roger Baldwin to Dorothy Detzer, 4 June 1934, ACLU Papers (Digitized Microfilm), vol. 758, 128; Roger Baldwin to Ernest Gruening, 11 January 1935, ACLU Papers (Digitized Microfilm), vol. 862, 76.

⁵⁸⁹ "Civil liberties in American colonies: A survey of interference with civil rights of natives; and of the forms of control; with proposed remedies," March 1933, ACLU Records and Publications. Reel 91, 20-23.

abundantly clear, they were neither involved in addressing, nor were even minimally well informed about, conditions there.⁵⁹⁰ Maybe even more significant regarding their Hawai'ian entry, though, was the fact that they distinguished the Pacific island group as being an "integral part of the United States", going so far as to praise its "judicial system" as appearing to "function better than the average in this country."⁵⁹¹ This suggested that Hawai'i occupied something of a liminal position within the ACLU's imperial imaginary. For while they plainly still recognized the Pacific islands as an American colony, they also seemed to have, at least in part, identified Hawai'i with the metropolitan states in a kind of implicit, if inchoate, manner.

Something similar, albeit distinct, can be observed regarding the pamphlet's treatment of Alaska.⁵⁹² The ACLU did not even devote a full entry to the vast colony, instead they briskly dismissed engaging in any depth with the circumstances there, as well as those in the Panama Canal Zone, due to the fact that the "populations of these dependencies are largely American and the problems of civil liberty are much the same as in the United States."⁵⁹³ The racialized connotations of the notion of "American" deployed

⁵⁹⁰ With respect to the preparation of the Hawai'ian entry of the pamphlet, the ACLU had relied upon the work of a researcher from the Foreign Policy Association, who himself confessed to lacking both depth and first-hand knowledge of the Islands' conditions. See: Roger Baldwin to Maxwell Stewart, 6 September 1933, ACLU Papers (Digitized Microfilm), vol. 675A, 91; Maxwell Stewart to Roger Baldwin, 7 September 1933, ACLU Papers (Digitized Microfilm), vol. 675A, 92; Lucille Milner to Library of Congress, 30 October 1933, ACLU Papers (Digitized Microfilm), vol. 675A, 101.

⁵⁹¹ *Ibid.*, 20-21.

⁵⁹² *Ibid.*, 2.

⁵⁹³ *Ibid.* The United States had acquired the Panama Canal Zone in 1903 following President Theodore Roosevelt's intervention on behalf of Panamanian secessionists from Columbia. This concession had been extracted from newly formed state of Panama for purposes of building of the Panama Canal. The ten-mile-

here were unavoidable – for the only plausible interpretation of who was being designated as being “American” was that of white American settlement communities. This intimates some of the underlying importance of race within the ACLU’s imperial imaginary for how they perceived the colonial sphere and, accordingly, determined their engagement with which – even if in largely indeterminate ways. More to the point, this plausibly suggests that in the case of Alaska, as well as likely Hawai’i, ACLU made an implicit distinction between colonies in which some measure of white American settler colonialism had been established and those less subjected to which.⁵⁹⁴

The pamphlet as a whole then gives the impression, both in terms of the diversity of the stances adopted and perceptions conveyed within, that this text was the product of an imagination that had come to internalize much of the particularism of the colonial empire. On the one hand, they were coming to perceive of certain colonies (i.e., Alaska and Hawai’i) as essentially occupying a kind of liminal space between that of the metropolitan states and U.S. colonies – albeit evidently projecting something more of an metropolitan identification upon them. On the other hand, and in

wide zone, operating under the purview of the Department of War, became, according to Daniel Immerwahr, “one of the most intensively governed spots on the planet” for the purpose of building the Panama Canal. Given extent to which the canal’s construction, as well as the general maintenance of the Canal Zone, was highly dependent upon regional contract labor, it was highly misleading for ACLU to refer to population of which being largely “American.” See: Immerwahr, *How to Hide an Empire*, 280-283; Jonathan M. Katz, *Gangsters of Capitalism: Smedley Butler, the Marines, and the Making and Breaking of America’s Empire* (New York: St. Martin’s Press, 2021): 159-168.

⁵⁹⁴ It does need to be pointed out, however, that the obvious corollary of such a reading – treating both colonies as *de facto* US states – did not occur either. If anything, the ACLU maintained less interest and involvement in either colony than they did other colonies or states of the United States. It is altogether plausible that additional banal factors such as the lack of resources, finances, personnel, and contacts, as well as the vast distance of Alaska and Hawai’i were also critical factors behind their lack of focused and engaged interest and involvement in either.

stark contrast, no such liminality was extended to the U.S. Virgin Islands, Guam, and American Samoa which they plainly regarded as all being essentially colonial. In fact, there were only two outliers among the formal colonies to this dichotomy of metropolitan and colonial identification in the pamphlet: the Philippines and Puerto Rico. And, as will be discussed and demonstrated in Chapters 6 and 7, these happened to be the two formal colonies in which they engaged with the issue of independence – albeit (as will be further demonstrated) in ways that came more in the end to indirectly reinforce the metropolitan and colonial binary of the empire.

Aside from their “Civil liberties in the American colonies” pamphlet, for the remainder of 1933 and into 1934, the ACLU took surprisingly little further action with respect the Virgin Islands; aside from periodically checking in for an update on the likelihood of further progress with a civil government bill.⁵⁹⁵ This was likely a by-product of the predominantly economic emphasis of the New Deal, an imperative, as noted, already well committed to by Governor Pearson. Indeed, Pearson’s colonial administration expanded its economic program through such flag ship New Deal measures as the Public Works Administration (PWA) and the establishment of a Civilian Conservation Corp (CCC) camp on St. Thomas.⁵⁹⁶ This period also saw the appointment of Walter White of the NAACP to an

⁵⁹⁵ Roger Baldwin to Oscar Chapman, 15 January 1934, vol. 758, 133; Roger Baldwin to Governor Paul Pearson, 15 January 1934, ACLU Papers (Digitized Microfilm), vol. 758, 134; Oscar Chapman to Roger Baldwin, 17 January 1934, ACLU Papers (Digitized Microfilm), vol. 758, 134; Governor Paul Pearson to Roger Baldwin, 31 January 1934, ACLU Papers (Digitized Microfilm), vol. 758, 135.

⁵⁹⁶ Krigger, *Race Relations in the U.S. Virgin Islands*, 88.

advisory council, created to assist with the implementation of the economic program by President Roosevelt.⁵⁹⁷ Governor Pearson himself, though, derived little political benefit from these measures, as over the course of the year he came to confront strong opposition from within the Islands. This appears to have been as much motivated by internal divisions and political partisanship, as due to his actual performance in office.⁵⁹⁸ The increasing scope of the opposition brought Pearson's hold on the governorship into question.

In lieu of any encouraging signs concerning civil government legislation, Baldwin decided to follow up on the suggestion of ACLU legal counsel, Morris Ernst, who had proposed that a more immediate measure worth pursuing would be trying to get the franchise further extended in the Virgin Islands.⁵⁹⁹ The ACLU executive director contacted the former anti-imperialist journalist and editor of *The Nation*, ACLU member, and recently appointed director of the newly created Division of Territories and Island Possessions (DTIP), Ernest Gruening.⁶⁰⁰ While Gruening stated that he agreed

⁵⁹⁷ President Franklin D. Roosevelt to Walter White, 23 February 1934, NAACP Papers, Part 11: Special Subject Files. Series B. Reel 32, 972. After a year's participation on the advisory council, however, Walter White was to tender his resignation to President Roosevelt due to the latter's silence on the filibuster deployed in the Senate to oppose anti-lynching legislation. See: NAACP Press Release, May 1935, NAACP Papers, Part 11: Special Subject Files. Series B. Reel 33, 94; Kenneth R. Janken, *White: The Biography of Walter White, Mr. NAACP* (New York: The New Press, 2001): 227.

⁵⁹⁸ Krigger, *Race Relations in the U.S. Virgin Islands*, 88-90.

⁵⁹⁹ Morris Ernst to Roger Baldwin and Walter White, 13 February 1935, ACLU Papers (Digitized Microfilm), vol. 862, 103-104; Robert D. Johnson, "Anti-imperialism and the Good Neighbour Policy: Ernest Gruening and Puerto Rican Affairs, 1934-1939," *Journal of Latin American Studies* 29, no. 1 (February, 1997): 89-94.

⁶⁰⁰ Effectively functioning as the colonial office within the Interior Department, DTIP had been established by President Roosevelt in May 29, 1934 and eventually came to entail within its remit the colonies of Alaska, Hawai'i, Puerto Rico, and the Virgin Islands. Gruening himself had been deliberately appointed by Roosevelt as its first director due to his anti-imperialist credentials as it was thought that this would lend greater credibility to the department among the critics of American imperialism among the President's base. See: Robert D.

in principle, he appears to have made no real effort, despite of Baldwin's continued pursuit of him upon the matter.⁶⁰¹ The ACLU appear to have left matters at that and thereby limited their efforts to lobbying an administration contact.

This increasing reliance upon allied state actors was a formula that was likely to condition the ACLU's engagement with the colonial empire and result in an imperial imaginary which increasingly identified with the former. There was also the issue of how such a reliance might compromise a fundamental commitment of their civil liberties mandate in the empire: providing a check to abuses of state authority. And seeing as though conditions within the Virgin Islands were relatively benign from a colonial coercion standpoint, this did not result in much in the way of tension and/or conflicts of interest on their part. When, however, conditions were not as benign (as will be seen in the next chapter in contemporaneous Philippines) such tensions and potential conflicts of interest were near unavoidable.

A New Governor and the Final Push for Civil Government

Opposition to Governor Pearson had continued to worsen until it had gotten to the point that it had become clear that he would be replaced. Word

Johnson, *Ernest Gruening and the American Dissenting Tradition* (Cambridge: Harvard University Press, 1998): 114; Roger Baldwin to Ernst Gruening, 11 February 1935, ACLU papers (Digitized Microfilm), vol. 862, 103.

⁶⁰¹ Roger Baldwin to Ernst Gruening, 14 February 1935, ACLU Papers (Digitized Microfilm), vol. 862, 106; Ernst Gruening to Roger Baldwin, 13 February 1935, ACLU Papers (Digitized Microfilm), vol. 862, 104-105 Roger Baldwin to Ernst Gruening, 15 May 1935, ACLU Papers (Digitized Microfilm), vol. 862, 112; Ernst Gruening to Roger Baldwin, 21 May 1935, ACLU Papers (Digitized Microfilm), vol. 862, 112.

started to spread again that the governorship would be returned to U.S. Navy control under Admiral William V. Pratt. Upon hearing of this, both the ACLU and NAACP, demonstrating a measure of continuity from their collaboration regarding Haiti, made their opposition to this appointment clear to the president. The NAACP focused their opposition to Admiral Pratt on the grounds that he had been quoted as seeming to approve of lynch law.⁶⁰² The ACLU, for their part, did not engage in the racism issue of the appointment and instead, as per their more universally framed civil liberties mandate, focused their objection upon their longstanding opposition to naval control of islands.⁶⁰³ The NAACP also tapped additional contacts to broaden the scope of the opposition to the appointment.⁶⁰⁴ In the end, President Roosevelt decided to continue with civilian control and promoted the Lieutenant Governor, Lawrence W. Cramer, as governor.

Upon his ascent to the governorship, Baldwin congratulated Cramer and then immediately proceeded to push him on the remaining need for civil government for the Virgin Islands.⁶⁰⁵ From there, Baldwin and Governor Cramer essentially picked up where they had left off earlier in debating on how best to pursue an organic act and, more contentiously, what provisions

⁶⁰² Walter White to President Franklin D. Roosevelt, 15 July 1935, ACLU Papers (Digitized Microfilm), vol. 862, 114.

⁶⁰³ Telegram from ACLU (Signed Harry Ward, Arthur Garfield Hays, Roger N. Baldwin) to President Franklin D. Roosevelt, 17 July 1935, ACLU Papers (Digitized Microfilm), vol. 862, p. 115; ACLU News Release, 18 July 1935, vol. 862, 116.

⁶⁰⁴ Walter White to A. Totten, 20 March 1933, NAACP Papers, Part 11: Special Subject Files. Series B. Reel 32, 682; Walter White to Paul Douglas, 17 March 1933, NAACP Papers, Part 11: Special Subject Files. Series B. Reel 32, 667; Paul Douglas to Walter White, 23 March 1933, NAACP Papers, Part 11: Special Subject Files. Series B. Reel 32, 733.

⁶⁰⁵ Roger Baldwin to Governor Lawrence Cramer, 7 August 1935, ACLU Papers (Digitized Microfilm), vol. 862, 116.

should the act contain. In their exchanges, Cramer regularly returned to his argumentation about the purported importance of the “capacity” of the colonially subjugated, so typical of imperial authorities elsewhere and with all its unavoidable racial and civilizational connotations. He did so to consistently reject provisions that would have further democratized and/or extended greater autonomy to the islands.⁶⁰⁶ Indeed, it was on these very principles of the greater or lesser degree of democratization and autonomy for the Virgin Islands that much of the remaining debate on civil government was to hinge upon for the ACLU.

Over the following months, upon the request of Senator Millard Tydings, Governor Cramer had the Virgin Islands’ Colonial Councils assemble another organic act draft.⁶⁰⁷ This time around, however, the ACLU responded more proactively themselves. For, at the request of their long-running ally Casper Holstein, the ACLU sought to have an alternative civil government draft prepared.⁶⁰⁸ As consultant for the preparation of the draft bill, the ACLU turned to an old ally from the organization’s earliest years, Theodore Schroeder. The former head of the Free Speech League (an important organizational precursor to the ACLU), Schroeder had essentially ceased to champion free speech by the time of the First World War and had eventually settled in the Virgin Islands for health reasons.⁶⁰⁹ While this

⁶⁰⁶ Governor Lawrence Cramer to Roger Baldwin, 22 August 1935, ACLU Papers (Digitized Microfilm), vol. 862, 117.

⁶⁰⁷ Boyer, *America’s Virgin Islands*, 185; Dookhan, *Civil Rights and Political Justice*, 35.

⁶⁰⁸ Casper Holstein to Roger Baldwin, 31 October 1935, ACLU Papers (Digitized Microfilm), vol. 862, 120; Roger Baldwin to Casper Holstein, 8 November 1935, ACLU Papers (Digitized Microfilm), vol. 862, 121.

⁶⁰⁹ While the scholarship on the ACLU, free speech and civil liberties movement has long acknowledged the significance of Theodore Schroeder to the history of free speech, as well as the civil liberties movement as a

contact had initially been devoted to aiding Rothschild Francis with his earlier legal troubles, it came to expand from there.⁶¹⁰

Between November and December of 1935, Schroeder completed and forwarded his draft of an organic act for the Virgin Islands to the ACLU in December, which Baldwin duly passed on to Holstein.⁶¹¹ Schroeder's draft greatly contrasted with that which had been produced thus far by the colonial administration of the Virgin Islands – most notably in its greater commitment to democratization and the extension of autonomy. It would have ended all federal appointments (excepting those of the Governor and the Colonial Secretary) and limited the powers of the Governor itself in those key areas of appointment and legislative veto.⁶¹² The Virgin Islands' Councils were now to have the power of appointment of all local officers. Other exclusionary provisions, such as the maintenance of property qualifications for the franchise and exclusive male suffrage, were eliminated. If implemented, this scheme then held out the promise of a more robustly democratic, representative, and autonomous form of governance for the people of the Virgin Islands.⁶¹³ The fact that this draft resulted from the

whole, it has not recognized that the ACLU began to communicate and cooperate with Schroeder again in 1928 regarding the US Virgin Islands. See: Rabban, *Free Speech in the Forgotten Years*, 44-75; Walker, *In Defense of American Liberties*, 22-23.

⁶¹⁰ Theodore Schroeder to Forest Bailey, 28 January 1928, ACLU Papers (Digitized Microfilm), vol. 350, 727-728; Theodore Schroeder to Forest Bailey, 3 February 1928, ACLU Papers (Digitized Microfilm), vol. 350, 730; Theodore Schroeder to Forest Bailey (Undated), ACLU Papers (Digitized Microfilm), vol. 350, 731; Forest Bailey to Theodore Schroeder, 10 February 1928, ACLU Papers (Digitized Microfilm), vol. 350, 732.

⁶¹¹ Theodore Schroeder to Ida Epstein, 12 December 1935, ACLU Papers (Digitized Microfilm), vol. 862, 132; Roger Baldwin to Casper Holstein, 13 December 1935, ACLU Papers (Digitized Microfilm), vol. 862, 132.

⁶¹² "Proposed 'Organic Act' for the Government of the Virgin Islands," December 1935, ACLU Papers (Digitized Microfilm), vol. 862, 133.

⁶¹³ *Ibid.*

work of a sympathetic non-state actor – one who had no input from the deeply unrepresentative and racially exclusionary Colonial Councils of the Virgin Islands – was hardly a coincidence. However, as this scheme – no different from that of the colonial administration sponsored bills – remained a legislatively based organic act, what it could not do is fundamentally alter fact that this would still result in an ultimately colonially particularistic and insecure civil liberties, rights, and governance regime for the U.S. Virgin Islands.

It was on those lines of democratization and autonomy that continued to be most divisive for the ACLU and the Cramer administration going forward. For when Baldwin also forwarded a copy of Schroeder's draft to Governor Cramer, while the latter conceded to some of its merits, he nonetheless objected to the provisions that touched on those areas.⁶¹⁴ The governor did so on the grounds that “the degree of democracy should depend somewhat on the capacity of the population to exercise it.”⁶¹⁵ Governor Cramer again deployed the racialized trope of a subject peoples' lack of “capacity” necessitating the ongoing restriction of their exercise of democracy, a trope deeply steeped in racialized imperial thought. Baldwin responded by again trying to minimize the differences of their positions; offering the counter to Cramer's incapacity preoccupation that surely “responsibility, along with considerable autonomy and democracy, would

⁶¹⁴ Governor Lawrence Cramer to Roger Baldwin, 21 February 1936, ACLU Papers (Digitized Microfilm), vol. 953, 135.

⁶¹⁵ *Ibid.*

develop the capacities latent in any population.”⁶¹⁶ So while he may have reversed the logic of ‘capacity’ posited by Cramer (i.e. stressing that further responsibility developed capacity, not that lack of capacity precluded responsibility), Baldwin nonetheless indicated here an acceptance of the premise of a peoples’ capacity being a relevant factor for self-governance. This implied (similar to Rothchild and Baldwin’s earlier contentious exchange) that Baldwin’s increased interactions with colonial state actors were resulting in him increasingly internalizing aspects of customary imperial discourse by colonial state actors (i.e., those related to the necessary capacity for self-governance) within his imperial imaginary.

Shortly after the exchange, Governor Cramer sent Baldwin a copy of the prepared draft of an organic act that had been forwarded onto the respective chairmen of the Congressional committees on insular affairs.⁶¹⁷ Baldwin continued to object to the large amount of remaining federal appointees provided for in the draft bill.⁶¹⁸ Cramer was uncooperative in reply, countering that Congress fully intended to retain control over federally funded officeholders.⁶¹⁹ He additionally confidently asserted that such provisions would be retained, with or without their opposition, in what

⁶¹⁶ Roger Baldwin to Governor Lawrence Cramer, 2 March 1936, ACLU Papers (Digitized Microfilm), vol. 953, 136.

⁶¹⁷ Governor Lawrence Cramer to Roger Baldwin, 14 March 1936, ACLU Papers (Digitized Microfilm), vol. 953, 137.

⁶¹⁸ Roger Baldwin to Governor Lawrence Cramer, 13 April 1936, ACLU Papers (Digitized Microfilm), vol. 953, 149.

⁶¹⁹ Governor Lawrence Cramer to Roger Baldwin, 16 April 1936, ACLU Papers (Digitized Microfilm), vol. 953, 150.

increasingly looked to be the likely impending passage of an organic act for the Virgin Islands.⁶²⁰

With the introduction in the Senate of S. 4524 by Senator William King a month later, the passage of the organic act looked imminent.⁶²¹ In response to this development, and after further deliberation, the ACLU sharply reversed themselves and came out in support of the legislation as it then stood.⁶²² Baldwin informed Governor Cramer, the ACLU's Board of Directors, in 'light of your letter of April 16th' and a report received from Washington, had agreed to support the entirety of the bill as it then stood.⁶²³ And while he said that they still did not like the provisions that continued to limit the autonomy of the islands, they had decided that they would, instead, place their faith in potentially later amending the law so as to extend greater self-government to the people of the Virgin Islands.⁶²⁴

Having come around to approving of the bill without any further qualifications, the ACLU threw themselves into advocating for its passage.⁶²⁵ The organic act secured successful passage on June 22, 1936. Historian William Boyer was neither inaccurate nor hyperbolic when he described the

⁶²⁰ Ibid., 150-151. Around this time as well the ACLU and NAACP sought to collaborate in presenting testimony during the hearings on the legislation. In doing so, Baldwin forwarded Schroeder's draft to NAACP special counsel Charles Houston to use as the basis of legislation they sought. However, after Houston had briefed Walter White for the latter to provide testimony, the hearings failed to accord the necessary time to White to testify. See: Roger Baldwin to Charles Houston, 11 March 1936, NAACP Papers, Part 11: Special Subject Files. Series B. Reel 33, 163; Walter White to Governor Lawrence Cramer, 7 April 1936, NAACP Papers, Part 11: Special Subject Files. Series B., Reel 33, 178.

⁶²¹ Boyer, *Civil liberties in the Virgin Islands*, 68.

⁶²² Roger Baldwin to Governor Lawrence Cramer, 21 May 1936, ACLU Papers (Digitized Microfilm), vol. 953, 152.

⁶²³ Ibid.

⁶²⁴ Ibid.

⁶²⁵ ACLU to U.S. House of Representatives, 22 May 1936, ACLU Papers (Digitized Microfilm), vol. 953, 172.

resulting legislation as representing, “an historic and unprecedented advance toward self-government.”⁶²⁶ The act converted the colonial councils into municipal councils and removed their former exclusionary property, income, and suffrage qualifications.⁶²⁷ A bill of rights was established that secured freedom of speech, press, assembly, petition, religion, equal protection, and due process rights, among others.⁶²⁸ Yet, as already acknowledged, much of the Virgin Islands’ autonomy continued to be heavily circumscribed, with the governor and government secretary remaining presidential appointments, and the appointment of all other federally and locally funded positions being the prerogatives of, respectively, the Secretary of the Interior and the governor.⁶²⁹ Veto provisions were also retained for the governor, president and U.S. Congress.⁶³⁰ And, finally, as the organic act was itself only statutorily and not constitutionally based, it could (as previously discussed) just as easily be rescinded by the same means via Congress. Therefore, as far as the U.S. Virgin Islands’ position and status within the empire, it essentially provided a more representative, autonomous, and rights protective regime; albeit a fundamentally insecure one due to its metropolitan legislative, not constitutional, basis.

⁶²⁶ Boyer, *America’s Virgin Islands*, 188.

⁶²⁷ An English literacy qualification was nonetheless maintained. Given the high literacy rates in the islands, though, this had little restrictive consequences for the people of the Virgin Islands. It did, however, serve to exclude the increasing Spanish-speaking Puerto Rican population present on the Islands, who appear to have been the intended target of the literacy requirement. See: Boyer, *America’s Virgin Islands*, 187; “Virgin Islands Organic Act of 1936” from Bough and Macridis, *Virgin Islands: America’s Caribbean Outpost*, 42, 48.

⁶²⁸ “Virgin Islands Organic Act of 1936” from Bough and Macridis, *Virgin Islands: America’s Caribbean Outpost*, 55-56.

⁶²⁹ *Ibid.*, 49-51.

⁶³⁰ *Ibid.*, 47.

With respect to the ACLU's willingness to compromise on the organic act, however, there is additional evidence indicating they had come to internalize some key colonial discursive tropes within their imaginary, and that this, in turn, had played a significant role in facilitating their acceptance of the resulting act. This emerges from further communication on the matter between Roger Baldwin and Theodore Schroeder, in which Baldwin indicates that he and the ACLU had come to accept a form of colonial discourse that they had consistently rejected.⁶³¹ As he stated:

Governor Cramer makes an argument which is difficult to refute, namely, that the narrow suffrage in the Islands for so many years has not developed the capacity for self-government ... I talked to some Congressmen about it and they seemed to think that we could not get a decrease in officials appointed from Washington until after the Islands have had a chance at something like popular participation in government.⁶³²

In stating this, Baldwin conveyed the unavoidable impression that he and the organization had now come to accept an overtly imperialist line of argumentation, one steeped in negative racial connotations, and that had long been deployed by colonial state actors to reject self-government for colonially subjugated peoples in various other colonial contexts. As to whether this statement was more a reflection of pragmatism on their part in

⁶³¹ It is further notable that in scholar Isaac Dookhan's account of the ACLU's eventual support for the bill that he did not refer to Baldwin's *volte-face* and thereby provided an overly generous account of the ACLU's efforts on behalf of which. See: Dookhan, *Civil Rights and Political Justice*, 35-36.

⁶³² Roger Baldwin to Theodore Schroeder, 20 May 1936, ACLU Papers (Digitized Microfilm), vol. 953, 129.

the final push to secure civil government reform or did in fact represent a genuine reversal of their previous attitude, remains unclear. What this does suggest, however, was that the imperial imaginary of Baldwin and the ACLU had come to increasingly internalize extant aspects of American colonial discourse related to race. And this was in stark contrast to the metropolitan rooted universalism of their attitudes and orientation toward matters relating to race which had thus far been more the norm for them. This turn was then almost certainly a by-product of their increasing reliance on colonial state actors as contacts and interlocutors regarding the Virgin Islands. For, as charted throughout the course of this chapter, the ACLU increasingly did so at the expense of the formerly more robust contacts and allies they had maintained during the previous decade among Virgin Islands based advocates of civil government reform. For without the countervailing influence of the latter, the ACLU were left much more susceptible to the influence and underlying rationale of such seemingly allied colonial state actors like Governors Pearson and Cramer.

The broader implications of this greater receptivity of their imperial imaginary to extant colonial discourses, institutions, and actors of the US empire had important implications for the ACLU's ongoing engagement with the empire. This suggested not only a further internalization of the colonial particularism on their part regarding their civil liberties commitments toward the empire, but also a greater receptivity toward their doing so in more overtly colonial terms. This suggested an imperial imaginary increasingly shorn of what was remaining of their civil liberties universalism

and in which the metropolitan and colonial binary of the U.S. empire were reinforced.

Among the potential consequences of such an orientation, most significant of which, from a civil liberties standpoint at least, maybe fact that it likely lessened their ability to perceive of, and hence check, abuses of colonial state power (i.e., one of the foundational commitments of their civil liberties mandate toward the American empire). This may have been less of a pressing concern for the ACLU regarding those regions of the colonial empire, such as the U.S. Virgin Islands, where the conditions of colonial coercion were relatively benign. However, where the issues of colonial coercion were much more severe, as in the case of contemporaneous Philippines (the subject of the following chapter), then the likelihood of conflicts of interest arising vis-à-vis their civil liberties mandate in the colonial sphere became near unavoidable.

Conclusion

As this chapter demonstrated, following the passage of the 1927 citizenship act, the ACLU's advocacy for civil government reform for the U.S. Virgin Islands sharply declined. This chapter argued that this was partly because the ACLU's key Virgin Islands based ally, Rothschild Francis, had become detained by legal troubles for the remainder of the decade. However, it was further argued that this was more a product of the precipitous drop in advocacy for civil government reform in general throughout the Virgin Islands in the wake of the destruction wrought by the combination of the

San Felipe Segundo hurricane in 1928 and onset of the Great Depression in 1929.

As this chapter further demonstrated, circumstances only began to alter with the replacement of the islands' naval run administration with that of a civilian controlled regime. This development did see the beginnings of more amicable relations between the ACLU and colonial state authorities than had formerly existed. While this proved to be quite limited for the time being due to the new administration's priority being the economic revitalization of the Virgin Islands, this chapter stressed that their interactions began to have a discernable effect upon the ACLU's imperial imaginary. It was only when prospects for civil government reform improved by the end of 1932 that a sustained effort by the ACLU reemerged. As this chapter demonstrated, though, this effort starkly contrasted with their efforts during the previous decade (as accounted for in Chapter 2) due to their neglect of input and cooperation with non-state, Virgin Islands' based actors and allies, and their now near exclusive pursuit of which in cooperation with colonial state actors. This greater engagement with colonial state actors had an increasing influence upon the imperial imaginary of the ACLU. As was argued throughout the chapter, by time of the passage of the organic act in 1936, it had become evident that the imperial imaginary of Baldwin and the ACLU had come to significantly internalize and identify with extant aspects of American colonial discourses and rule. It was emphasized that this was most unmistakably discernible in the ACLU's final compromise

on the resulting organic act with its continuing curtailment of the U.S. Virgin Islands' governmental autonomy.