

Political/Legal
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February 19, 1974

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Senator Edward DLG Pangelinan
Chairman
Marianas Political Status Commission
P. O. Box 977
Saipan, Mariana Islands 96950

Dear Ed:

Enclosed is a memorandum prepared by Mike Helfer regarding a recent meeting with two members of Congressman Won Pat's staff. As I mentioned in our telephone conversation, I am very concerned about the opposition to our negotiations emanating from this source.

If the opportunity develops, I will try to discuss this matter privately with Congressman Won Pat. It seems very obvious, however, that you and the other members of the Commission will have to assume the major burden in persuading the Congressman and other Guamanian leaders that their position is likely to ensure that neither the Northern Marianas nor Guam obtains the status arrangements with the United States desired by both.

Sincerely,

Howard P. Willens

Enclosure

cc: Mr. White
Mr. Leonard

07159

February 14, 1974

MEMORANDUM FOR THE MARIANAS POLITICAL STATUS COMMISSION FILE

Subject: Meeting at Won Pat's Office

Robert Kelley and I met yesterday afternoon two members of Congressman Won Pat's staff: George Eustaquio, Administrative Assistant, and Roger Stillwell, Press Secretary. We first discussed the way that Guam views the ongoing Marianas negotiations. I stated that we expected the Guamanians and the U.S. Congress and others to view each portion of the status agreement we were negotiating on its merits, and that we were prepared to defend each point. I said that if the position that we negotiated was right on the merits, then we saw no reason why similar provisions ought not to be made for other territories which face the same problems. Eustaquio said that there was considerable concern in Guam about benefits which the Marianas seemed to be getting through the negotiations. He said that he thought the political status of Guam would be an issue during the upcoming election, and that there was bipartisan support for the notion that Guam deserved the same "fair shake" that the Marianas got in terms of local control over local issues. He also said that Won Pat had sent copies of his Congressional Record insert on this topic to all members of the subcommittee, and to the State Department.

Eustaquio then asked me to explain the effect of Section 931 of the Internal Revenue Code as it would apply in the Marianas. In particular he asked whether P.L. No. 92-606 altered the effect of Section 931. I explained the tax provisions in general terms and told him I would find out about the effect of P.L. No. 92-606.

We then discussed the Guam Political Status Commission. Eustaquio told us that Arnold Leibowitz had been retained by the Commission. Eustaquio also said that in his view the Political Status Commission is "weak" because it has on it only members of the legislature, and therefore does not represent a variety of interests (he mentioned the Chamber of Commerce as an example of an unrepresented interest). He also told us that he had heard that legislation had been passed in Guam extending to September 30 the time for the Commission to make its report. I asked about the representatives from Guam who we had heard were coming to discuss application of law problems with the Interior Department. He did not know about any such meetings, but he thought that it probably involved the Federal Territorial Panels, which Rogers Morton had set up. Stanley Carpenter had apparently announced that these panels will not discuss political status, and on account of that the Governor's Office asked to be excluded

07160

from the panels. (Where that leaves matters is wholly unclear from our discussion.) During this discussion Eustaquio said that Burton had asked Carpenter to review the Organic Acts of Guam and the Virgin Islands and report proposed changes to the Subcommittee by December 1973. The Interior Department apparently did only a perfunctory job after Burton denied an extension.

We then turned to specific application of law problems. With respect to immigration Eustaquio and Stillwell made these points. One sort of problem is raised by the H-2 non-immigrant aliens, who can come in only temporarily and for temporary jobs. On the one hand there is concern that there are too many such aliens; on the other hand there is a need for aliens to come in temporarily to do permanent-type jobs, particularly skilled and agricultural jobs. Won Pat has introduced legislation which has passed the House to permit aliens to enter the country temporarily (one year plus a one-year renewal) for permanent-type jobs. The most serious problem for the Guamanians, however, are immigrant aliens who become permanent residents of Guam with a view to becoming American citizens. The bulk are Filipinos. The native Guamanians fear that so many of these persons are entering Guam that the indigenous culture will be undermined, that the burden on schools and other public facilities will be greatly increased, and that political power will flow away as more and more immigrants become citizens. Guam would like to have more control over the admission of immigrant aliens. Though there has been some difficulty with the treaty-trader and intra-company transferee, both Eustaquio and Stillwell emphasized that these problems were minor compared to the immigrant alien problem. Eustaquio also said that there was no problem with persons transferring status, since it could not be done without leaving the country and reapplying.

With respect to the maritime laws, the single most important problem is the coastwise shipping laws. About 80 percent of Guam's trade is with the United States and therefore must be carried on American bottoms. Guam feels particularly threatened by the possible reoccurrence of a longshoremen's strike which hurt the Territory very much several years ago. They also believe that foreign competition for PFEL would reduce rates. Service was termed to be adequate though the rates were too high. The bulk of shipping that is not with the United States is with Japan, Australia and the Philippines.

I asked Eustaquio whether there were areas other than immigration and maritime in which he considered the applicability of laws a problem. The only two he mentioned were taxes (in which Guam would like to have the authority to impose its own tax system) and basic governmental structure (in which Guam

07161

would like the authority to write its own constitution). Kelley asked whether there were particular problems in getting new laws made applicable to Guam. Stillwell and Eustaquio replied that though it sometimes required some work there was usually no great problem in getting Guam included. The problems are getting Guam excluded from laws which they don't want to have apply there, and assuring that the formula by which funds are distributed in grant-in-aid programs treats Guam fairly. Sometimes the formula provides too little for Guam, sometimes Guam and the other territories are treated under a discretionary fund which is given to the relevant federal official instead of being subject to the formula, and sometimes the matching provisions are such that Guam will not have the resources to take advantage of the federal program. Asked by Kelley how he would handle matters if he could write on a clean slate, Eustaquio replied that he would give the local legislature or the local population by plebiscite the power to choose whether or not to be covered by particular federal regulatory laws.

Eustaquio brought up the subject of finances. I confirmed that the U.S. had proposed \$14.5 million a year for five years in direct aid, noting that was for capital improvements as well as operating expenses. Eustaquio asked whether the \$3 million in grants-in-aid was guaranteed. I replied it was only the U.S. estimate, and we were in the process of reviewing it. Stillwell opined that the direct grants and grants-in-aid weren't too important to the Marianas in view of the likely large income from the Defense Department for the Tinian base. I said that there had been no negotiations about the size of the payment since the lease vs. purchase issue had not been resolved, and I assured him that the direct grants and grants-in-aid were very important to the Marianas. Eustaquio then asked if there was an equal protection clause problem if the U.S. granted more funds to one territory than another. My position was that if the needs were different, there would be no constitutional problem. I pointed out that Guam used to receive considerable direct assistance from the federal government before its local resources grew to the point where such assistance was no longer needed.

Eustaquio raised the question of the relationship of the Marianas to the rest of Micronesia. I said that there had been much comment on this matter in the Congress of Micronesia this year, and that the issue was not entirely resolved, since the Joint Committee continued to negotiate on a six district basis, and Mr. Pangelinan was on both the Joint Committee and the Commission. I added that the Commission wants to negotiate the terms of a close relationship with the United States, one that includes U.S. citizenship, and that this apparently did not comport with the goals of other portions of

07162

Micronesia. During the discussion of citizenship, I pointed out that U.S. citizenship might not be available until termination of the Trusteeship, and that the U.S. position was that there would be no partial termination.

I raised the question of a non-voting delegate for the Marianas. In view of the fact that the non-voting delegate would represent only 13,000 people as compared to the 450,000 represented by a congressman, and the fact that it costs the United States in excess of \$300,000 a year for a delegate and his staff, both Eustaquio and Stillwell thought it highly unlikely that Congress would agree. Stillwell recalled that at the time the Virgin Islands and Guam were given their non-voting delegates considerable opposition was encountered because of their relatively small size. They did agree, however, that the advantages of a non-voting delegate as compared to a Washington representative were enormous, though they offered no hint whether Won Pat would be willing to take on an additional 13,000 constituents. Stillwell said the non-voting delegate issue would depend largely on Burton.

Finally a series of minor pieces of information which were accumulated: Guam had a constitutional convention in 1969-70 which was locally funded for about \$150,000 -- it produced a document which has been widely ignored; Frank Lujan of the Guam Political Status Commission will be coming to town within the next few weeks and Eustaquio and Stillwell thought it might be useful for Willens to sit down and talk with him; Stillwell and Eustaquio were receptive to our suggestion that Willens meet Won Pat privately (i.e., without other Congressmen, but perhaps with staff); one Congressman has asked for a cost-benefit analysis of the proposed base on Tinian compared to the costs of the Marianas becoming a Commonwealth (who was asked and who did the asking we do not know).

In sum, the meeting was useful and cordial, but it revealed the very deep-seated concerns the Guamanians have about the benefits they believe the Marianas are getting.

Michael S. Helfer

cc: H. Willens
R. Kelley
N. Kramer
B. Carter

07163