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Layle + P. H. Miller  
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March 26, 1974

MEMORANDUM

TO: Mr. Willens  
FROM: R. K. Kelley  
RE: Proposed Method for Memorandum on Consequences of Applying Federal Law under a General Formula

This memorandum sets out for your review and comment the method I propose to follow in preparing the memorandum on the consequences of adopting any general formula approach to the federal law applicability problem.<sup>\*/</sup>

The purpose of the memorandum to be prepared would be to test the consequences of the "Guam formula." That formula would apply in the Marianas all federal laws of general application in the United States and which are in effect in Guam as of the signing of the status agreement, except that where such laws apply differently to Guam than they do to the several States, they shall apply to the Marianas as they do to the States.

To test the consequences of this formula, I have made a survey of the body of federal law as it appears in the titles

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<sup>\*/</sup> For the method used by the staff of the 1952 Joint Commission on the Application of Federal Laws to Guam, see the attached document, Resource Material Used in the Preparation of the Report of the Commission on Application of Federal Laws to Guam.

to the United States Code. In my research to date, I have experimented with several other approaches but found them to be unsatisfactory. The computer printouts, as Jay Lapin has noted, are of little use. In essence, they are gibberish and give no adequate key to the laws we wish to examine. Similarly, the entry in the index to the Code for Guam provides seemingly random information as to various mentions of Guam but does not provide a list of laws applicable to Guam. The list of Acts by Popular name is too vast to permit one to organize a list of relevant legislation, and the complex references to where such acts appear in the Code itself are too cumbersome to permit efficient research. In contrast, to use the titles to the U.S. Code guarantees that one has at least surveyed all the law in question. Most importantly, the process described below of selecting pertinent provisions from the Code titles will permit one to readily identify what has been excluded from the study. This excluded material can thus be quickly reviewed if at a later date this should be desirable. I have also experimented with attempting to list all pertinent legislation under two headings, either regulatory laws or legislation providing financial assistance. This approach may prove advisable in any memorandum we provide to the client. However, to depart from the organizational framework of the Code titles in the initial survey of the body of federal law risks overlooking pertinent legislation, even if this distinction between regulatory and financial assistance legislation should prove workable.

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Consequently, I propose to organize the study of federal law, at least in the first instance, around the titles to the U.S. Code. As a first step, I have eliminated those titles which are receiving special treatment elsewhere.<sup>\*/</sup> Working with the remaining titles, I have identified in each title the provisions which appear to be pertinent to the Marianas. The test for "pertinency" was that a particular provision or set of provisions either (1) regulate activity of significance or possible significance to the Marianas or (2) provide financial assistance that may be desirable for the Marianas to obtain.

Attached to this memorandum is a list of the pertinent provisions I have identified using the standard described above. In analyzing the provisions, I propose to state in brief fashion the basic function of the provision in question and to point out the manner in which it applies to Guam, i.e., whether it applies in the same way to Guam that it applies to the States or in a different manner. Where there is a difference in application, I will spell out such difference. I will also attempt to briefly point out the possible significance to the Marianas of any such different application. The result of this effort should enable us to determine whether a particular provision, as applied under

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<sup>\*/</sup> I understand these to be:

Title 8 Aliens and Nationality  
Title 12 Banks and Banking  
Title 19 Customs Duties  
Title 26 Internal Revenue Code  
Title 28 Judiciary and Judicial Procedure  
Title 33 Navigation and Navigable Waters  
Title 46 Shipping

I also propose not to study Title 18, Crimes and Criminal Procedure. This Title is generally applicable to the States and Territories, and there appears to be no reason for the Marianas to desire special exceptions.

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the Guam formula, poses special problems that merit an exception, or other adjustment, to the Guam formula.

In surveying the U.S. Code for pertinent legislation, I have tentatively concluded that the titles listed in the footnote below do not contain provisions that merit treatment in the proposed memorandum. <sup>\*/</sup>

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\*/ Title 1 General Provisions  
Title 2 The Congress  
Title 3 The President  
Title 4 Flag and Seal, Seat of Government, and  
the States  
Title 6 Surety Bonds  
Title 9 Arbitration  
Title 10 Armed Forces  
Title 11 Bankruptcy  
Title 13 Census  
Title 14 Coast Guard  
Title 17 Copyrights  
Title 22 Foreign Relations and Intercourse  
Title 24 Hospitals, Asylums, and Cemeteries  
Title 25 Indians  
Title 30 Mineral Lands and Mining  
Title 31 Money and Finance  
Title 32 National Guard  
Title 34 [Navy]  
Title 35 Patents  
Title 36 Patriotic Societies and Observances  
Title 37 Pay and Allowances of the Uniformed  
Services  
Title 38 Veterans' Benefits  
Title 39 Postal Service  
Title 44 Public Printing and Documents  
Title 45 Railroads  
Title 50 War and National Defense

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PERTINENT PROVISIONS OF THE  
U.S. CODE TITLES TO BE ANALYZED

Title 5 - Government Organization and Employees

<u>Chap. No.</u>	<u>Subject</u>
15	Political Activity of Certain State and Local Employees

Title 7 - Agriculture

<u>Chap. No.</u>	<u>Subject</u>
31	Rural Electrification and Telephone Service
35A	Price Support of Agricultural Commod- ities
36	Crop Insurance
41	Agricultural Trade Development and Assistance
45	Soil Bank Program
49	Consultation on Agricultural Programs
50	Agricultural Credit
51	Food Stamp Program
56	Unfair Trade Practices Affecting Pro- ducers of Agricultural Products
59	Rural Fire Protection, Development, and Small Farm Research and Education

Title 15 - Commerce and Trade

<u>Chap. No.</u>	<u>Subject</u>
1	Monopolies and Combinations in Restraint of Trade (Sherman & Clayton Acts)
2	Federal Trade Commission Act
2A-D	Securities Legislation
10A-B	State Cigarette Taxes and State Taxation of Income from Interstate Commerce
14	Reconstruction Finance Corporation
14A	Aid to Small Business
14B	Small Business Investment Program
15	Economic Recovery
16	Emergency Relief
20	Regulation of Insurance
38	Traffic and Motor Vehicle Safety
39	Fair Packaging and Labeling Program
41	Consumer Credit Protection
45	Emergency Loan Guarantees to Business Enterprises
47	Consumer Product Safety

Title 16 - Conservation

<u>Chap. No.</u>	<u>Subject</u>
3B	Soil Conservation
3C	Water Conservation
5C	Conservation Programs on Military Reservations
9-10D	Various Fishing Programs
12	Federal Regulation and Development of Power
33	Coastal Zone Management

Title 20 - Education

<u>Chap. No.</u>	<u>Subject</u>
13	Financial Assistance to Local Educational Activities
14	School Construction in Areas Affected by Federal Activities
16	Public Library Services and Construction
17	National Defense Education Program
18	Grants for Teaching in the Education of Handicapped Children
18A	Early Education Programs for Handicapped Children
19	School Construction in Areas Affected by Federal Activities
20	Grants for Teaching in the Education of the Deaf
20A	National Technical Institute for the Deaf
23	Training and Fellowship Programs for Community Development
24	Grants for Educational Materials, Facilities and Services, and Strengthening of Educational Agencies
27	National Vocational Student Loan Insurance
28	Higher Education Resources and Student Assistance
30	Basic Education for Adults
32	Vocational Education
33	Education of the Handicapped
35	Environmental Education
36	Emergency School Aid

Title 21 - Food and Drugs

<u>Chap. No.</u>	<u>Subject</u>
1	Adulterated or Misbranded Foods or Drugs
4	Animals, Meats, and Meat and Dairy Products
9	Federal Food, Drug, and Cosmetic Act
10	Poultry and Poultry Products Inspection
12	Meat Inspection
13	Drug Abuse Prevention and Control
14	Drug Abuse Educational Programs and Activities
16	Drug Abuse Prevention and Treatment

Title 23 - Highways

<u>Chap. No.</u>	<u>Subject</u>
1	Federal Aid Highways
2	Other Highways
4	Highway Safety
5	Highway Relocation Assistance

Title 27 - Intoxicating Liquors

<u>Chap. No.</u>	<u>Subject</u>
8	Federal Alcohol Administration Act

Title 29 - Labor

<u>Chap. No.</u>	<u>Subject</u>
2	Women's Bureau
2A	Children's Bureau
4	Vocational Rehabilitation of Persons Injured in Industry
4A	Employment Stabilization
4B	Federal Employment Service
7	Labor-Management Relations
8	Fair Labor Standards
10	Disclosure of Welfare and Pension Plans
14	Age Discrimination in Employment
15	Occupational Safety and Health

Title 40 - Public Buildings, Property, and Works

<u>Chap. No.</u>	<u>Subject</u>
3	Public Buildings and Works Generally
4	The Public Property
5	Hours of Labor and Safety on Public Works
6	Acquisition of Sites for and Construction of Public Buildings
8	Emergency Public Works and Construction Projects
9	Non-Federal Public Works
10	Management and Disposal of Government Property
11	Real Property Transactions by Military Departments
12	Construction, Alteration, and Acquisi- tion of Public Buildings

Title 41 - Public Contracts

<u>Chap. No.</u>	<u>Subject</u>
1	General Provisions
3	Procurement of Supplies and Services by Armed Services
6	Service Contract Labor Standards

Title 42 - The Public Health and Welfare

<u>Chap. No.</u>	<u>Subject</u>
5	Maternity and Infancy Welfare and Hygiene
6A	The Public Health Service
8	Low-Rent Housing
8A	Slum Clearance, Urban Renewal, and Farm Housing
8B	Public Works or Facilities
9	Housing of Persons Engaged in National Defense
11	Compensation for Disability or Death to Persons Employed at Military, Air, and Naval Bases Outside the U.S.
13	School Lunch Programs
13A	Child Nutrition
15	Disaster Relief
15B	Air Pollution Control
16A	Grants for Support of Scientific Research
19	Water Research and Development
19A	Water Resources Research Program
19B	Water Resources Planning
25	Federal Flood Insurance

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Title 42 - The Public Health and Welfare (Cont'd)

<u>Chap. No.</u>	<u>Subject</u>
28	Area Redevelopment Program
30	Manpower Development and Training Program
31	Public Works Acceleration Program
34	Economic Opportunity Program
35	Programs for Older Americans
36	Compensation for Condemnees in Development Programs
37	Community Facilities and Advance Land Acquisition
38	Public Works and Economic Development
40	Soil Information Assistance for Community Planning and Resource Development
41	Demonstration Cities and Metropolitan Development Program
46	Law Enforcement Assistance
47	Juvenile Delinquency Prevention and Control
50	National Flood Insurance
55	National Environmental Policy
58	Disaster Relief
61	Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs
64	Public Service Employment Programs

Title 43 - Public Lands

<u>Chap. No.</u>	<u>Subject</u>
16	Sale and Disposal of Public Lands
17	Reservation and Sale of Town Sites on Public Lands
20	Reservations and Grants to States for Public Purposes
22	Rights-of-Way and Other Easements in Public Lands
26	Abandoned Military Reservations
28	Miscellaneous Provisions Relating to the Public Lands
30	Administration of Public Lands

Title 47 - Telegraphs, Telephones, and Radiotelegraphs

<u>Chap. No.</u>	<u>Subject</u>
1	Telegraphs
3	Radiotelegraphs
4	Radio Act of 1927
5	Wire or Radio Communication

Title 49 - Transportation

<u>Chap. No.</u>	<u>Subject</u>
1	Interstate Commerce Act, Part I; General Provisions and Railroad and Pipe Line Carriers
2	Legislation Supplementary to "Interstate Commerce Act"
6	Air Commerce
8	Interstate Commerce Act, Part II; Motor Carriers
9	Civil Aeronautics
12	Interstate Commerce Act, Part III; Water Carriers
13	Interstate Commerce Act, Part IV; Freight Forwarders
14	Federal Aid for Public Airport Development
15	International Aviation Facilities
18	Airways Modernization
19	Interstate Commerce Act, Part V; Loan Guaranties
20	Federal Aviation Program
25	Aviation Facilities Expansion and Improvement