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November 3, 1977

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Mr. Edward DLG. Pangelinan
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Dear Eddie:

I met today with Ruth Van Cleve and George Milner at their request to discuss several topics related to the Northern Mariana Islands. I would like to report briefly to you regarding the matters discussed and the positions which I advanced on your behalf.

1. The first item on the agenda was the Commission on Federal Laws authorized under Section 504 of the Covenant. We discussed several aspects of this Commission of which the following are the most important:

(a) Mrs. Van Cleve and Mr. Milner were of the preliminary view that an authorizing statute would be required to create the Commission. I took the contrary position and spelled out why I believed Section 504 of the Covenant should be regarded as self-executing. I pointed out the difference between Section 504 and Section 401 authorizing the creation of the United States District Court, in which latter case implementing legislation was concluded to be necessary. I urged that the Commission be created as soon as possible by executive order. I think I may have persuaded them on this point, but we will want to check back with them later to make sure.

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(b) With respect to the members of the Commission, they are of the view that the members should not be full-time employees but instead be highly-qualified people who have other government or private employment. It is their view that the Commission will meet quarterly or semi-annually for periods of a few days each to make policy decisions based on the working documents and recommendations of the Commission's staff. Accordingly, it is their view that the Commissioners would be compensated on a per diem basis. I said that this reflected the understanding of the negotiating parties but that some people in the Northern Marianas may still anticipate that membership on the Commission will provide more substantial employment than is contemplated by Interior's present thinking.

(c) With respect to the Commission staff, they are of the view that it should consist of approximately four people: one GS-14/15 who would serve as Executive Director, two relatively junior lawyers and one clerical assistant. It is their view that the members of the staff should be appointed specifically for this purpose rather than detailed from other government agencies. I emphasized the need for experience in the field of territories, especially at the executive director level, and the need to get the Commission started promptly once the funds are available.

(d) As to funding, they believe that an appropriation will be required. I urged that they seek a supplemental appropriation during the current fiscal year. They recognize the delay associated with waiting for the next regular appropriation, but we will have to keep pushing it in order to get the supplemental presented to Congress.

(e) Regarding the Marianas members of the Commission, their present inclination is to request the Governor to submit a longer list of possible appointees who can be considered by the President. They seem to feel that about 10 or 12

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names should be submitted from the Northern Marianas so as to give the appointing authority some maneuvering room. I think they will also ask that the proposed appointees cover a wider range of experience and occupations than the names recently proposed by the Northern Marianas Legislature.

(f) As to the cost of the Commission, they are thinking of proposing that the United States bear the entire cost of the Commission notwithstanding the legislative history suggesting that the United States not be required to pay for the compensation and travel expenses of the Marianas representatives. I encouraged them to adopt this position.

2. The second major item that we discussed relates to the United States presence in the Northern Marianas after January 9, 1978. I reviewed with them some of the legislative history underlying the Covenant on this point. In particular, I emphasized that the Northern Marianas people recognize that the United States has responsibilities under the Trusteeship Agreement until its termination in 1981. On the other hand, I emphasized that the people of the Northern Marianas anticipate realizing the fruits of the Covenant and constitutional government after January 9, 1978, without interference or supervision by agencies of the United States Government. In response to their inquiry, I opined that I did not believe the High Commissioner should exercise any responsibilities with respect to the Northern Marianas after the institution of constitutional government. I suggested, instead, that the responsibility for protecting United States interests and dealing with any problems in the Northern Marianas should be assigned to either Mrs. Van Cleve or Mr. Milner personally and that a junior member of their office staff might have the responsibility of monitoring developments in the Northern Marianas and alerting Interior to any possible conflict between the United States and the Northern Marianas. I emphasized that the Northern Marianas will continue to need support from Interior on some matters and that a liaison function of the kind I outlined would be useful to everyone concerned. They apparently have not made up their mind finally on this subject. I did get the impression, however, that they recognize that no United States official will have any legal authority to supervise

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the decisions of the Northern Marianas government after January 9, 1978, as has been done by the Resident Commissioner in earlier years. We should discuss this issue further to see if we have any more specific or different proposal that we wish to advance to Interior on this issue.


3. They asked me whether the Northern Marianas leadership understood that the expenditure of federal funds would be monitored by the Guam Comptroller. I said this had been discussed during the negotiations and I believed that most of the Northern Marianas leaders recognized that this function was necessary and would not be viewed as an intrusion into the Northern Marianas exercise of their right of self-government under the Covenant. Mrs. Van Cleve stated that this position had recently been filled by someone whom she described as being both very competent and tactful in dealing with the territorial governments.

4. Mrs. Van Cleve asked me whether the Northern Marianas leaders or people would be upset if the Northern Marianas were referred to as a "territory" rather than as a "commonwealth." We reviewed some of the history on this matter and I represented to her that the Northern Marianas considered themselves to have negotiated "commonwealth" status and they should be referred to in the future as a commonwealth just like Puerto Rico. She seemed ready to acquiesce in this position.

5. We discussed briefly what kind of ceremony, if any, should occur on January 9, 1978. Mrs. Van Cleve said this was a matter for the Northern Marianas leaders to work out for themselves in consultation with Mr. Canham. She said that she has alerted the Secretary of Interior to be available to participate in any ceremony if he is invited. In case you have not already done so, I suggest that someone at OTSP and/or the Legislature assume planning responsibilities for this event. Needless to say, I have some personal interest in such planning (as does Jim Leonard), since I would like to be invited to attend the installation of the new constitutional government.

Best personal regards.

Sincerely,


Howard P. Willens