



United States Department of the Interior

OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

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November 4, 1977

Mr. Edward DGL Pangalinan
Northern Mariana Islands Liaison Office
1300 Connecticut Avenue, N.W.
Suite 307
Washington, D.C. 20036

Dear Eddy:

This is in further reference to our phone conversation the other day concerning the effect of Section 304 of the Covenant on IPMI citizens. Attached is a copy of a memorandum on the subject prepared by one of our staff attorneys. I hope this will help.

Sincerely yours,

/s/

C. Brewster Chapman, Jr.
Assistant Solicitor, Territories
Division of General Law

Enclosure

cc:
Div Chron (2)
DOTA
Subj File
Reading File
CBChapmanJr.

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November 4, 1977

Memorandum

To: Assistant Solicitor for Territories
Division of General Law

From: Law Clerk, Division of General Law

Subject: Interface of §304 of the Northern Mariana Islands Covenant
and Federal Immigration Laws

Section 304 of the Joint Resolution approving the "Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America" (90 Stat. 263) provides:

Citizens of the Northern Mariana Islands will be entitled to all privileges and immunities of citizens in the several states of the United States.

The provision will become effective on January 9, 1978, the Presidentially declared date on which the Northern Mariana Islands (NMI) Constitution also becomes effective. Although there is some ambiguity in the §304 text as to whether it is modeled after the privileges and immunities clause of Article IV, Section 2 of the United States Constitution or the 14th Amendment to the United States Constitution, the legislative history makes it clear that §304 tracks only the Article IV, Section 2 privileges and immunities clause. See Report of the Senate Committee on Interior and Insular Affairs, S. Rept. 94-433.

The purpose of §304 is to prohibit state discrimination against NMI citizens. Id. Similarly, the privileges and immunities clause of Article IV, Section 2 prohibits state discrimination against out-of-state citizens, but does not limit otherwise valid federal powers. Haavik v. Alaska Packers' Association, 263 U.S. 510 (1924); Long v. O'Cheskey, 358 F. Supp. 928 (D.N.H. 1973), aff'd mem., 414 U.S. 802 (1973); Haves v. Club Ecuator El Comandante, 535 F.2d 140 (1st Cir. 1976). Therefore, due to the absence of any legislative history suggesting that §304 limits federal power over NMI and the lack of federal power limitations in the history of the modeled Article IV, Section 2

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privileges and immunities clause, I conclude that §304 does not affect the operation of United States Immigration laws. 8 U.S.C. §1101 et seq. Section 304's privileges and immunities guarantee may give NMI citizens a valid cause of action against "alien" or "non-resident" restrictive state laws, but state laws are beyond the scope of this memorandum.

THOMAS R. LUNDQUIST

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