

NOV 22 1977

Honorable Erwin D. Canham
Resident Commissioner
Government of the Northern Mariana Islands
Saipan, Mariana Islands 96950

Dear Mr. Canham:

I regret that my letter of November 2 conveyed the impression that I feel rather relaxed about the Federal Laws Commission. In fact I feel a considerable urgency. At the same time, I greatly doubt that it is the vehicle for resolving at least some of the kind of questions you have identified in your letter of November 10.

As to the Commission, my own view now is that authorizing legislation should not be necessary. In parallel circumstances concerning Guam in 1950, we succeeded without an additional statute, and we should try to do so now, partly because we will save time, and partly so as to avoid a further precedent about the need for legislation to implement the Covenant. We will, however, clearly need both funds and personnel slots, and neither can be accomplished swiftly. My expectation is that we will seek the first supplemental going to the next Congress, but that does not guarantee that we will make it. We are having great trouble with OMB on the subject of supplementals.

I have, however, clarified my own thinking in recent weeks about the form the Commission should take, what its basic procedures might involve, and how it should be staffed (all of which I have discussed with Howard Willens), and I propose shortly to seek Secretarial approval of the general outline. That, in any event, must precede a request for funds.

Another decision that must also be made, preferably before the Commission commences, is just what the Covenant means in terms of the application of Federal laws to the Northern Marianas. We have lately discovered some fundamental differences within the Executive Branch on this most basic point, and we must find an effective means for resolving those differences before we proceed much farther.

All of which is to say that this matter, like most that are interesting, is far more complicated than either of us might have dreamed.

Honorable Erwin D. Canham

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But in the meantime, the kinds of questions you describe in your letter are not ones that could be resolved by the Commission. Its function is solely to make recommendations to the Congress. Its own conclusions as to the application of particular statutes will, if our experience with respect to similar commissions in the past is any guide, be relevant and of great interest, but short of binding. Thus, if the nightmare you describe comes to pass, the Commission will not be the way out, for it will by definition move slowly toward a recommendation, which the Congress will be free to accept or reject or ignore. The Commission's decisions will not themselves be dispositive.

The best we can do, therefore, is to seek help on individual questions as quickly as questions arise, from those who are in a position to give it most effectively. I am asking Mr. Chapman to provide comments on the concerns you express with respect to OSHA and the Federal Highway Safety Act. We are and have for some months been concerning ourselves with the Communications Acts, and I think will be in a position very soon to provide you with information on that subject. As for the Social Security Act, I infer from your letter that the problem there concerns regulations, not the statute itself. The Commission will not, of course, be concerned with other than statutes. If problems arise concerning regulations, we shall need to confer with the appropriate agency in an effort to get the regulations modified to whatever extent is both desirable and possible. Of course statutory changes might also be required, in which event the Commission might well be involved. But if time is of the essence, we ought to move in advance of receiving Commission recommendations, for that avenue will be a very time-consuming one.

In sum, there is in my judgment no swift or otherwise satisfactory solution to the overall problem, given the hundreds of statutes that may be relevant and the thousands of regulations that will also be so. The best we can do is identify problem areas and attack them as fast as our energies will permit. I hope our collective energies are up to the task.

Sincerely yours,

MRS. RUTH G. VAN CLEVE

Mrs. Ruth G. Van Cleve
Director
Office of Territorial Affairs

bcc: Mr. Milner - Be sure Communications Act info goes to Canham ASAP.

R.VAN CLEVE:Ict
11/22/77