

Memorandum



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Subject

Proposed Proclamation entitled
"Application of Certain Laws of
the United States to Citizens of
the Northern Mariana Islands"

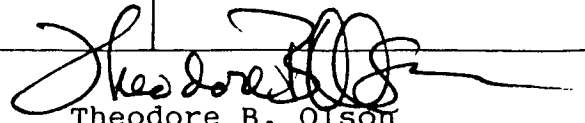
Date

FEB 17 1984

To

John F. Cooney
Assistant General Counsel
Office of Management and Budget

From


Theodore B. Olson
Assistant Attorney General
Office of Legal Counsel

This responds to your request that the Department of Justice comment on the draft proclamation entitled "Application of Certain Laws of the United States to Citizens of the Northern Mariana Islands." The proclamation would be based on §§ 19 and 20 of the Act of December 8, 1983, 97 Stat. 1464 (Act), which authorizes the President to provide by proclamation that the requirement of United States citizenship or nationality provided for in any of the statutes listed on pages 63-74 of the Interim Report of the Northern Mariana Islands Commission on Federal Laws shall not be applicable to citizens of the Northern Mariana Islands.*/ Section 19(a) authorizes the President to correct clerical errors in the list, and to add to it provisions where it appears from the context that they were inadvertently omitted from the list.

We have the following general comments.

1. At the end of the last recital of the proclamation add the text of § 19(b) of the Act to indicate that the Act uses the term "requirement of United States citizenship or nationality" in a broad sense.

2. At the end of the proclamation add a section 7 which includes the definitions contained in § 24 of the Act.

With respect to the specific provisions of the proclamation except those contained in § 5 entitled "Statutes relating to political and civil rights", we defer in general to the agencies which administer the statutes involved. In this context we have two observations.

*/ This list of statutes may be found at 129 Cong. Rec. S 16484-85 (daily ed. November 17, 1983).

1. We understand that the Department of the Treasury has difficulties with § 4(m) relating to 26 U.S.C. § 897. We defer to the views of that Department.

2. We recommend that § 4(u) be amended to read as follows:

"(u) Subsection (a)(3) of section 2, subsection (18) of section 3, section 101, and subsection (e)(2)(C) of section 108 of Public Law 96-320, 94 Stat. 974, (42 U.S.C. § 9101(a)(3); 9102(18); 9111; and 9118(e)(2)(c));"

With respect to § 5 of the proclamation we have the following comments:

1. Clarify the introductory paragraph as follows:

"5. Statutes relating to political and civil rights. No requirement of United States citizenship or nationality in any of the Federal laws listed below shall be applicable to citizens of the Northern Mariana Islands, provided, however, that nothing herein shall be construed to confer upon citizens of the Northern Mariana Islands the right to vote in Federal, State, or local elections outside the Northern Mariana Islands, or to serve on juries outside the Northern Mariana Islands."

2. Section 5(c). Section "4000" should read "4001."

3. Section 5(d). We defer to the views of the Department of State on the provisions covered by this subsection.

4. Section 5(f). We recommend that 28 U.S.C. § 1332 be added to the provisions listed in this subsection in order to confer on the federal district courts diversity jurisdiction in civil actions between citizens of the Northern Mariana Islands and aliens.

5. In view of the enactment of the United States Commission on Civil Rights Act of 1983 we recommend that § 5(1) be amended to read as follows:

"(1) Section 5 of Public Law 98-183, 97 Stat. 1304 (42 U.S.C. § 1975c)."