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THE PRESIDENT'S PERSONAL REPRESENTATIVE
FOR MICRONESIAN STATUS NEGOTIATIONS
WASHINGTON, D.C. 20240

June 26, 1980

MEMORANDUM FOR ROZANNE RIDGWAY

FROM: Peter R. Rosenblatt

SUBJECT: Proposed Solution to the "Denial" Issue Arising out of June 3 Hearing Before the Senate Energy and Natural Resources Committee

(U) On Thursday, June 12, subsequent to your departure for Eastern Europe, several of us met with Senators Johnston and McClure to explore further the denial issue which they raised at the June 3 hearing. Don Gregg's memcon, of which an additional copy is attached for your convenience, accurately summarizes what transpired at the meeting. The bottom line was that the Senators remained adamant and a nearly 2½-hour meeting with them produced little evidence of any real flexibility in their position. Micronesian counsel were informed of the outcome of the meeting and on the next day my associates and I departed for Guam to meet with the Palauans.

(C) On Friday, June 13, subsequent to my departure, MIG counsel Richard Copaken lunched with Senate Energy Committee counsel, Jim Beirne. Beirne confirmed to Copaken that Senators Johnston and McClure were adamant on the denial issue and would oppose the Compact for so long as it failed to provide for permanent denial. Copaken explains that he feels the Senators' support is absolutely essential if the Compact is to be approved by Congress. He concluded that Senator Johnston, in particular, would not be moved by any of the counter-vailing considerations that affect the Administration's position--the future of Kwajalein, the need to terminate the trusteeship, the attitudes of the Micronesian peoples, etc. He therefore decided that it would be necessary to reach some kind of accommodation with Senators Johnston and McClure.

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(C) Beirne has long offered two grounds for supporting inclusion of the full faith and credit of the U. S. in the Compact:

-- Across the board budget slashes or other meat-ax fiscal measures might sometime in the future unwittingly cause less than the fully authorized Compact amounts to be appropriated unless the full faith and credit of the U. S. had been pledged in the Compact.

-- If the U. S. did fail to appropriate the Compact amounts, inclusion of the full faith and credit provision would give the Micronesians a remedy (resort to U. S. courts) other than direct retaliatory action against our defense interests.

Beirne's views were reflected in comments by the Senators at both the hearing and at the June 12 conference.

(C) At the June 13 lunch Beirne suggested full faith and credit to Copaken as a possible trade-off against permanent denial. Copaken evidently added a demand for elimination of the Section 453(b) provision which guarantees the Micronesian no more than 50% of the Compact assistant levels in the event they unilaterally terminate free association during the first 15 years of the relationship. Copaken told Beirne that this kind of a trade-off seemed attractive and saleable and Beirne agreed to take it up with the Senators. Senator Johnston was out of town, but later that afternoon Senators Jackson and McClure concurred, with the latter suggesting that Senator Hatfield be consulted to insure concurrence of the appropriations subcommittee. Senator Hatfield, too, approved. Beirne invited Copaken up to the Hill for a little gentle handling by Senators Jackson, Johnston and McClure on Monday, June 16, and suggested he bring with him draft Compact language incorporating this arrangement.

(C) On Monday Copaken's writing was approved by the Senators with some small changes and they also laid on him the obligation of securing the concurrence of the other Micronesian entities. They suggested that the whole package would look better as a Marshallese proposal to the Administration. Copaken agreed and left for the Marshalls on a pre-arranged visit the next day.

(C) Copaken says that President Kabua and Foreign Secretary deBrum, having previously been alerted to the existence of the problem, had already gotten themselves into a frame of mind where they regarded the Compact as dead but that he succeeded in obtaining their approval of this approach in fairly short order. He secured a letter from President Kabua to me proposing the Senate deal and presented it to me June 24. A copy is attached, together with a supporting memorandum of law which addresses the international law issues raised by the proposal.

(C) In Hawaii, on his way home from the Marshalls, Copaken met with Palau counsel Sutcliffe, on the latter's return from the Guam meeting. Sutcliffe is reported to have indicated that Palau has no problem in principle with the suggested approach but urged that the Marshallese include in the Kabua letter a further demand for an increase in the basic grant amounts included in Section 211 of the Compact. Copaken says that he refused because he felt that Administration resistance on this point would be so great as to jeopardize the whole package.

(C) On his return to Washington Copaken spoke to FSM counsel Stovall. Stovall had experienced difficulty contacting his clients and was upset that the issue had arisen at a time when the whole issue of the Compact may be in the balance at the FSM leadership conference now in progress at Yap. He says that this additional complication could affect the results of the Yap meeting, if known to his clients. Stovall himself seems sympathetic to the Copaken-Senate deal.

(C) One further consideration arose at Copaken's presentation of the Kabua letter to me Tuesday morning. He stated that Marshallese objections to the inclusion of the independence option on the plebiscite ballot had focussed on the absence of a clearly defined set of consequences in the event that the Marshallese voters chose independence; i.e., how much money they would get if they opted for independence rather than free association. With the removal of the Section 453(b) 50% provision, that objection evaporated and the MIG would therefore find itself in a position to support inclusion of an independence option on the ballot.

(U) I believe that the information contained in this memorandum would be usefully presented to the members of the IAG in preparation for our consideration of the denial proposal.

Peter R. Rosenblatt

While the Senators were away for a vote I asked the staffers why was it only now, after negotiations had been underway for more than two years, that the Senators' fundamental objectives had been surfaced. The staffers were somewhat discomfited at the question and admitted that it had been hard to get their bosses to focus on the treaty. [redacted]

Upon their return, the Senators acknowledged that their objections would make Rosenblatt's task more difficult but this did not weaken their determination to hold to their position. The Senators also said that they would want to go over the compact in detail and that their scrutiny might well surface other points to which they could object.

Following the meeting I discussed with Palmer and Rosenblatt what had occurred; we agreed that a new meeting of all concerned in the Executive Branch would have to take place following Rosenblatt's return from Guam. One possible way out of the seeming impasse might be to have appropriate wording worked into subsidiary military base agreements which would be subject to the main compact.

Rosenblatt's aplomb was admirable and both he and Farrow were of the opinion that this is but the first of several encounters with Capitol Hill.

cc: Rosenblatt
Palmer
Farrow

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