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July 23, 1973

Mr. Edward D.C. Pangelinan, Chairman
Marianas Political Status Commission
P. O. Box 825
Saipan, Mariana Islands 96950

Dear Ed:

Enclosed are three memoranda reflecting our recent contacts with representatives on the Hill and with the Carnegie Foundation. I think you will be particularly interested in the report of our meeting with Adrian Winkel and Tom Dunmire.

As these memoranda indicate, we are likely to encounter substantial opposition in Congress to several important aspects of the relationship which we are trying to negotiate for the Marianas with the United States. I regard these reactions as discouraging but not surprising. I believe it is very important for all of us to have a realistic perspective on our negotiations so that we can plan our strategy accordingly.

I will continue to represent the Commission on the Hill as outlined in the memoranda. Before the next round of negotiations I hope that I will have had an opportunity to have meaningful discussions regarding our problems with the ranking majority and minority members of the responsible subcommittees at the very least. In addition, I am planning to establish some contacts at the staff level with the Senate Armed Services Committee. I will keep you posted as each of these meetings occur.

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We have had no word here from Jim Wilson regarding any meetings of the various working committees. I plan to call him this week to inquire about his plans in this regard, especially since I am planning to be on vacation during the period from August 2 until August 13. I believe that we should generally insist on some substantial discussion of problems in those working committees before the next round of negotiations is scheduled. If you agree, I hope that you will try to preserve complete flexibility with respect to the date for the next session despite what I expect will be considerable pressure from the Ambassador to firm this date up as soon as possible.

I understand from Paul Warnke that the next negotiations with the Joint Committee are scheduled to begin approximately October 1. I plan to sit down with Paul in the next week or so and review the situation with him. I want to secure his impression regarding the military's proposal for Italian and any suggestions he may have regarding expert consultant assistance which may assist our Commission in dealing with the proposal. I believe that we should consider among ourselves insisting that the United States revise its proposal as a condition precedent to the scheduling of the next round of negotiations.

Let me know if your plans include a visit to Washington in September. Best personal regards.

Sincerely,

Howard P. Willens

cc: Mr. White

(3) Enclosures

July 23, 1973

MEMORANDUM FOR THE FILE

Subject: Meeting with Jack Weiss, Legislative
Assistant to Senator Johnston

I met Jack Weiss today for an initial informal discussion regarding the current status of the Marianas negotiations. Mr. Weiss worked for this firm as a summer associate a few years ago and is currently employed as one of three legislative assistants to Senator Johnston, Chairman of the Territories and Insular Affairs Subcommittee and the Senate Interior and Insular Affairs Committee. Mr. Weiss is very friendly to the firm generally and is ready and willing to be of assistance to us in connection with our representation of the Marianas. This memorandum will summarize the substance of our discussion.

(1) Mr. Weiss reports that several people are being interviewed for the position as staff assistant to the Senate Subcommittee, which was previously occupied by Mr. Gamble. The decision on this personnel matter will be made shortly and Mr. Weiss will inform me of who has been selected. He expressed his view that the person selected will probably be someone who has not had previous experience either with the Senate or in the general field of territories.

(2) I gave Mr. Weiss copies of the Joint Communique and the statement before the Trusteeship Council on behalf of the Commission. I described these materials generally to Mr. Weiss and encouraged him to distribute them to the members of the Subcommittee if Senator Johnston believes that this would be appropriate. I said that I was available to meet with Senator Johnston at any time if he and Mr. Weiss thought that this would be useful. Mr. Weiss' first reaction was that such a conversation might be deferred but he promised to check with the Senator and give me some reaction.

(3) Mr. Weiss did not know whether Senator Johnston or any members of the Senate Subcommittee had been briefed by Ambassador Williams or his representatives since the recent negotiations in Saipan. He said that he would check this out and let me know.

Mr. Weiss and I discussed generally the areas covered in the Joint Communique. Because Mr. Weiss has been on duty for only a few weeks, he does not really have any

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particular insight or knowledge of the kinds of problems which we may encounter when and if a proposed status agreement comes to Congress for approval. He believes that his Senator will be primarily concerned with the military aspects of the settlement and will rely heavily on the recommendation in this regard of the Senate Armed Services Committee.

Mr. Weiss reports that Senator Johnston does have a considerable interest in Micronesia. The Subcommittee is a low priority one, however, as evidenced by the fact that Senator Johnston is in his first term. Mr. Weiss is going to try and carve this area out as his own, if this can be arranged with his fellow legislative assistants and Senator Johnston. If he is successful in doing this, it will be very advantageous for us. Mr. Weiss and I promised to keep in touch and to talk again about a visit with the Senator, perhaps sometime in September.

H. P. Willens

July 23, 1973

MEMORANDUM FOR THE FILE

Subject: Interview with Mr. McHenry of the
Carnegie Foundation

On July 20 I met with Mr. McHenry and one of his assistants to discuss the study of Micronesia which is currently being undertaken by the Carnegie Foundation. I met Mr. McHenry briefly during the session of the Trusteeship Council in New York which I attended last month and the meeting was set up at my request so that each of us could become more fully acquainted with the other's responsibilities. This memorandum will summarize the substance of our meeting.

(1) Mr. McHenry described his study of Micronesia as being part of a series of so-called "humanitarian" studies. Other topics chosen for study as part of this program include Nigeria and Southern Rhodesia. One such study, dealing with Burundi and authored by Roger Morris, has already been published. The stated purposes of the program are to conduct detailed factual studies of issues which have a substantial humanitarian concern and have not been the subject of much political attention. Micronesia was chosen as a subject for study because of Mr. McHenry's interest in the field, going back to his days as a Foreign Service officer with the Department of State, and his conviction that very little attention has been paid to Micronesia. He plans to produce his study by approximately May of 1974 so that its conclusion can be reviewed in time to be of assistance in the current negotiations between the United States and Micronesia and any Congressional review of the agreement arrived at as a result of these negotiations.

(2) Mr. McHenry has consulted with the Office of Micronesian Status Negotiations regarding his study. He described his relationship with the United States representatives as "correct". He states that he intends to make a trip to Micronesia of approximately a month's duration during late September and October. Apparently the U.S. representatives are not anxious to have Mr. McHenry in Micronesia during the next round of negotiations with the Joint Committee. I got the general impression that the

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United States representatives were not cooperating in any degree with Mr. McHenry, although they apparently expressed to him their considerable satisfaction with the recently concluded round of negotiations with the Marianas. It was Mr. McHenry's general reaction to the Marianas negotiations that the parties had apparently agreed in principle on many important matters but the questions left unresolved were so important so as to cause considerable doubt on the validity of the agreement in principle. He generally is very scornful of the value of any commitments received by the Marianas (or other segments of Micronesia) from the United States Executive branch.

(3) Mr. McHenry and his numerous student assistants have spent considerable time in consulting with members of Congress regarding their knowledge of Micronesia. In addition to canvassing members of the various committees with responsibility for the territories of the United States, he plans also to consult with members of the relevant Appropriations Committee, the Subcommittees of the Foreign Affairs Committee dealing with the United Nations and the Armed Services Committee. Based upon his interviews to date, he generally concludes that people on the Hill have very little knowledge of Micronesia and what is going on in the course of the current negotiations. He is very critical of the United States delegation for not consulting more thoroughly with members of Congress regarding their negotiations. He indicated to me that some members of the United States delegation may share his feelings in this regard and may be urging that more extensive consultation with Congress be undertaken in the near future. Mr. McHenry plans to continue his own interviews of members of Congress if only to provide a basis for asserting in his study that Micronesia generally has received very little attention by Congress.

(4) Mr. McHenry indicated that his study will certainly deal with the fragmentation issue raised by the separate Marianas status negotiations. Based upon his comments and general demeanor, I believe that Mr. McHenry is a fairly strong opponent of our separate negotiations and that his report is unlikely to be favorable on this issue. We discussed at some length the reasons underlying these separate negotiations. Mr. McHenry believes that the fragmentation question will be a principal issue in Congress, specifically with such members as Congressman Bingham, who he described as one of the more knowledgeable members of Congress in this field with some specialized knowledge and concern for the United Nations. In the course of preparing

his study Mr. McHenry will be involving numerous academic experts, including some who have strong views on the subject of these separate status negotiations. Mr. McHenry was not very specific as to the basis for his views on fragmentation or very responsive when I emphasized the wishes of the people of the Mariana Islands to have a different kind of relationship with the United States than was apparently desired by the remainder of Micronesia.

(5) During the course of our meeting I reviewed the more important aspects of the Joint Communique with Mr. McHenry. With respect to our aims regarding a future political status, Mr. McHenry was very discouraging. He stated that we would probably encounter considerable opposition from Congress with respect to any efforts to depart from the usual territorial format and that our proposed political status might well trigger an overall review by Congress of the political status of each of the territories or commonwealths of the United States. I acknowledged that this was a likely possibility and explained why the Commission was interested in having a different and better political status than that currently possessed by Guam. I suggested also that Mr. McHenry's study might explore this issue in an effort to develop recommendations to Congress as to how the political status arrangements which currently exist could be improved.

(6) On the general subject of financial support, Mr. McHenry was also discouraging regarding the prospects for long term financial guarantees. He thinks that the tentative commitment on the part of the United States delegation to support such long term guarantees is virtually worthless because of the anticipated opposition of Congress. In this connection, he generally gives the impression that he thinks we are being led down the primrose path by the United States delegation and that they will ultimately give us only token support for those aspects of the negotiated agreement which they do not in truth support.

(7) On the subject of the United States military proposals for Tinian, Mr. McHenry was very skeptical regarding the extent to which these proposals had been approved or cleared before our negotiations in Saipan. Based upon his consultations on the Hill, Mr. McHenry does not believe that these proposals were reviewed with many influential members of Congress or that assurances were received regarding the availability of funds for these projects. He also questioned the extent to which these matters were cleared within the Executive branch. Based upon our own information regarding clearances in the Executive branch, I think that Mr. McHenry is probably wrong but his comments with respect to consultations on the Hill are interesting.

(8) I offered to cooperate with Mr. McHenry to the extent that he believes that it would be in our mutual interest. They are planning to interview me formally within the next several days, as they plan to do also with Paul Warnke and numerous members of the United States delegation. Mr. McHenry indicated that he plans to include Mr. Warnke and myself on a panel of advisers to review certain portions of his report prior to its publication. Apparently they hope to involve also several law professors or others with expertise in the field of international law and the other subjects which will be touched in the course of the study. I said that I certainly would be ready and willing to participate in this review function, and it obviously offers a way for us to keep in touch with the progress of the study and make our best efforts to influence its conclusion.

(9) As the above indicates, I have certain initial impressions regarding Mr. McHenry and the likely direction of his study. I believe that our contacts with Mr. McHenry and his assistants should have two principal goals in mind. First, I think we should make every effort to try to neutralize Mr. McHenry's present position regarding separate status negotiations for the Marianas and try to persuade him that the separate negotiations are being carried on in a professional and arms-length fashion between the United States and the Marianas Political Status Commission. Second, I think we should try to encourage Mr. McHenry to deal thoughtfully with the kinds of issues we are raising in the areas of political status, financial support and military land needs so that his study can be used to educate members of Congress and the public along lines which are generally in the interest of the Marianas. Because of the humanitarian emphasis of the study and the Carnegie Foundation generally, there are grounds for hope that Mr. McHenry's study will be written in an effort to assist the people of Micronesia to secure a new political status of their free choice which does honor to the United States. Accordingly, I believe that we should continue to be in contact with Mr. McHenry and that, when he visits Micronesia, every effort should be made to educate and persuade him regarding the merits of our position.

H. P. Willens

July 16, 1973

MEMORANDUM FOR THE FILE

Subject: Marianas Political Status Commission --
Report of a Meeting with Staff Members
from the House Interior Committee.

Adrian Winkel and Thomas Dunmire came to talk with Howard Willens and me on Thursday, July 12, about the current status of the U.S.-Marianas negotiations. Both Winkel and Dunmire are staff consultants to the Committee on Interior and Insular Affairs of the U.S. House of Representatives. Winkel is closely associated with Philip Burton (D.-Calif.), the Chairman of the Subcommittee on Territorial and Insular Affairs, while Dunmire is associated with Don H. Clausen (R.-Calif.), the ranking minority member of the Subcommittee. Both men emphasized that they could speak only for themselves.

Willens and I briefed Winkel and Dunmire on the Joint Communique and elicited their reactions. The dialogue was especially informative regarding the following issues.

1. Ambassador Williams' Activities

Ambassador Williams met recently with Representatives Burton and Clausen. Since Burton apparently spoke about other issues during most of the meeting, Williams had only about 10 minutes to brief the Congressmen on the results of the negotiations. Williams said he generally was very pleased by the progress made at the last round.

Williams also met with Congressman James Haley (D.-Fla.), Chairman of the full Interior Committee, and Congressman John P. Saylor (R.-Penn.), the ranking minority member of the full committee. Neither Winkel nor Dunmire suggested what occurred at that meeting.

2. Political Status Issues

The four of us discussed political status issues at considerable length. In response to the Joint Communique's

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language that mutual consent would be required for fundamental changes in the political relationship, Winkel and Dunmire thought Congress might hesitate to grant the Marianas broad powers of self-government.

Much of the discussion focused on Article IV, Section 3, clause 2 of the U.S. Constitution. Winkel and Dunmire were told that the Marianas people were not trying to exempt themselves from all the powers of the U.S. Government, and especially not from those which apply to the 50 States. Rather, they were seeking to put clear limits on the sweeping powers which Congress had under the territorial clause.

We considered several rationales for maximum self-government. First, there is the possibility the United States would have some difficulty in obtaining the approval of the United Nations to terminate the Trusteeship unless the Marianas were allowed much "self-government." Winkel and Dunmire questioned whether there would be much resistance in the United Nations. They noted that the British and Australian representatives on the U.N. Trusteeship Council had apparently been so persuaded by the recent presentation of the Marianas representatives that they had publicly changed their positions and suggested some support for separate status for the Marianas. (Their impression was that the Russians still wanted unified negotiations and that the French were silent on the matter.) And, even if there were possible obstacles in the U.N., these would not be very persuasive with Congress.

Second, we discussed the likelihood that a U.S.-Marianas agreement might be part of a more general Congressional review of the political status of the territories and Puerto Rico. For example, recent events in Guam and the Virgin Islands suggest that those two territories might soon be seeking changes in their political status. Winkel and Dunmire made several points here. (a) They suggested that it would be hard to isolate the Marianas from whatever political arrangement Guam has or is allowed in the future. Winkel asked how Congress could justify giving the Marianas more political autonomy than a larger Guam was allowed, especially since Guam had been associated with the U.S. for a much longer period. (b) They suggested that many in Congress were not particularly pleased with the ambiguity surrounding the political autonomy of Puerto Rico and that the Commonwealth experiment in Puerto Rico was controversial. (c) The two consultants noted there would always be a problem in trying to get Congress to give up the powers granted to it by the territorial clause.

Winkel and Dunmire said they were unimpressed by the argument that Congress ought to realize that it would be getting a "good deal" -- i.e., the Marianas would become legally a part of the United States and would allow assured, long-term military bases in return for limited political and economic concessions. Most people in Congress would question whether the Marianas were not in fact under sufficient U.S. control today and "legalisms" like the Trusteeship Agreement would be lost on them. Specifically, Congressman Clausen, a Navy pilot in World War II, probably thinks the U.S. won the right to those bases during the war.

Dunmire suggested that the term "self-government" might grate on some in Congress. He thought that the Marianas people might consider alternative terms, such as "local self-autonomy." Both men thought that, whatever agreement the Marianas people reached, its chances of obtaining Congressional approval would be greatly increased by strong support from the U.S. Executive Branch.

Winkel and Dunmire emphasized that the real problem which should concern the Marianas was not that Congress would pass some law specifically aimed at the Marianas which would be contrary to their interests. Rather, the danger was that Congress would simply ignore or forget about the Marianas, given their size and location. Hence, the Marianas people should be considering ways to insure that they have a continued voice in the U.S. Government and that they are assured of continuing participation in various U.S. programs.

3. Non-Voting Delegate

The two consultants were especially pessimistic about Congress allowing a non-voting Delegate from the Marianas alone. Congressman Burton was said not to be favorably inclined. As Winkel pointed out, the average Congressman represents over 450,000 people and would hesitate to allow many Congressional privileges to a non-voting Delegate who represented only 13,000 people. Obtaining non-voting Delegates for Guam and for the Virgin Islands was a difficult proposition which took a number of years. One key political problem would be justifying the expense of a non-voting Delegate with many privileges similar to those of a Congressman. In fact, the costs would be greater given the greater travel distances.

As an alternative, the two consultants suggested that the non-voting delegate from Guam might also represent the Marianas.

4. Military Land

Both men seemed sympathetic to the Marianas' problem of insuring that there was adequate payment for whatever land the military obtained. Some valuation would have to be put on the land which recognized potential alternative uses in the future since present land prices have been kept depressed by the confusion over land titles and by TTPI limits on development. Dunmire mentioned favorably the recent use of an appraiser who was brought in from Hawaii to appraise the value of some land which the military wanted in the Marshall Islands.

5. Economics

Winkel and Dunmire appreciated the need for outside financing for the transition period (Phase I) and for the longer term. However, they were pessimistic about the possibility of getting much money through the regular U.S. budget process. For the present fiscal year (1974), any new funding would have to be by administrative action. Moreover, the present Interior Department and TTPI budgets left little room to maneuver. As for future fiscal years, both consultants thought that the Administration had put a squeeze on the Interior and TTPI budgets and that it might be difficult to get funding from either.

If the Marianas wanted some funding in fiscal year 1975 for Phase I, steps would have to be taken soon since the Executive Departments were already well along in their budget planning.

As for the possibility of guaranteed, fixed-level funding for the Marianas for several years, the two men were very pessimistic. They noted that, even if authorizations were fixed for 2-3 years in advance, the appropriations would have to be approved each year. Moreover, Congress hesitates to commit itself for future years. Dunmire emphasized that the Marianas should seek other approaches for revenue than the regular budget process.

6. Future

Both men apologized for what they recognized were some pessimistic forecasts, but they felt that the Marianas Political Status Commission should be aware that obstacles awaited them in Congress.

They seemed genuinely interested in staying well-informed about the negotiations and in also keeping lines of communication open to Congress. Specifically, they would report on our meeting to Burton and Clausen and suggested that the next step would be setting up a meeting for Howard Willens with the two Congressmen. (In a subsequent conversation, Dunmire reported that such a meeting would probably have to be after the August recess.)

Barry Carter

cc: Mr. Pangelinan
Mr. White
Mr. Willens
Mr. Lapin