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April 16, 1974

MEMORANDUM FOR THE MPSC FILE

SUBJECT: Conversation with James Bierne

I spoke to James Bierne today about Senator Jackson's reported position on the lease/purchase issue. I told him that we had heard that he and Jerry Verkler had said that only a purchase on Tinian would be acceptable. Bierne said that the State Department had been leaning toward lease, and that he had told them that unless there was some sort of "guarantee" of U.S. military presence, the agreement would not be approved by the Senate. The best way to obtain the necessary guarantee, in Bierne's view, would be for the United States to gain title to the land on Tinian subject to a reverter for non-use (he referred to this as a "reservation"). Bierne also said, however, that he thought that the Senate might agree to a lease with option to renew if the State Department and the Pentagon agreed to it, and if it provided sufficient protection for U.S. defense interests.

Bierne indicated that the Pentagon's concern, and perhaps the Senate's concern, was that the Marianas would not be a viable, stable political entity. The Pentagon apparently fears that a future government of the Marianas could demand renegotiation of the lease more easily than it could demand reconsideration of the sale of land on Tinian to the United States. He thought that the Senate might have this concern despite the fact that the people of the Marianas would be, or would become, U.S. citizens.

Bierne said that he was going to seek Senator Jackson's view on the lease/purchase issue, and would probably have an answer before the next round of negotiations. He is arranging for officials from the Pentagon to brief Jackson and himself, and perhaps others, on the details of future needs on Tinian. Bierne said Jackson is likely to rely heavily on this information in making his decision. The information, of course, will be classified.

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I asked Bierne why he thought it necessary to get Jackson to take a stand on the lease/purchase issue at this time. Bierne said that he thought that all of the parties to the negotiations should know whether Jackson had serious problems with the concept of a lease. Essentially, all Bierne wants to find out from Jackson now is whether the Senator is unalterably opposed to something short of title. Bierne believes that the probable answer will be: "I am not unalterably opposed but I far prefer title." When I pointed out that there were a number of military land issues open--like amount--Bierne said he thought, and hoped, that the lease/purchase issue was not related to the amount of land issue.

In view of Bierne's apparent determination to take this issue to Jackson, I asked whether it would be helpful or useful for Howard Willens to take a few minutes of the Senator's time to assure that the Senator was fully aware of the competing considerations involved. Bierne said that he thought it would be impossible to get any of Jackson's time. He did say that we could send him whatever materials we thought appropriate and he would be sure that our position was made known to Jackson. I told Bierne that any assessment of U.S. interests would have to take into account future relations between the local population and the military, as well as the need for the MPSC to be able to show the people the U.S. has made only reasonable demands, in order to secure approval of the agreement. Bierne said these factors might tip the balance toward a lease.

Bierne also mentioned two other, somewhat related points. First, he stated that he assumed that the United States would have the power of eminent domain in the Marianas. I told him that this had not yet been agreed and that we were concerned about granting the United States an unlimited power of eminent domain. He recognized the problem, and agreed that the Marianas' lack of voting representation in Congress would be a reason that some limitation on the federal eminent domain might be appropriate. But he stressed that there were situations in which it was desirable to have the federal government be able to take the political consequences which can result from a taking of land. He gave the example of an anticipated national seashore in Guam. The local political

leaders, although recognizing that a national seashore would be in the long-term interests of the people of Guam, he said, believe that they cannot support a seashore now because of the adverse economic impact. The federal government, however, can come in, take the land, and create a national seashore and survive the political difficulties. Bierne suggested that a joint federal-commonwealth planning commission might be the solution; apparently his view was that the U.S. couldn't take land without this commission's approval. Second, Bierne stated his view that one reason the lease might be approved by Congress (even if it weren't the preferred position) was that, as he understood it, the agreement would be presented to Congress on a "take it or leave it" basis, and not be open to amendment.

I am open to suggestion as to what we should send to Bierne and whether an effort should be made to get Willens to see Jackson notwithstanding Bierne's attitude.


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cc: Howard Willens
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