

RICHARD H. WILMER
LLOYD N. CUTLER
JOHN H. PICKERING
MANUEL F. COHEN
HUGH R. H. SMITH
LOUIS F. OBERDORFER
J. ROGER WOLLENBERG
CHARLES C. GLOVER, III
MARSHALL HORNBLLOWER
HENRY T. RATHBUN
REUBEN CLARK
SAMUEL J. LANAHAH
WILLIAM R. PERLIK
SAMUEL A. STERN
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ROBERT P. STRANAHAN, JR.
MAX O. TRUITT, JR.
JOEL ROSENBLUM
HOWARD P. WILLENS
ANDREW T. A. MACDONALD
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ARTHUR F. MATHEWS
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DENNIS M. FLANNERY
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JAMES ROBERTSON
RAYMOND C. CLEVINGER, III
LOUIS R. COHEN
MICHAEL R. KLEIN
STEPHEN A. WEISWASSER
EZEKIEL G. STODDARD
ALFRED E. DAVIDSON
GERARD C. SMITH
COUNSEL

WILMER, CUTLER & PICKERING

1666 K STREET, N. W.
WASHINGTON, D. C. 20006

CABLE ADDRESS: WICRING WASH., D. C.
INTERNATIONAL TELEX: 440-239
TELEX: 89-2402
TELEPHONE 202-872-6000

EUROPEAN OFFICE

5, CHEAPSIDE
LONDON, EC2V 6AA, ENGLAND
TELEPHONE 01-236-2401
TELEX: 851 883242
CABLE ADDRESS: WICRING, LONDON

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Congressional Relations File 01/8

RICHARD A. ALLEN
PETER A. BELL
PETER D. BEWLEY
PETER W. BILLINGS, JR.
STEPHEN F. BLACK
TIMOTHY N. BLACK
MICHAEL L. BURACK
BARRY E. CARTER
RICHARD W. CASS
BARRY O. CHASE
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C. LORING JETTON, JR.
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SALLY KATZEN

ROBERT K. KELLEY
NEIL J. KING
JOHN H. KORNS
NOEL ANKETELL KRAMER
F. DAVID LAKE, JR.
WILLIAM T. LAKE
JAY F. LAPIN
CARY B. LERMAN
ROBERT B. MCCAW
MARY A. McREYNOLDS
A. DOUGLAS MELAMED
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PAUL J. MODE, JR.
ROBERT R. MORRIS
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STEPHEN B. PRESSER
PHILLIP RADOFF
JOHN ROUNSAVILLE, JR.
DEANNE C. SIEMER
THEODORE S. SIMS
J. B. STEPHENS
DOUGLAS G. THOMPSON, JR.
VAUGHN C. WILLIAMS
GARY D. WILSON
WALTER T. WINBLOW, JR.

Senator Edward DLG Pangelinan
Chairman
Marianas Political Status Commission
P.O. Box 977
Saipan, Mariana Islands 96950

Dear Ed:

I had two meetings last week concerning which I would like to report to you in some detail. The first was with Adrian Winkel and the second was with Congressmen Burton, Foley and Won Pat. Other members of the Subcommittee, especially Congressman Meeds and Mrs. Mink had expressed a desire to participate in the second meeting but their last minute commitments prevented them from doing so. The meeting with the Congressmen lasted for approximately one and one-half hours.

Meeting with Mr. Winkel

The discussion with Adrian Winkel provided the impetus and set the background for the later meeting. At my request, Adrian met with me to discuss the meetings in Guam and Saipan in which he participated, including the meeting with the Commission. In particular, I wanted to get Adrian's informal views regarding the reactions of the Subcommittee members and his advice regarding the desirability of submitting additional explanatory papers on tax or other matters contained in the Joint Communique.

67110

During the course of our discussion, however, Adrian communicated some generally discouraging reports regarding the attitudes of the Subcommittee members who visited with the Commission in Saipan. Speaking from notes which he had prepared contemporaneously, Adrian informed me of the substance of two other meetings in which he participated along with members of the Subcommittee, one with members of the Guam Legislature and the other with the High Commissioner and various members of his staff in Saipan. In summary, Adrian reported that Congressmen Burton, Foley and Meeds were very upset about particular provisions in the Joint Communique (especially the tax and citizenship arrangements), that they maintained vociferously that the Marianas were trying to get a "preferred status," and that the new status would operate to the disadvantage of Guam and the other territories. Since there was no one at either of these two meetings who participated in our negotiations, the questions and criticisms of the Congressmen went unanswered. Adrian reported that the tenor of these meetings was significantly different from the tenor of the meeting with the Commission and suggested that the sentiments of the Congressmen are, in fact, more critical than might have been reflected in their meeting with the Commission. At the same time, however, Adrian emphasizes that Congressman Burton and the others are favorably disposed toward the Marianas. Accordingly, Adrian stated that Congressman Burton had told him to set up a meeting with me; and the clear assumption shared by both Adrian and myself, was that Congressman Burton was prepared to express his views about our tentative agreements in the strongest possible terms.

Meeting with Congressmen

As I expected, the meeting was characterized by a very frank exchange of views. At the same time, however, it was friendly. Congressman Burton went out of his way to say that he and Congressman Foley were speaking to me as "friends" and that they were interested in providing us with their views at the earliest possible time so that we could maximize the chances of getting a Status Agreement approved by Congress. Without getting too partisan, we also managed to communicate with each other the fact of my identification with the Democratic Party and that the people of the Marianas look especially to Congressman Burton and the more liberal members of the Subcommittee for support. The discussion ranged widely, and without

07111

any particular organization; for convenience I will try to summarize the discussion under the usual general headings.

Political and Legal

1. Congressman Burton raised at the very beginning his concern about the tax treatment of U.S. Savings Bonds. Anticipating this, I had researched the legislative history and was able to report to him that the current tax treatment of these Savings Bonds resulted from a Congressional determination in 1966 that it would be inequitable to encourage employees of the United States Government in the Trust Territory or Okinawa to purchase Savings Bonds and at the same time subject the interest on such Bonds to the tax rate of 30% which was applicable to non-resident aliens. If such legislative treatment was equitable in 1966, I suggested that it would also be equitable in 1974. I told them, however, that this was not an important part of our overall tax package and that all we really were concerned with, as reflected in the Joint Communique, was that Bonds acquired before the establishment of the Commonwealth would be entitled to the same tax treatment which they received at the time they were purchased. Although he came back to the subject a few times during the meeting, I believe that Congressman Burton was generally satisfied with this explanation.

2. With respect to our tentative agreements regarding applicability of the Federal income tax law, the situation is both more important and more difficult. Congressman Burton, and to some extent Congressman Foley, expressed strong opposition to the proposed tax arrangements for the Marianas. Their objections seemed twofold: (a) they are concerned that rich and powerful interests in the Marianas will exercise undue influence upon the legislative process with the result that the Marianas tax code will not be sufficiently progressive and/or free of loopholes; and (b) that any substantial disparity in tax treatment between individuals and corporations in the Marianas and those in Guam must be avoided.

We spent a considerable time discussing this issue. I tried to make clear that two separate questions were involved: (1) whether the Federal income tax applies to income earned in the Marianas; and (2) whether the Marianas should be free to adopt their own domestic tax code. When I pointed out the extent to which our positions had precedent, in varying degrees, in Guam and Puerto Rico, the Congressmen seemed somewhat reassured that we were not trying to negotiate a completely new tax relationship. I told them of our research into the tax provisions applicable in the other territories, our consultations with knowledgeable officials at IRS, and the general consensus that the Marianas would be well advised to adopt a simpler and more appropriate domestic tax than the Internal Revenue Code. Congressman Foley seemed receptive to the suggestion that the Internal Revenue Code was excessively complex for the Marianas economy and society. I also emphasized the relevance of this matter to our overall effort to obtain maximum self-government for the Marianas.

I informed the Congressmen of the commitment by the Commission to support an increasing local tax burden and reminded the Congressmen that any direct financial assistance from the United States would undoubtedly be conditioned upon the raising of substantial tax revenues locally by the new Marianas government. Congressman Burton emphasized repeatedly the difficulties involved in drafting a tax code and seemed to feel that we would be sparing the new Marianas government a substantial burden if we were to agree to apply the Federal income tax as a local Commonwealth tax, as is done in Guam. I emphasized some of the difficulties which had developed in Guam resulting from these tax arrangements and the fact that IRS experts advised us to take a different course. I also suggested that the Marianas might be in a position to develop a tax code in advance of Congressional approval of a Status Agreement, if the United States made the necessary money

available for transitional planning. I said that this would provide Congress with assurance of the Marianas' ability to cope with the taxation issue and enable us to persuade them that application of the Internal Revenue Code as the Marianas domestic tax was not necessary or desirable. In response, Congressman Burton suggested that an appropriate approach would be to adopt the Internal Revenue Code as the domestic tax and then justify exceptions to it at a later date on a case by case basis. It was unclear to me whether Congressman Burton believed that such subsequent exceptions would require the approval of the U.S. Congress or whether such changes could be made by the Marianas government as is done in Puerto Rico.

As you can imagine, the discussion on this subject was inconclusive. I promised to make available to the Subcommittee the appendix to our memorandum to the Commission which summarizes the tax arrangements in Guam, the Virgin Islands, Puerto Rico and American Samoa. In light of the importance of this issue to Congressman Burton, we are going to have to reconsider this topic. I think that he makes some fair points although essentially his position reflects a degree of respect for the Internal Revenue Code and a degree of distrust for the Marianas people which cannot be supported. The burden is clearly on us, however, to demonstrate the deficiencies in the Internal Revenue Code as applied to the Marianas and to reassure him that the leadership in the Marianas is capable of producing a fair tax code which will not provide a tax haven for wealthy individuals or corporations or adversely affect the economy of Guam.

3. We briefly discussed some other applicability of Federal law problems. Congressman Burton indicated, for example, that he would support an effort by us to exempt the Marianas from the maritime laws requiring the use of United States ships in "coastwise" commerce. However, he said that this would have to be done in the most indirect way possible and urged strongly that no public reference be made to this subject until the actual Status Agreement was before Congress for approval, and suggested that

otherwise the maritime unions (and presumably the shipping companies) would apply such pressure upon the Subcommittee that Congressman Burton and others would be unable to support our request for an exemption. In the area of immigration, Congressman Burton volunteered his recognition of the fact that the control of aliens is a major problem in Guam and, prospectively in the Northern Marianas. He said that he would support an effort to give the people greater control over immigration into the Marianas, but he had no specific suggestion as to how this could be accomplished. I said that we were in the midst of preparing reports to the Commission on both subjects and that I appreciated his recognition of our problems in these areas.

4. Congressman Foley on several occasions expressed his concern for the apparently "unique" status which was being negotiated. He suggested to me (and this view seemed to be shared by Congressman Burton) that Ambassador Williams is excessively deferential to the wishes of the Department of Defense and the Department of State. Consequently, they said, Ambassador Williams is running a considerable risk of negotiating an agreement which is satisfactory to the Executive Branch but will not be approved by Congress. In particular, Congressman Foley was concerned about the "mutual consent" requirement and the apparent result of establishing a relationship which could not be readily changed in subsequent years if difficulties begin to emerge. At the beginning he expressed these concerns in terms of sovereignty, but I assured him that under the new relationship there would be no question but that sovereignty would be vested in the United States. I summarized why we used the self-determination language in the Joint Communique and he seemed somewhat reassured by my response.

Near the end of the discussion I emphasized our hope that the provisions of the Status Agreement will be considered on their merits, in terms of whether they are constitutional, practical and protective of all legitimate Federal interests.

Although Congressman Foley recognized, and to some extent appreciated, the idealism inherent in our approach, he needs considerably more persuasion that the structural provisions of the new status are beneficial and do not prejudice the other territories. As to this latter point, I emphasized that the Commission is not seeking a "preferred" status but is trying to profit from the experience of the last few decades to avoid the difficulties which other territories have encountered. To the extent that these problems can be addressed in the context of the Marianas negotiations and resolved satisfactorily, I suggested that the Marianas would be more than pleased to see comparable treatment afforded the other territories. Congressman Foley and I expressed a mutual interest in pursuing this subject together and I hope that I will have such an opportunity before our next session.

5. Congressman Burton raised the subject of citizenship during the meeting but stated that his concern about this provision had been generally met by his discussions in Saipan and American Samoa. He now characterizes the option of becoming a U.S. national as a largely political gesture by the Commission to what are perceived by the Commission as the desires of a minority in the Marianas. (Both he and Congressman Foley made several critical references to the apparent desire of the Marianas to have something "better" than United States citizenship without any of its responsibilities.) They are comforted by the fact that the national option is available only at the time of the new political status and does not apply to subsequent generations. They also assume that only a small percentage of the Marianas people, in the range of 5 or 10 percent of the population, will elect not to become U.S. citizens. Frankly, I do not know that any of us can say whether they are right or wrong in making such a prediction.

07116

Economics and Financial Support

1. Congressman Burton informed me that he had told Ambassador Williams that the commitment to provide a flat dollar figure to the Marianas for five years was a "rip off" of the Marianas since the value of the dollar would undoubtedly fall during the five years in question. I told him that we were well aware of the desirability of an inflation factor. In this connection, Congressman Burton suggested that we might relate our proposed inflation factor to the cost of living index in Guam - an idea which certainly should be explored.
2. Regarding the idea of a multi-year commitment, Congressman Burton was on the whole supportive. As he has done before, however, he indicated that there would be much Congressional opposition to this departure from customary procedures but both he and Congressman Foley said that they would support our efforts on this subject. He urged us to be flexible regarding the exact mechanism by which the multi-year commitment would be provided and mentioned the possibility of using advance funding for two or three years to accomplish our purposes. I emphasized the importance of this commitment to the Marianas but stated that we certainly were not wedded to any particular approach.
3. On the issue of money generally, Congressmen Burton and Foley were very forthcoming in their promises of support. Congressman Burton said that he had told Ambassador Williams that the money offered by the United States for a development loan fund was too low and that Congressman Burton would support a figure of \$5 million. (It was unclear whether he was suggesting that \$5 million for each of the five years would be appropriate or whether he was stating only that he could see the need for \$5 million in the initial year in which the United States was providing support.) I spent a few minutes emphasizing the inadequacy of the current U.S. proposal of \$14.5 million. I pointed out that this sum was predicated upon a growth rate in the Marianas which was considerably lower than the growth projected by the responsible TTPI officials and other knowledgeable observers and also that it was designed to achieve a per capita income in the Marianas of about \$2,000 by 1985. Borrowing

07117

liberally from Jim Leonard's learning and rhetoric, I emphasized the disparity in such a projected level of income with that likely to prevail in the United States and Guam in 1985. I believe that these points, although hastily made, were sympathetically received and provide a basis for future discussion regarding a higher level of U.S. financial assistance.

4. There was only one mention during the meeting of transitional planning. During the discussion of the income tax problem, I referred to the fact that preparation of a draft tax code could be expedited if the United States would move more quickly in funding the transitional planning program. I told the Congressmen that our current estimate of the money needed for transitional planning was in the vicinity of \$2.5 million and the United States was offering only about \$800,000. I emphasized the importance of coherent planning for the Marianas and suggested that Ambassador Williams was holding back on this subject as a negotiating technique. Congressman Burton questioned me sharply on this point but seemed prepared to accept my judgment that such was the case.

Land and Military Requirements

We spent very little time on this subject but the following points came up:

1. The very first sentence which Congressman Burton uttered to me upon our meeting was "Do not sell the land - hang in there for a lease." He expressed the opinion that the United States was ready to give in on this issue. He indicated that he had expressed his opinion to high military officials and Ambassador Williams that it would be totally inappropriate for the United States to insist on purchasing the land from the people of the Marianas while at the same time urging that they adopt restraints on land alienation to non-Marianas people.
2. Near the end of the meeting I asked Congressman Burton whether he had any views regarding the extent of the United States request for land on Tinian. He revealed his anti-military bias by

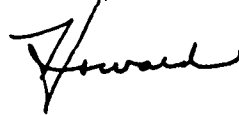
stating that he assumed the United States was seeking more land than actually required. I told him that we were persisting in our efforts to obtain justification from the United States regarding the Tinian facility but that we had been unsuccessful. I emphasized the political necessity of securing such information so that the members of the Commission could go to their constituents and defend any status agreement which involves the leasing of approximately two-thirds of Tinian. Congressmen Burton and Foley seemed to agree with this general approach but did not have any specific information or views on this subject.

3. The only other land issue that was raised pertains to land alienation. Congressman Burton said that Ambassador Williams had reported to him that members of the Commission were opposed to restraints on land alienation. I said that this was not true. I said that the Commission had tentatively agreed, as reflected in the Joint Communique of June 4, 1973, that alienation of land in the Marianas would be restricted to persons of Marianas ancestry. I did acknowledge, however, that the Commission had not faced up to the task of drafting a specific provision on this subject. I said that this promised to be a very difficult chore but that we were prepared to face it at the appropriate time. In this connection, Congressman Burton reported that Ambassador Williams had told him that some members of the Commission were engaged in land speculation on Tinian.

Interspersed among our discussion of the above subjects were a few repeated suggestions by Congressmen Burton and Foley regarding our negotiations. Congressman Burton, in particular, emphasized that we remain flexible regarding the actual language of a status agreement and that we try to work out the difficult problems in advance with those members of the Subcommittee favorably disposed toward the Marianas. He also emphasized that we make every effort to couch our arrangements in terms which make it appear that we are simply applying to the Marianas the prevailing laws and practices in Guam. At the same time, however, he and Congressman Foley emphasized that they were not intending to become a second team of negotiators representing the United States.

Following the meeting I sent letters of appreciation to Congressmen Burton, Foley and Won Pat, copies of the summary report regarding the negotiations and, in some instances, materials relating to income tax laws in other territories. I have subsequently sent copies of the summary report to all the other members of the Subcommittee in the House of Representatives and the comparable Subcommittee in the Senate. I am making my best efforts through the responsible staff personnel to arrange for similar meetings with other members of these two Subcommittees. I will report to you regarding any future developments involving Members of Congress.

Sincerely,



Howard P. Willens

cc: Mr. Leonard
Mr. White
bc Ms. Kramer
Ms. Heller
Mr. Kelley
Mr. Lake -