

OFFICE FOR MICRONESIAN STATUS NEGOTIATIONS
WASHINGTON, D.C. 20240

Miss Trent's copy
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May 20, 1975

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Has original MVTrent
Has seen Archer
Capt de Graffenried
Col Smith

Memorandum

To: Ambassador F. Haydn Williams
From: Charles A. Schmitz
Subject: Question of Alteration of "No" Ballot

I. Background

The question of whether or not we should re-examine the wording of the "No" ballot in the Marianas Plebiscite was raised in the letter of May 1, 1975, from the United Carolinian Association (attachment 1) to Secretary Morton. The letter pointed out that the "No" ballot includes reference to a "selected few" of the possibilities which may flow from voting "No" and it is asserted that the wording of the ballot confuses the voter, serves no valid purpose, and unnecessarily injects bias and emotion into the vote. A copy of the letter was sent to the Trusteeship Council. By letter of May 1, 1975, from the Marianas Legal Services Corporation, (attachment 2) we are informed that a petition of re-wording of the ballot is being circulated and that legal action to force a change in the language of the ballot was being considered. Acting DOTA Rice told me on May 16 that legal action against the plebiscite, based on the "No" ballot wording, undoubtedly would be initiated.

Since I considered that the argumentation of the Carolinian letter pointed out the area of potential vulnerability in our effort to insure not only the fairness of the plebiscite, but the appearance of fairness, I asked the staff to look into the issues involved in any change of ballot. After determining that there was no technical impediment to changing the ballot up to May 23, we asked the State Department to inform us whether or not its previous position that the "No" ballot must be worded in its present complicated form continued to be valid in light of the considerations outlined in the Carolinian letter. At State's request a meeting of the IAG working group was held May 16 to insure that State representatives fully understood the issue posed. State representatives undertook to provide State's reaction on May 19. On May 19, Jack Knowles called Mary to convey the State Department position as recorded in the memcon at attachment 3. In sum, the response did not deal with the probable climate in the Trusteeship Council with the defensibility in the Council of the U.S. position on

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ON 10-10-1985 UNDER PRO-
VISIONS OF E.O. 12336 BY
YMC D.K. DOLAN, USN
SPECIAL ASSISTANT, OMSN

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SUBJ TO G.D.S. OF E.O. 11652
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either the existing wording or on the proposed revision. Instead, the reply conveyed State's concerns for (1) reopening of the already decided issue, (2) creating confusion in the electorate, (3) posing a possible basis for a demand that the plebiscite be delayed, and (4) increasing the "No" vote. Although State's reply did not meet squarely the issue we posed, we infer from the reply that State does not consider that it has significant problems in defending the existing wording in the Trusteeship Council. [our inference is supported by informal conversation with State Officers.]

II. Discussion

The principal concern with the existing language is that the wording is a novelty in the international practice of plebiscites (see deGraffenried memo, attachment 4). As such, a responsible argument that the novel formulation creates a problem of bias in the act of self-determination would seem to throw a heavy burden on the U.S., which has done much to trumpet the fairness and impartiality of the plebiscite, to demonstrate either that the wording conveys no bias or that there are overwhelming reasons favoring the present wording. The settings for this sort of discussion will be (1) the courts (either the High Court in Saipan or the U.S. District Court in Honolulu), (2) the TTPI debate in the Trusteeship Council, and (3) eventually, the Security Council when termination of the Trusteeship should be presented for its approval. Our defense for the language is based on the need to make a fuller explanation of the "No" vote, as is set forth in the draft reply to the Carolinian letter (attachment 5), and in our interpretation of the desire of the Trusteeship Council that the act of self-determination exclude no alternative (see extract of Trusteeship Council, Attachment 6) [State undertook to provide us additional citations of Trusteeship Council concern, but has not done so as of this writing. We understand informally that USUN has not located any solid evidence of the Councils explicit concern with the shape of the ballot.]

We have elicited the views of most of those departments involved in Micronesian matters within the U.S. Government.

In brief, their considerations seemed to fall into the following categories:

A. Arguments Favoring Revision:

1. Would restore simplicity to the ballot and promote fairness since objectionable interpretations of the voter's motivation to vote "No" would have been removed.

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2. Would increase the defensibility of the ballot and of the plebiscite in court and in U.S./U.N forums.
3. Would demonstrate flexibility and responsiveness to legitimate concerns of some Marianas residents.

B. Arguments Against Revision:

1. Would depart from our already well established position, thereby giving the impression that the U.S. is indecisive and weak.
2. Would be tantamount to a confession of error or incompetence, and possibly of racism, in the initial formulation of the ballot.
3. Would encourage more voters to vote "No" since they may be led to believe that the U.S. would be willing after all to renegotiate the Covenant.
4. Would affect the ongoing campaign in the plebiscite and would dishearten supporters of the Covenant.
5. Would provide a possible basis for demands that the vote be postponed owing to the relatively large change in the ballot.
6. Would be at variance with USUN's understanding of the wishes of our friends in the U.N.; i.e., United Kingdom, France, Australia.

The State Department obviously wishes that no change in ballot be made. The Defense Department representative at the IAG meeting and Colonel Smith are of similar views. Mary Trent favors the existing language, feeling that it was honestly arrived at, and that our acquiescence to this complaint would not satisfy the opposition in any event. Alf Bergesen feels that it would be an error to confess error by a change. At the most extreme, David Schiele says that a revision of the ballot would be disaster and would lose the plebiscite, by driving large numbers of voters to "No". He says that Eddie Pangelinan would go crazy. On the other side, Adrian Winkel, Brewster Chapman and Mr. Canham all feel that revision would be desirable. While Mr. Canham has told us that he thinks it would be helpful to amend

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the ballot and would increase the "Yes" vote, it is clear from his message of May 14 (attachment 7) that he is willing to defend the existing ballot.

Recommendations

Drawing the necessary inference from State's position and giving full effect to the recommendations of the Status Liaison Officer, and given the flexibility of Mr. Canham's position, I recommend that we not revise the ballot wording.

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Clearance:

Brewster Chapman
Mary Vance Trent

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Attachments

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