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May 28, 1975

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Edward C. King, Esq.
Deputy Director
Micronesian Legal Services Corporation
P. O. Box 826
Saipan, Mariana Islands 96950

Dear Ed:

Thank you for your letter of May 23, 1975, regarding your representation of numerous clients objecting to the proposed plebiscite ballot language.

By coincidence, your letter arrived at a time when several representatives of the MPSC were in town preparing for their appearance before the United Nations Trusteeship Council and I was able to discuss the matter with them. On the basis of this discussion, they have requested that I advise you of their continued opposition to any change in the ballot language. It is their strongly held view that the plebiscite will be truly a "fair and impartial" measure of popular sentiment in the Northern Marianas, notwithstanding the present heat of the political debate and the understandable difficulties involved in such an act of self-determination.

Best personal regards,

Sincerely,

Howard P. Willens

bc: Mr. Helfer

14538

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REPLY VIA AIR MAIL TO

Central Office

May 23, 1975

Howard P. Willens, Esq.
Wilmer, Cutler & Pickering
1666 K Street, N.W.
Washington, D.C. 20006

Dear Howard:

This letter is written to you in your capacity as counsel for the Marianas Political Status Commission, in an attempt to head off a potentially unfortunate and, I think, unnecessary confrontation. You will recall that when Dan MacMeekin and I visited your office in Washington approximately one year ago you requested that, as a courtesy, we advise you of any major difficulties which might arise with any position taken by the MPSC.

Enclosed is a copy of a letter, dated May 1, 1975, prepared by this office for a group of clients who then signed and forwarded the letter to Secretary Morton. The letter requested reconsideration and amendment of the plebiscite ballot language prescribed by Secretary Morton.

Also enclosed is a more recent letter from this office to Secretary Morton forwarding a petition signed by some four hundred and seventy (470) persons, Chamorros as well as Carolinians, Popular Party as well as Territorial, supporting the request.

For some reason, although the issue itself does not seem to be a pro-Covenant or anti-Covenant issue, but merely one aimed at obtaining maximum clarity in the ballot language, a number of pro-Covenant leaders have reacted very heatedly to the request. We are not concerned by the strength or heat of their reaction but we do fear that their reaction in opposition to the request of our clients is merely reflexive and may mislead

14539

Howard P. Willens, Esq.
May 23, 1975
Page 2


the Dep't of the Interior into an underestimation of the importance of the request or the commitment of our clients to such a request.

Admittedly, the persons who originally contacted us about this matter were prodominantly Carolinians who have, by and large, opposed the Covenant. Still, it does not seem that members of the MPSC or other pro-Covenant leaders have any interest whatever in preserving objectionable or questionable language so long as the ballot itself remains understandable on voting day.

Unless there can be a more objective response from the MPSC, we are concerned that Interior may feel safe in denying our clients' request which denial could lead to further difficulty with the conduct of the plebiscite and undoubtedly will lead to unnecessary enmity among people in the Marianas well after the plebiscite election itself has occurred.

It may be that your clients have already consulted you about this matter. Their adoption of such a hostile attitude toward our clients' request may have been more carefully considered than I presently understand. If that is so, please forgive me for this somewhat informal, and perhaps presumptuous, approach to you. On the other hand, if you have not previously been consulted and if you agree that your clients have no substantial interest in opposing our clients' request, I would greatly appreciate your doing whatever you can to ease the tension on this matter and to disabuse Interior of the notion that it will continue to have wholehearted support of MPSC leaders in rebuffing the relatively innocuous request of our clients.

Sincerely,



Edward C. King

EK/ms

Enclosures

14540

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REPLY VIA AIR MAIL TO

Central Office

May 19, 1975

The Honorable Rogers C.B. Morton
Secretary of the Interior
Office of the Dep't of Interior
Washington, D.C. 20525

Dear Secretary Morton:

A few weeks ago, this office, upon request of our clients, a broadly based group of persons concerned about the forthcoming plebiscite to be held on June 17 in the Northern Mariana Islands, prepared a letter requesting you to revise the language which you have prescribed for the plebiscite ballot.

We understand that the letter was forwarded to you, and to various other interested persons, by our clients some two weeks ago. Neither we nor our clients have as yet received any response from you.

We are now enclosing a petition, circulated by our clients and signed by more than four hundred and fifty (450) persons, in support of that request. It may be of interest to you that the petition is signed by Chamorros as well as Carolinians, and by Popular Party as well as Territorial Party members. Thus both major ethnic groups and both political parties of the Marianas are represented. All support the concept of a "fair and impartial plebiscite" and recognize that the presently prescribed ballot language is not conducive to such a plebiscite.

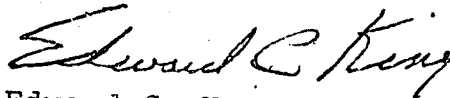
We respectfully renew our clients' earlier request that the ballot language be revised as suggested in the May 1 letter. Time is running short. We would appreciate an early response so

14541

Hon. Rogers C.B. Morton
May 19, 1975
Page 2

that we and our clients may determine whether further action
may be appropriate, or necessary to protect their interests.

Very truly yours,



Edward C. King

EK/ms

Enclosures

xc: All persons who received copies
of the May 1 letter (w/ petition
but not signatures).

14542

P.O. Box 4
Capitol Hill
Saipan, M.I. 96950
May 1, 1975

The Honorable Rogers C.B. Morton
Secretary of the Interior
Office of the Dept. of Interior
Washington, D.C. 20525

Dear Secretary Morton:

We are concerned citizens of the Trust Territory of the Pacific Islands, residents of the Northern Mariana Islands. We share your stated desire that the plebiscite of the people of the Northern Mariana Islands to decide whether they wish to become a Commonwealth of the United States in accordance with the terms of the Covenant signed on February 15, 1975, be held in a "fair and impartial manner."

We have brought to the attention of the plebiscite commissioner, Erwin D. Canham, grave problems with the wording of the ballot which you have prescribed for the plebiscite in your Proclamation of April 11. Mr. Canham suggested that we advise you of our concerns.

We believe that the "No" ballot contains internally inconsistent, misleading and even biased language. Unnecessary references lengthen the ballot and will confuse voters, perhaps even cause some to vote for the simpler, "Yes" ballot, as the only one they understand.

"Yes" Ballot Is Addressed To The Issue

As you know, the real issue that will face the people of the Marianas will be whether they wish to vote for or against Commonwealth in political union with the United States as set forth in the Covenant. There are many ancillary issues which may have some bearing upon how people will vote on this specific proposition. If the ballot were to be truly full and complete it might reprint the entire Covenant. You apparently agree that would be likely to confuse and distract voters. We therefore applaud your prescribed wording of the "Yes" ballot:

YES - I vote for Commonwealth as set forth in the Covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States of America.

14543

We note with approval that this language involves no attempt to have the voter "recognize" the various effects of a "Yes" vote. The language appropriately contains no reference to the fact that if "Yes" prevails, the Constitution of the Northern Marianas Islands will not be "the supreme law of the land" in the Marianas where it conflicts with the Covenant or the United States Constitution, or federal laws applying to the Northern Marianas.

The language also requires no statement of recognition that if "Yes" prevails, citizens here will be required to pay income taxes at rates specified by the United States Government. Nor is there specific mention that no provision is made for our representation in the Congress of the United States, although Congress will have power to enact laws binding the people here.

Finally, there is no specific recognition that a "Yes" vote will mean that Marianas citizens will have no defense against a possible influx of United States citizens and businesses who may put great stress on the physical resources of the islands; drive up the price of land so that few Marianas citizens will have the wherewithal to buy or retain land, take jobs and business opportunities from people here, and ultimately may destroy the character of the Marianas as being essentially the home islands of Chamorro and Carolinian persons.

All of these considerations, and many more, are embraced within a "Yes" vote, yet you have rightly recognized that specific reference to them would be confusing and seen as having political or biased overtones.

"No" Ballot Is Confusing
Inconsistent And Biased

Your wording of the "No" ballot is in startling contrast. As with "Yes", various rights and possibilities may flow from voting "No." The difference is that the "No" ballot for some reason includes reference to a selected few of those possibilities. This confuses, and serves no discernible purpose whatever:

NO - I vote against Commonwealth in political union with the United States as set forth in the Covenant recognizing that, if Commonwealth is rejected, the Northern Mariana Islands will remain as a District of the Trust Territory with the right to participate with the other Districts in the determination of an alternative future political status.

14544

A. The Covenant Is At Issue, Not The Commonwealth Concept - Some here are for Commonwealth with the United States but disapprove of some specific terms "set forth in the Covenant."

These will be hopelessly confused by the "No" phraseology. The "Yes" ballot, and the first part of the "No", say the issue is whether the voter favors "Commonwealth as set forth in the Covenant." Under that language, most would believe a vote against this particular Covenant would not necessarily be against Commonwealth.

Yet the ballot spells out some (but of course not all) results "if Commonwealth is rejected." Since the language is in the "No" ballot, it suggests that "No" will be considered a vote against Commonwealth under any terms. This fundamental internal inconsistency makes it impossible for any voter to know, with certainty, the scope of the issue presented.

Perhaps the intended message is that, if this Covenant is rejected, the people of the Marianas will never again be given the opportunity for Commonwealth. With all due respect, we wonder whether you have the authority or the prescience to speak for the United States on this issue, forever. Even if you do it would seem preferable to communicate the message as a part of general education preparatory to the plebiscite rather than by innuendo within the ballot.

If you for some reason regard it proper and critical that the ballot communicate that a "No" vote will be considered a permanent and irrevocable vote against Commonwealth in any form, we respectfully request that the "Yes" and "No" ballots be amended to leave no doubt as to that fact.

If the ballot is not intended to carry such an implication, the words, "if Commonwealth is rejected" should be deleted altogether.

B. Northern Marianas Status As A Trust Territory District Will Not Be Changed By The Plebiscite - The "No" ballot says that, if Commonwealth is rejected, the "Northern Mariana Islands will remain as a District of the Trust Territory..." Isn't that equally true if the plebiscite vote is "Yes"? In either event, the Northern Marianas will remain a district of the Trust Territory for precisely the same time - until the Trusteeship Agreement is terminated.

C. Voting "No" Will Not Affect The Present Right To Seek Alternative Political Status - The "No" ballot also says that if Commonwealth is rejected, the Northern Mariana Islands will have the right to participate with the other Districts in determination of an alternative future political status.

That is strange information indeed to be set out in the "No" ballot. Representatives of the Marianas presently participate in negotiations with the Joint Status Committee of the Congress of Micronesia looking toward political status for all of Micronesia. It seems hardly worth noting that the situation will remain unchanged if the vote is "No."

If there is relevance to the point, it presumably is that the result of a "No" vote will be different than "Yes." Is the "No" ballot language actually trying to tell us that if the vote is "Yes", then the people of the Northern Marianas will no longer have the right to participate with other districts in a search for satisfactory political status?

Does that then mean that even if Micronesians in other districts should ultimately decide that they wish to join with the United States and the Northern Mariana Islands in a Commonwealth arrangement, the people of the Northern Marianas will be prevented from participating in any such discussions?

Again, this seems far too much to try to convey in a simple ballot. But if it is in your judgment imperative to include such information in the ballot, the statement should be plainly made in "Yes", not suggested by indirection in the "No" ballot.

This language may be intended to tell the people of the Marianas that, if they vote "No", they will have no right to seek political status other than in participation with the other Trust Territory districts.

That would radically change the plebiscite issue. The issue would not be whether people are for or against the Covenant. It would be whether the people here prefer this Covenant as against some unknown status in union with the rest of Micronesia.

Such an interpretation fits with the implication that a "No" will be considered a vote against Commonwealth in any form, not just as set forth in the Covenant.

We can only be confused by all this. English is your native language, not ours. Why would you not state your meaning plainly? If you mean to tell us that by voting "No", we will be deprived of the right to negotiate separately with the United States for Commonwealth or some alternative political status, why do you not say that? Why merely suggest the absence of rights by naming one right which we will have?

If no implication that a "No" vote will deprive us of the right to continue separate negotiations is intended, then we ask deletion of that language from the "No" ballot.

D. "No" Language Unnecessarily Injects Bias And Emotion Into The Vote - Finally, we believe it only fair to apprise you of a general impression that exists in the Northern Marianas. Many people here contend that the reference in the "No" ballot to "other Districts" has been inserted, not to assist voters to understand the issue before them, but to encourage them to cast "Yes" ballots for emotional reasons, which almost warrant the label racism.

You surely are aware that significant numbers of persons in the Northern Marianas consider themselves somehow inherently superior to other Micronesian peoples. It is not an overstatement to say that some persons would opt for practically any form of political arrangement with almost any nation, in order to separate from other Micronesians, thereby confirming their own superiority.

Most unfortunately the present "No" language plays upon this aspiration for superiority. The "No" ballot will pointedly suggest to the voter, at the crucial moment, that a "No" vote means further participation with the other Trust Territory districts. As already pointed out, that is not necessarily so. A "No" vote will not alter the period of time during which the Northern Marianas will remain a Trust Territory district, and it need not preclude the possibility of separate political status, even Commonwealth, for the Marianas.

Nevertheless the plain implication is there. This will cause some persons to cast their plebiscite ballot, not on the basis of being for or against "Commonwealth as set forth in the Covenant", but instead because of their desire to be seen as distinct from and superior to persons in the "other Districts."

We acknowledge this may be the motivating factor for many persons regardless of the ballot wording. This does not alter the fact that ballot language should be aimed at minimizing, not maximizing, such undesirable action.

Conclusion And Recommendation

Everything after the word "Covenant" in the "No" ballot is superfluous and even misleading. Because of that unnecessary language, peripheral issues are implied, there are actual inconsistencies in the ballot, and unsavory emotional and political considerations are emphasized.

There can be little doubt that, whatever the intent of the drafter, the unnecessary language in the "No" ballot will discourage people from voting for the "No", which cannot possibly be understood, and encourage them to vote for the simpler and understandable "Yes."

You have said the plebiscite should be fair and impartial. Surely the people of the Northern Marianas and of the United States fully agree. Nobody has any interest in permitting this crucial decision to be influenced by considerations other than whether people are for or against Commonwealth as set forth in the Covenant.

We therefore respectfully request deletion of all language in the "No" ballot after the word Covenant, so that, leaving the "Yes" ballot unchanged, the ballots would read as follows:

YES - I vote for Commonwealth as set forth in the Covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States of America.

NO - I vote against Commonwealth in political union with the United States as set forth in the Covenant.

Unless such a change is made, there can be no "fair and impartial" plebiscite. We respectfully urge your prompt and full consideration of this request.

Very truly yours,

Felix Cobarrubias

Jose P. Chaves

John M. Jones

Bill

Sebutet

Seido Ocasta

W. O. Jones

Julio Torres
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Augustin Magabuel

M. Pabulida

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Francisco
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14548