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THE PRESIDENT'S PERSONAL REPRESENTATIVE
FOR MICRONESIAN STATUS NEGOTIATIONS
WASHINGTON, D.C. 20240

May 5, 1980

MEMORANDUM FOR ROZANNE RIDGWAY

FROM: Peter R. Rosenblatt

SUBJECT: Conversation with Richard D. Copaken,
Counsel for the Marshall Islands Government

The conversation at a luncheon with Copaken today focused almost entirely on the trusteeship termination issue, although we touched briefly on nuclear matters.

A. Trusteeship Termination.

Copaken reiterated his view, set forth in his "working paper" dated April 30, 1980. It is that the U. S. should not request Security Council (SC) authorization to terminate the trusteeship. Doing so implies that the U. N. has the authority to deny full self-determination to a people subject to the trusteeship system. The U. S. has a trusteeship responsibility not to subject exercise of the absolute Marshallese right of self-determination to the vagary of a single great power's veto in an "unrepresentative" body such as the SC. Rather, the Trusteeship Council (TC), exercising its wide authority under the Charter and SC resolution, should rule on the fairness and representativeness of the plebiscite in which the Marshallese people exercises its right of self-determination, whereupon the purposes of the trusteeship will have been fulfilled and the trusteeship ends.

Copaken said that if we decide to announce that we are legally obligated to seek an affirmative SC vote and will do so he will recommend to the MIG that free association negotiations be terminated in favor of independence talks, since only the latter status would have any chance of gaining genuine international recognition.

As our conversation proceeded, it seemed that Copaken recognized that it would be necessary to come to some understanding with us on a mutually acceptable termination procedure somewhere between these two extremes.

Copaken devoted little time to developing his conspiracy theory (the USG is really trying to get the U.S. to reject free association so as to be able to continue the trusteeship). I gather that his bottom line concerns are these:

1. He proceeds from the assumption that the Soviets will veto termination based on free association. He believes that they will understand that such a veto will cause us problems by stimulating a Micronesian demand for the only political status which could be assured of international recognition--full independence.

2. Therefore it would make little sense for the U.S. to subject international recognition of free association to a Soviet veto if there were any conceivable alternative.

3. Copaken believes that there are alternatives; his approach, mentioned above, and that which would assume SC concurrence in the absence of a negative SC vote.

4. Since there are conceivable alternatives to securing an affirmative vote of the SC Copaken believes it would be foolish to now announce that we feel legally bound to seek such a vote (which intention he assumed from the paper we gave the British and French).

Copaken added that a Soviet veto would generate a demand in the Marshalls for independence negotiations with the U.S., as the only avenue to full international recognition. The MIG did not want to put itself in a position in which all of its chips were riding on a status which was sure to be vetoed. He also points out that the Soviets are unlikely to furnish advance notice as to whether they will cast a veto and that the U.S. should therefore devise a strategy which does not depend upon our ability to divine Soviet intentions.

I told Copaken we did not concur that a Soviet veto was inevitable, or even likely at this point, that State did not concur with his approach, that we had not fully explored the matter of SC tactics or what our position would be if the Soviets did cast a veto, and that we had no intention of making a detailed statement

-- The USG would give further consideration to the alternative SC approach which would assume SC concurrence in trusteeship termination absent a negative vote.

-- We would discuss with Copaken what we were going to say at the TC on trusteeship termination in advance and at the earliest possible time.

-- If we can assure Copaken of the foregoing some time prior to this Friday morning, May 9 (when he leaves Honolulu for Tokyo), he would feel secure enough to call President Kabua and advocate that he attend the TC session.

B. Nuclear Matters.

We reconfirmed our mutual understanding that the Compact subsidiary agreement on Northern Marshalls nuclear matters can be negotiated in the same manner as the KMR Interim Use Agreement. Thus, the Marshallese delegation would be formed under the aegis of the MIG but most of its members would consist of representatives of the peoples directly affected. Copaken reiterated that this would be satisfactory to the MIG.

I told Copaken that the USG could not be expected to assume the entire burden of insisting on this approach and that it would be necessary for the MIG to deal with peoples affected to form such a delegation. I told him that it was my impression that Jonathan Weisgall and the Bikinians would agree but that we would have a difficult time with Ted Mitchell and his clients. Copaken agreed that the MIG would have to get busy on this project.



Peter R. Rosenblatt

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