



UNITED STATES
DEPARTMENT OF THE INTERIOR- Territories
OFFICE OF THE SECRETARY
WASHINGTON 25, D. C.

Memorandum

To: Secretary of the Interior
From: Assistant Secretary--Public Land Management
Subject: Establishment of a Trust Territory Legislature

Attached is the last official recommendation of Mr. Taitano as Director, Office of Territories: a proposed order to create a unicameral 21-member legislature for the Trust Territory of the Pacific Islands. Also attached is a proposal to establish a bicameral legislature submitted by the High Commissioner last January, following the November 1963 session of the Council of Micronesia.

I place the highest confidence in Mr. Taitano's judgment, but in candor I think it appropriate to point out that there are fundamental differences of view in Washington and Saipan between the approach recommended by Mr. Taitano and the one recommended by the High Commissioner. Everyone, however, is in agreement that a legislative body in the Trust Territory should be created by Secretarial Order by the end of this month.

The major issues are:

- (1) Whether the legislature should be unicameral or bicameral;
- (2) The compensation to be paid the legislators; and
- (3) Executive power vis-a-vis the proposed legislative branch.

Other differences are relatively minor and tend to fall into place once the basic issues are resolved.

(1) Unicameral or bicameral

With respect to the organization of the legislature, the Office of Territories and the President's Survey Mission both favored the unicameral legislature. An Office of Territories draft was submitted to

Decide

the Council of Micronesia at its October 1962 meeting. On the other hand, the Council, at its special session of March 1963 and, subsequently, at its November 1963 session, voted for the bicameral system. In so doing, the Council was not unaware of the pro and con arguments respecting the two systems. There have been both bicameral and unicameral legislatures in the districts and members of the Council have had experience with each.

The basic problem turns on the question of the recognition, if any, that is to be given to the several districts with their differing languages, cultures and, in varying degree, economics as against the "territorial" concept which we are attempting to encourage.

Obviously, the majority of the members of the November 1963 Council (as well as the special session of March) looked on the bicameral legislature, with one house composed of an equal number of delegates from each district, as affording some protection for the interests of the district. The High Commissioner's bicameral proposal, however, provides for the legislature to review this organizational question after a five-year period of experience, the votes to be on a yes and nay basis in joint session of the legislature, the advantage going, therefore, to the more numerous population-based house.

The unicameral proposal calls for membership divided among the six districts on the basis of population, with a guarantee of no less than two members to the least populous districts. Population representation does not give the overt recognition to districts that is basic to the bicameral system. However, the Micronesian reluctance toward the unicameral system is apparently based on the feeling that district delegations will vote en bloc and, thus, leave less populated districts at a relative disadvantage. At its November session the Council of Micronesia voted first for a bicameral legislature; a second choice was a unicameral body with equal representation from each district. A population-based unicameral body was a poor third.

We do not believe that the Micronesians would "boycott" a unicameral legislature, but they may not seek to make it work. If our purpose is to encourage sincere Micronesian involvement in the legislature, we need to weigh the "good government" aspects of the unicameral system against the expressed Micronesian preference for the bicameral system. A bicameral system does not inevitably have an immediate nor a continuing splinter effect on political development. On the contrary, by offering apparent safeguards it can lead to a more comfortable relationship and to greater accommodation.

(2) Compensation.

Compensation is the second major point at issue. The High Commissioner proposed a \$16 a day compensation, as well as transportation and per diem, for days in session plus necessary travel time to and from

sessions. The legislator would, thus, receive a minimum \$480 salary for the 30-day session plus payment at the \$16 rate for days in travel status. (This can amount to two or three weeks when travel is from the more remote islands.) The High Commissioner's proposal would make ineligible for legislative service members of the judiciary, employees at Trust Territory Headquarters, and District Department Heads and Assistant Department Heads. To this extent a "conflict of interest" would be avoided between the legislature and senior executives; however, legislative service would be on a "part-time" basis with the legislator free between sessions to seek gainful employment.

Mr. Taitano's proposal would pay the legislator \$3,120 a year and bar any employment except self-employment. This proposal is intended to attract the most able persons to the legislative branch and to give present Micronesian Department heads practical financial opportunities to leave the Executive and to serve in the legislature. The proposed salary equates roughly to the beginning rate of the top grade of the professional category of the Micronesian Title and Pay Plan. (On a daily rate the \$3,120 annual salary is \$12.)

By way of comparison, the following data from the 1962-63 Book of the States, page 37, may be useful:

" . . . By the end of 1961, thirty-four states were using the salary plan The range of salaries, per biennium, is from \$200 in New Hampshire to \$15,000 in New York (due to rise in January, 1963, to \$20,000). The median figure for the thirty-four states is \$3,900--4,000. Ten of those which pay the median salary or better have annual sessions.

"Nineteen states employ a daily (or weekly) pay plan (payable during sessions), three of them--Arkansas, Colorado and Oklahoma---using both daily and biennial salary. Amounts paid under daily pay plans vary greatly---from \$3.00 in Kansas, North Dakota and Rhode Island up to \$50.00 in Louisiana. For eighteen states (excepting Vermont which pays weekly) the median daily pay is \$15.00."

For purposes of further comparison, the 11 Virgin Islands legislators are paid \$600 each in addition to their per diem and travel expenses. The 21 members of the Guam Legislature receive \$15 a day for 60 days regular session and not to exceed 14 days of special session. Sumatra legislators are paid \$300 per annum (the Constitution provides for a 30-day session each year).

The basic question here is whether, at this stage in the political development of the Trust Territory, we are moving directly from an advisory body which meets one to two weeks a year to a legislative body with full-time responsibilities. Should compensation for legislative duties be basically limited to the legislative session or should compensation be on an annual basis? If we pay this salary,

what is the next step as the legislature assumes greater legislative responsibility and, quite probably and rightly, desires to meet more frequently and for longer periods?

This point is raised not only in the Micronesian context, which is important, but in terms of the United States Congress where Interior Committee and, possibly, Appropriations Committee reactions may be negative. The full-time legislative proposal provides a level of salary well above that of most States, to say nothing of the territories.

(3) Executive responsibilities.

The last major issue is that of the executive authority in the legislative process. On the one hand the High Commissioner's proposal contains language authorizing the promulgation of certain "urgent" legislation, a proposal similar to that contained in the American Samoa Constitution. (The recommendation of the President's Survey Mission also included this feature.) The High Commissioner's proposal also contains a provision for the promulgation of laws in the event of emergency. This is unlike the situation in American Samoa; but in the Trust Territory, where it may be impossible to convene a special session of the legislature except after two to three weeks of travel, this extraordinary authority was apparently felt to be desirable. The Trust Territory proposal also provides for an absolute veto by the High Commissioner. Lastly, there is provision for the appointment of a Legislative Counsel by the High Commissioner at least thirty days before a legislative session begins. There are no attorneys in private practice in the Trust Territory.

Mr. Taitano's proposal makes no provision with respect to "urgent" legislation nor for the emergency promulgation of laws. The veto is not absolute, but a law may be re-passed over the High Commissioner's veto and, if then not approved, referred to the Secretary of the Interior for disposition. This proposal is similar to that in the Virgin Islands, Guam and American Samoa where it has been used infrequently with respect to the first two territories, and not at all in the case of Samoa. Historically, the Governor's veto has always been upheld when a vetoed bill has been referred to Washington. Lastly, Mr. Taitano's proposal is silent on the subject of a legislative counsel. We believe that the legislature is deserving of such assistance and recommend that provision be made for it; we do not believe that such a provision would prohibit the legislature from hiring counsel of its own choosing should it find a practical and desirable means of doing so.

On the foregoing issues, I recommend:

- (1) That we establish a bicameral legislature;

(2) That we establish the compensation of the legislators at \$3,120 per annum; and

(3) That we follow the Suman precedent with respect to executive powers, i.e., grant authority to promulgate "urgent" legislation (but not retain the "emergency" provision) and provide for an appeal to the Secretary in the event a bill is passed over the veto of the High Commissioner.

If you concur, please indicate by signing below. We will then draft a Secretarial order containing the above features.

John A. Carver, Jr.

Enclosures

I concur:

Secretary of the Interior

cc: Secretary's Reading File

5-7-64