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SEP 16 1964

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Dear John:

Thank you for giving us the opportunity to review the proposed Secretarial Order concerning "Legislative Authority for the Congress of Micronesia, Trust Territory of the Pacific Islands." I recall that we both agreed when we discussed the matter earlier that the Order would be a significant landmark in the history of the Trust Territory.

We have reviewed the Order in the light of: (1) the basic commitments of the United States under the terms of the Trusteeship Agreement; (2) the importance of this action concerning the Trust Territory of the Pacific Islands to the posture of the United States in the current international political climate; (3) the reasoned recommendations of the 1964 Visiting Mission of the United Nations Trusteeship Council, of the 1963 Survey Mission commissioned by the President of the United States, and of the Council of Micronesia; and (4) perhaps most important, the basic United States policy goals for the future of Micronesia as stated in National Security Action Memorandum 145, dated April 13, 1962. You will readily see from our comments that we have been guided by the fact that we are dealing at this time with but the first step in the progression toward self-government, that is, a body created to school the elected representatives of the Micronesian people in the responsibilities and the realities of legislative activity.

As you may recall from my earlier memorandum on this subject, the Department of State does not believe that the United States will be able to maintain its relationship with this strategic area without very costly and unpopular action, unless we are able to demonstrate that continued association with the United States is clearly the will of a people who have been given a reasonable opportunity to know what they are doing when asked to make such a decision.

Very Respectfully

John A. Carver, Assistant Secretary,  
Department of the Interior.

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By [Signature] NARA. Date 7-20-90

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The establishment of the Congress of Micronesia will constitute an important first step in this direction. In these terms, I must say frankly, the Order does not appear to provide an adequate challenge to prospective Micronesian legislators to dip their hands into the hard business of responsibly deciding (even if only as a court of first instance) issues central to the development of the political entity we are trying to create.

To present the Order in the most positive light, we believe a statement by the Secretary of the Interior at the time of promulgation can be used effectively. We hope such a statement is under consideration and should very much like to see it before release because of its importance to our international position.

Apart from the proposal for a Secretarial statement, the Department of State recommends, for the reasons set forth above, the following revisions of the proposed order:

(1) Preamble - We suggest the addition of an ultimate preambular paragraph along the following lines: "WHEREAS, the establishment of such a legislature will represent a substantial step in the promotion of self-government for the Trust Territory of the Pacific Islands and will provide experience for the further progressive achievement of this objective;"

(2) Section 4 - Legislative Powers of the High Commissioner:

A statement should be added to this section making clear that the High Commissioner, when referring to the Secretary of the Interior for approval of legislation which he has introduced as "urgent" and which has not been enacted by the Congress of Micronesia, shall include a statement from the Congress as to why it was unable to enact such legislation.

We recommend also that this section be retitled "Authority of the High Commissioner" in order to avoid the impression of a legislative power competitive with the Congress being established.

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(3) Section 9 - Budget:

We believe the Congress of Micronesia should have the responsibility for debate on, formulation of amendments to, and approval (or disapproval) of the budget prepared by the Government of the Trust Territory of the Pacific Islands for presentation to the Secretary of the Interior. Unless the Congress is given this responsibility, we shall not be able legitimately to state that the Congress is actually participating in the budget process and, by extension, in the planning for the future of Micronesia. Should the Congress err in judgment, the High Commissioner through his veto power and the Secretary of the Interior can of course reverse its judgment, as indeed can the United States Congress. Such a provision could hardly be considered a derogation of authority or responsibility of this government, or an encroachment on the authority of the United States Congress to dispose of United States-appropriated funds. It would provide that indication of our earnest wish was most outspokenly requested in the recommendations of the 1964 Visiting Mission.

(4) Section 12 - Legislative Sessions:

We feel that the thirty-day limitation on the single annual regular session of the Congress will appear arbitrarily restrictive unless it is clear that this period can and will be extended by the High Commissioner for good cause. A statement to this effect by the Secretary at the time of promulgation could be made, but it would be much more effective to provide for such extension upon petition by three-fourths of the members of the Congress.

(5) Section 14 - Veto by the High Commissioner:

It would be wise to avoid the possibility of any impression that a bill twice vetoed by the High Commissioner could die without review by the Secretary of the Interior through a pocket veto. This problem could be adequately met by recalling in the Secretary's promulgation statement that as a matter of policy and practice, the Secretary has always taken positive action in such cases.

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(6) Section 19 - Compensation:

The proposed compensation to members of the Congress for only those days spent in regular or special session gives no impression of provision for continuing or special legislative committee activity at other times, even though the Order appears to authorize such activity. We continue to feel this need could be met most effectively by providing an annual salary to members, as recommended by both the Lalana Survey Mission and the 1984 Trusteeship Council Visiting Mission. Such a measure would have the additional and equally important effect of emphasizing the importance and stature of the legislative role and would strengthen demands on members, an effect cogently analyzed in the Visiting Mission Report. If practice elsewhere makes this impossible, provision should be made for per diem payments for official legislative activity at times other than regular or special sessions.

(7) Section 24 - Effective date:

In view of the very short time remaining for pre-election activity before November 3, and in the light of the concern expressed in the Trusteeship Council that there be adequate time allowed for the election campaign, the first elections probably should not be held before January 1985.

(8) Provision for Amendment:

We believe the implicit power of amendment in the Order should be made explicit by the addition of a new Section 26, along the following lines:

"Section 26. Amendment. The Congress may, during any regular session, by a two-thirds majority vote of the membership of each House, recommend to the High Commissioner the amendment of any part of this Order. The High Commissioner shall promptly transmit such recommendations, together with his own recommendations thereon, to the Secretary of the Interior."

The present Section 26 would then become Section 27.

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(9) Chapters 12, 13, and 19 - General Comment:

We wonder whether enough attention has been given to the recommendations of the Constitutional Survey Mission and the U.S. Visiting Mission regarding the need to draw on all available local resources for membership in the Congress. We do not wish to provide a stipend adequate to attract the depth of commitment which will provide full-time attention to the needs of the heterogeneous population of Micronesia. Article 12 of the Order seems to disqualify any educated Micronesians who perhaps could better serve their people as legislative legislators, but who would require at least stipends to stand for election without jeopardy to their property. The appearance of a comparable salary should they be elected.

If any of our views pose questions for the Department of the Interior, we should be most happy to discuss them with you.

We recognize that some of the recommendations set forth here go beyond what the United States provides for its own non-self-governing territories. With Micronesia, however, we are dealing with a United Nations Trust Territory which we hope to develop as an area permanently associated with the United States. You will agree, I am sure, that, if we are to achieve our common goal, we must proceed in a manner which commands the support of objective international opinion.

Warmest regards.

Sincerely,

/s/

Harlan Cleveland

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