

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

February 19, 1968
6:15 p. m.

OK
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MEMORANDUM FOR THE PRESIDENT

Budget Bureau needs your guidance as to their position on legislation to provide an elected governor for Guam. Hearings will be held on this bill by the House Interior Committee tomorrow.

This bill -- and a companion measure for the Virgin Islands -- have both been passed by the Senate. Hearings have been completed on the Virgin Islands bill in the House and it should be reported soon.

The Senate bills do not include two amendments recommended by the Budget Bureau. They are:

1. Right of the President to remove an elected governor for cause; and
2. Repeal of the President's existing authority to veto certain enactments of the local legislatures.

We did not ask Interior to testify in favor of these amendments in the Senate. Instead, Interior testified in favor of the bills and Budget Bureau presented separate views recommending the two amendments. Budget got a rough going-over in both hearings from the Senate Interior Committee.

This is a lost cause unless you want to make a major personal effort. These are good reasons not to do so:

- Congressional sentiment is overwhelming against the amendments. The Senate gave no consideration to them and Aspinall has already indicated that he is vigorously opposed.
- Defense has indicated there is no security problem. We could step in at Guam in an emergency without specific provisions for Presidential veto or removal of the governor.
- The amendments are very unpopular in the territories as an unwarranted restraint on self-government.
- Budget Bureau has not been asked for its views -- it would be volunteering this position. Interior, as before, will be supporting the bill.

The best reason for continuing the fight for the amendments is that it represents, in one sense, a struggle for authority between the Executive and the Congress. In my view, it is not basic enough to warrant friction with the House Interior Committee in a losing cause.

I recommend that Budget Bureau not present independent testimony to the House committee.



DeVier Pierson

Tell Budget Bureau not to testify. _____

Tell Budget Bureau to testify in favor
of the two amendments again. _____

Call me. _____

EXECUTIVE OFFICE OF THE PRESIDENT
BUREAU OF THE BUDGET
WASHINGTON 25, D.C.

February 19, 1968

MEMORANDUM FOR MR. PIERSON

Subject: Guam and Virgin Islands Governors

As I mentioned to you on Saturday, the House Interior Committee is holding hearings tomorrow on legislation which would provide for an elected Governor of Guam. That Committee earlier held hearings on similar legislation for the Virgin Islands and we understand the Committee is about to report that bill.

As you know, two issues are presented by these bills:

- they do not authorize the President to remove an elected Governor for cause, and
- they would repeal the President's existing authority to veto enactments of the local legislatures under certain circumstances.

Our memorandum of February 24, 1967, to Harry McPherson (copy attached) spells out the background of these issues in some detail. Also attached are copies of our reports to the Senate Interior Committee on this legislation.

As you will recall, the Budget Bureau's reports to the Senate Committee argued that the President should have removal and annulment powers.

As my memorandum to Harry McPherson of April 28, 1967, (copy attached) points out, the Bureau testified at the Senate hearing and found rough going. The Senate Committee later reported out the bills without the proposed amendments.

Assistant Secretary Harry Anderson, at our request, made a check this morning of Chairman Aspinall's feelings on these amendments. We understand that the Chairman is quite negative.

The merits of the proposed amendments, of course, continue to be the same. The question therefore is a tactical one. In light of the Senate Committee's action and the reported attitude of the House Committee Chairman, should we continue to push for the amendments in the House Committee?

As in the past, Interior's proposed report on the Guam bill did not take up the question of the amendments affecting Presidential powers. The Budget Bureau has been responsible for putting forward and supporting these amendments.

Interior is very anxious to get its report up to the Committee early this afternoon. We would propose to give it advice that there would be no objection but that the Bureau of the Budget would submit its views separately. This is the same advice we gave Interior the last time around. If it is decided not to push the amendments in the House Committee, we can quietly advise the Committee staff that no further views will be submitted.

(Signed) Wilf Rommel

Wilfred H. Rommel
Assistant Director for
Legislative Reference

Attachments

February 24, 1967

MEMORANDUM FOR MR. MCPHERSON

Subject: Elected Governors in Guam and the Virgin Islands

Attached is the memorandum discussing the two issues -- Presidential removal power and Presidential veto -- with respect to S. 449 and S. 450, which I discussed with you last Saturday.

Your early advice would be greatly appreciated. The Senate Committee held hearings on the bills on last Monday, and it would be desirable for us to get our report up as soon as possible, particularly if we are going to recommend amendments along the lines proposed in our memorandum.

(Signed) Wilf Rommel

Wilfred H. Rommel
Assistant Director for
Legislative Reference

Attachment

FEB 24 1967

MEMORANDUM FOR MR. HARRY C. McPHERSON, JR.

Subject: Bills to provide for elected Governors in Guam and the Virgin Islands

Two issues are presented by bills -- S. 449 and S. 450 -- which the Senate Interior and Insular Affairs Committee is considering to provide for elected Governors in Guam and the the Virgin Islands.

- They do not authorize the President to remove an elected Governor for cause, as originally proposed by the Administration, and
- They would repeal the President's existing authority to veto enactments of the local legislatures under certain circumstances.

Background. At present, the Governors of Guam and the Virgin Islands are appointed by, and serve at the pleasure of the President. Under the bills proposed by the Administration in 1965, the Governors (and Lieutenant Governors) would have been elected for four-year terms but would have been subject to removal by the President for cause or by recall by the electorate. In 1966, the House passed the bills with changes providing for two-year terms and removal only on impeachment for, and conviction (by a Federal court) of, high crimes and misdemeanors. In 1966, the Senate Committee reported out bills which, like S. 449 and S. 450, provided for four-year terms and removal only by recall.

With respect to the veto power, the organic acts of Guam and the Virgin Islands both contain provisions under which, if the local legislature repasses a bill over the original veto of the Governor, the Governor is required to present such bills to the President if the Governor does not then approve them. The President then has the final authority to approve or disapprove the bills presented to him or to let them become law simply by taking no action within the 90 days authorized for action.

The Guam and Virgin Islands organic acts go on to require all laws of the territories to be reported to the President and to the Congress, but only in the case of Guam does the law specifically reserve to the Congress the

power and authority to annul such territorial laws within one year of their receipt by the Congress. Such annulment authority formerly existed with respect to the enactments of the municipal councils of St. Thomas and St. John and of Saint Croix but was dropped in the Virgin Islands Organic Act of 1954. The Interior Department nevertheless is certain that Congress has the authority to annul Virgin Islands laws. The Congress has never exercised its authority over either territory.

- ✓ In its 1966 report to the Senate Committee the Bureau recommended that the President be given the authority to remove elected Governors for cause and that the present authority for Presidential veto of local legislation not be changed.

Discussion. The basic question underlying both the authority to remove Governors and the veto authority is the nature and the scope of the power which should be retained by the President and the Congress to protect the Federal interest in the territories and to enable the Federal Government to carry out its responsibilities for their government.

The arguments against retaining Presidential authority to remove elected Governors and to veto local legislation which the Interior Department makes are:

- Such authority is inconsistent with, and will dilute the concept of home rule and the development of local self-government. The Federal Government will appear to be taking away with one hand that which it is giving with the other.
- The people of the territories are mature enough to be depended on to remove an unsatisfactory Governor or correct unwise legislation by taking action against the legislature at the next election.
- There is adequate remedy in the Congress' authority to withdraw the authority to elect a Governor, to limit the authority of the legislature, and to correct deficiencies in the plan of self-government.

The arguments in favor of retaining certain Presidential authority are:

- The elected-Governor bills will not alter the status of Guam and the Virgin Islands or diminish the responsibilities of the President and the Congress under Article IV, section 3, of the Constitution with respect to making and executing rules and regulations with respect to United States territory. Guam and the Virgin Islands would remain unincorporated territories of the United States basically governed by Federal law in the form of their organic acts.

- In many respects, Guam and the Virgin Islands are analogous to cities in our States. They are the creatures and, hence, the responsibility of the United States just as cities are the creatures of the States.
- The United States will continue to be accountable to the United Nations for the protection and welfare of the territories and their inhabitants. It will be morally obligated to provide necessary financial support for their governments.
- Despite the proposed change in their method of selection, the elected Governors will have a responsibility not only for the execution of local laws but also for the execution of certain Federal laws applicable to the territories. Chief among the latter are the organic acts themselves.
- Because of the above circumstances, the Federal Government cannot put itself in a position in which it has no authority to carry out its responsibilities, in which it cannot take action to remove an irresponsible Governor or bar an enactment of the local legislature which is contrary to the national security or Federal interests.
- The need for such authority could be critical in Guam because of its importance to the national security.
- The congressional authority to annul local enactments is only a partial and, at best, cumbersome procedure for dealing with the problem and would be completely unworkable in emergencies or when Congress is not in session.

On balance, we continue to favor retaining certain Presidential authorities because of the need to insure that the Federal Government's basic responsibilities can be carried out.

Recommendations, That the Bureau of the Budget, in its report to the Senate Committee urge:

- That the President be authorized to remove an elected Governor for certain causes. (The report would be silent as to whether elected Governors should also be subject to removal by impeachment or recall.)
- That the present veto authority be repealed but that the President be authorized to disapprove local laws for certain causes within sixty days of receiving notice of their enactment.

(This would be a change from our previous position but one which we believe is necessary on further consideration. With an appointed Governor, the President could always exercise some control over the laws which such a Governor approved. With an elected Governor, that will no longer be the case. It would not be feasible to rely on the present authority which brings to the President's attention only certain bills passed over the Governor's veto, or to rely on the cumbersome process of congressional annulment. In our view a Presidential disapproval authority, if properly limited and if exercised in a reasonable period of time, is no more repugnant to the concept of local self-government than congressional annulment and is much more workable. It is certainly not more repugnant than the retention of a Federal comptroller in the Virgin Islands.)

- That the above Presidential authorities be limited by law so that he could remove a Governor or disapprove a law only if he or it adversely affected the security, foreign relations, property and interests of the United States. (Such a limitation would probably make the retention of the authorities more acceptable. Executive Order No. 11010, dealing with the Ryukyu Islands administration, provides a precedent for such a limitation.)

(Signed) Wilf Rommel

Wilfrad H. Rommel
 Assistant Director for
 Legislative Reference

Mar. 3, 1967

~~CONFIDENTIAL~~

Honorable Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
3106 New Senate Office Bldg.
Washington, D. C. 20510

Dear Mr. Chairman:

This is in response to your requests of January 24 and 30, 1967, for the comments of the Bureau of the Budget on S. 449, "To provide for the popular election of the Governor of Guam, and for other purposes" and S. 450, "To provide for the popular election of the Governor of the Virgin Islands, and for other purposes."

The general purpose of these two bills is stated in their titles. While we fully support this purpose and the provisions of the bills designed to accomplish it, there are two aspects of the legislation that concern us. These two aspects relate to Presidential powers--removal of the Governor and veto of the acts of the territorial legislature.

Our concern stems from the fact that S. 449 and S. 450 will not alter the status of Guam and the Virgin Islands as unincorporated territories of the United States. Hence, these bills would not diminish the responsibilities of the Congress and the President under the Constitution with respect to making and executing rules and regulations for these territories. The territories would continue to be the responsibility of the Federal Government, and it would continue to be accountable to the United Nations for the protection and welfare of their inhabitants.

In addition, despite the proposed change in their method of selection, the elected Governors would continue to have a responsibility not only for the execution of territorial laws but also the execution of certain Federal laws applicable to the territories. Chief among the latter are the organic acts themselves.

For the foregoing reasons, we believe that the President's capability to discharge effectively his responsibilities within the territories must be retained. These responsibilities involve foreign policy, national security, Federal property, and other matters significantly affecting the interest of the United States.

We recommend, therefore, that the President be given the authority to remove a territorial Governor or to veto an act of the territorial legislature when he determines such action necessary either from the standpoint of United States foreign policy or national security, or when necessary to protect Federal property or other significant interests of the United States. These criteria for Presidential action could be specifically written into law or they could be spelled out in the legislative history of the bills.

Our recommendation for a veto that would be applicable to all territorial laws goes beyond the present authority of the President to veto only certain territorial laws that have been previously vetoed by the Governor. The present authority is appropriate where, as now, the Governor is an appointed official, but it is not adequate to enable the President to meet his responsibilities when the governorship becomes an elective office. To avoid undue delay, the legislation could provide that territorial acts would take effect if not vetoed by the President within 60 days after notification of enactment.

We recognize that the continuing authority that the Congress and the President would have with respect to the territorial governments could be characterized as limiting the concept of territorial self-government. In our judgment, however, the legislation, amended as we recommend, would provide the maximum degree of self-government consistent with the need for the effective discharge of Federal obligations and responsibilities in these areas.

Accordingly, if amended in the manner recommended above, the Bureau of the Budget would strongly recommend the enactment of S. 449 and S. 450.

In addition, we recommend that the Committee give favorable consideration to the amendments to the bills proposed by the Interior Department in its reports.

Sincerely yours,

(Signed) Wilfred H. Rommel

Wilfred H. Rommel
Assistant Director for
Legislative Reference

MAR 18 1967

Honorable Henry M. Jackson
Chairman, Committee on Interior
and Insular Affairs
United States Senate
3106 New Senate Office Building
Washington, D. C. 20510

Dear Mr. Chairman:

This is in further response to your requests of January 24 and 30, 1967, for the comments of the Bureau of the Budget on S. 449 and S. 450, bills to provide for the popular election of the Governors of Guam and the Virgin Islands.

At a meeting on March 14 with Senator Burdick and staff of your Committee we were asked to prepare draft language to carry out the recommendations contained in our earlier letter of March 3. Those recommendations dealt with the authority of the President to remove an elected Governor and to veto acts of the territorial legislatures for certain causes. In the course of the March 14 meeting we agreed to substitute for the veto authority language which would permit Presidential annulment of local laws.

We would propose, with respect to S. 449, that:

- The proposed amendment of section 7 of the Organic Act of Guam contained in section 2 of S. 449 read as follows:
"SEC. 7. Any Governor or Acting Governor of Guam may be removed from office (a) by the people registered to vote in Guam if 75 per centum of the persons registered to vote shall vote in favor of recall at a referendum election, or (b) by the President if such action is deemed by him to be necessary to protect the security, foreign relations, or property interests of the United States. A referendum election, for purposes of this section, may be initiated by the legislature of Guam following a two-thirds vote of the members of such legislature in favor of a referendum, or by a petition to the legislature of 25 per centum of the people registered to vote in Guam."
- The proposed amendment of section 8(b) of the Organic Act of Guam contained in section 3 of S. 449 be revised by inserting the words "removed by the President," following the words "removed by recall,".

-- The following be added to section 7 of S. 449: "Section 19 of the Organic Act of Guam is further amended by deleting the last sentence and by substituting therefor the following: 'Copies of all laws enacted by the legislature shall be transmitted promptly by the Governor to the President and to the Congress. The President is authorized to annul any such law within sixty days of receiving a copy of such law if he deems such action to be necessary to protect the security, foreign relations, or property interests of the United States. The Congress reserves the power and authority to annul any such law within one year of its receipt by the Congress.'"

With respect to S. 450, we propose that:

-- The present language in section 3 of the bill be designated as subsection (a) and that the following new subsection be added: "(b) Section 9, subsection (g), of the Revised Organic Act of the Virgin Islands (68 Stat. 497, 501; 48 U.S.C. 1575 (g)) is amended to read: 'Copies of all laws enacted by the legislature shall be transmitted promptly by the Governor to the President and to the Congress. The President is authorized to annul any such law within sixty days of receiving a copy of such law if he deems such action to be necessary to protect the security, foreign relations, or property interests of the United States.'"

-- The proposed amendment of section 12 of the Revised Organic Act of the Virgin Islands contained in section 5 of S.450 read as follows: "SEC. 12. Any Governor or Acting Governor of the Virgin Islands may be removed from office (a) by the people registered to vote in the Virgin Islands if 75 per centum of the persons registered to vote shall vote in favor of recall at a referendum election, or (b) by the President if such action is deemed by him to be necessary to protect the security, foreign relations, or property interests of the United States. A referendum election, for purposes of this section, may be initiated by the legislature of the Virgin Islands following a two-thirds vote of the members of the legislature in favor of a referendum or by a petition to the legislature of 25 per centum of the people registered to vote in the Virgin Islands."

-- The proposed amendment of section 14(b) of the Revised Organic Act of the Virgin Islands contained in section 7 of S. 450 be revised by inserting the words "removed by the President," following the words "removal by recall,".

It should be noted that our suggested language is designed to fit in with the existing provisions of S. 449 and S. 450. We are not taking a position with respect to the alternatives of removal of elected Governors by recall or impeachment or the authority of the Congress to annul local laws.

We believe the authority to elect their own Governors would represent a significant step in the achievement of local self-government in Guam and the Virgin Islands. As we have indicated previously the intent of the amendments we are proposing is not to diminish or limit the concept of local self-government in those areas. Rather, the intent is to assure that the President retains the minimal authorities he needs to carry out his continuing responsibilities under the Constitution.

The language we have proposed would permit the territories to have full control over their local affairs. The President's authority would be strictly limited to matters involving the security, foreign relations, or property interests of the United States. These are areas, we believe, of legitimate and continuing concern to the President.

With the enactment of the elected-governor bills, Guam and the Virgin Islands, while enjoying a full measure of local self-government, will continue to have a unique relationship to the Federal Government: i.e., their basic form of government will still be prescribed by Federal law in the form of their organic acts. The relationship of Guam and the Virgin Islands to the Federal Government will be in many respects analogous to that of a city to a State government. The States retain a responsibility for the organization and operations of their political subdivisions and, under certain State constitutions and laws, the Governors have removal authorities comparable to those we are proposing to vest in the President.

In sum, because of his continuing responsibilities under the Constitution, we believe the President should not be left in a position in which he has no authority to protect significant Federal interests in the territories.

Sincerely,



(Signed) Wilfred H. Rommel

Wilfred H. Rommel
Assistant Director for
Legislative Reference

E 7-3/65.2

E 7-4/65.2

APR 28 1967

MEMORANDUM FOR MR. McPHERSON

Subject: Guam and Virgin Islands Governors

The Senate Interior Committee held further hearings on Wednesday on S. 449 and S. 450, bills to provide elected Governors for Guam and the Virgin Islands. Harold Seidman appeared before the Committee to present the Bureau's views on amendments we had proposed to authorize the President to annul local laws and to remove an elected Governor when necessary to protect the national security, foreign relations or property of the United States. (A copy of my memorandum to you, dated February 24, and a copy of Harold Seidman's testimony on this matter are attached.)

The hearing was rough, with Senator Church leading the attack on the Bureau's amendments on the grounds that they would improperly limit local self-government and constitute a reassertion of American colonialism at a very poor time. Senator Church indicated he would prefer the status quo (i.e., appointed Governors) to a proposal containing our amendments. The Guam legislature took the same position.

The Committee later reported out the bills without our proposed amendments.

The problem now is what to do in the House (assuming the Senate passes the bills as reported). One alternative would be to do nothing -- our views have not been requested so far. The other alternative would be to put our recommendations before the House Committee either in a voluntary report or by having Interior (which has been asked to report) present the amendments.

We recommend continuing to push for the amendments in the House. Do you agree?

(Signed) Wilf Rommel

Wilfred H. Rommel
Assistant Director for
Legislative Reference