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STATEMENT OF HARRY R. ANDERSON, ASSISTANT SECRETARY OF THE DEPARTMENT OF THE INTERIOR FOR PUBLIC LAND MANAGEMENT, AT HEARING BEFORE THE SUB-COMMITTEE ON TERRITORIAL AND INSULAR AFFAIRS OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, UNITED STATES HOUSE OF REPRESENTATIVES, SCHEDULED FOR TUESDAY, FEBRUARY 20, 1968, IN CONNECTION WITH H.R. 7329, A BILL "TO PROVIDE FOR THE POPULAR ELECTION OF THE GOVERNOR OF GUAM, AND FOR OTHER PURPOSES," AND SIMILAR BILLS

For Release on Delivery

Mr. Chairman and Members of the Committee:

We appreciate this opportunity to appear in support of the proposals providing for the popular election of the Governor of Guam.

The views of the Department of the Interior, and our justification for proposing that the territory of Guam be governed by a popularly elected Governor are set out in considerable detail in our report on the introduced bills. Our detailed views with respect to many parts of the proposal now under consideration were also made known to the Committee in the context of our testimony on the Virgin Islands Elective Governor Bill during the hearings in July 1967.

The Department supports in principle the bills now under consideration. We recommend, however, that H.R. 7329 be enacted with several amendments. Today I would like once more to reaffirm our belief in the merits of this legislation and in so doing urge favorable consideration of a Guam Elective Governor Bill.

We believe that the enactment of legislation providing for the popular election of the Governor of Guam is morally and politically desirable. We believe that the people of Guam have demonstrated their political maturity and have earned the right to select their own chief executive through the democratic process of free elections.

There have been some differences of opinion regarding certain provisions of the legislation. One of these is the date of the first election. We are reasonably certain that the election machinery of Guam could be adapted to provide for the election of the Governor and Lieutenant Governor in 1968, but we recognize also that if the election was postponed to November of 1970 there would be additional time in which to prepare for the holding of the first election. We wish to see the election held as soon as is reasonable, but we do not feel strongly about whether it is in 1968 or 1970.

In this same category is the question of the term. Section 1 of H.R. 7329 provides for a two-year term of office for the Governor and Lieutenant Governor. We recommend that the bill be amended to provide for a four-year term of office. Aside from the fact that the four-year term is the present practice in Guam, we believe that the longer term is in keeping with current trends. It gives a Governor a reasonable time in which to formulate and implement his programs together with the opportunity to prove their effectiveness.

As to provision for removal of an elected Governor, both recall and impeachment have been suggested. Either or both forms is acceptable to us. If recall is retained, however, we would suggest that the bill be amended to lower the percent of the electorate required for a recall from the 75 per cent now in the bill to 66 2/3 per cent. We think that this figure, while sufficiently large to make the recall a formidable task, does not make it almost impossible. We further recommend that the provision requiring the President's concurrence of any removal should be deleted from the bill. In our opinion, a requirement for such concurrence is wholly inconsistent with the theory and principle of recall.

Our report details our position and suggested amendments with respect to a Government Comptroller for Guam. If provision is made for a Government Comptroller, we believe that such Comptroller should clearly and unmistakably be subject to the meaningful control and supervision of the Executive Department of the government and reports made to the Congress. Since we believe that Congress will continue to look to the Department of the Interior as the responsible agency insofar as civilian Federal interests and responsibilities in Guam are concerned, we believe that the control and supervision of the Comptroller must, of necessity, be vested in the Secretary of the Interior. We believe too that the provisions made for a Federal Comptroller for the Virgin Islands and one for Guam should be as nearly identical as possible taking into account any specific differences that might require a difference in duties or responsibilities. Only one real difference exists. The Virgin Islands Organic Act requires a certification of local revenue by the Comptroller in connection with the return to the Virgin Islands of certain revenues. That provision, although not required for Guam, does not warrant different treatment of the Comptroller. To the extent that the requirements are similar, it will facilitate the administration and supervision of the activity in each of the areas.

I would now like to offer to the Committee two further amendments not contained in our report. Each of the amendments are in our judgment minor in nature.

First, we wish to propose that the last sentence of section 19 of the Guam Organic Act (48 U.S.C. 1423i) be deleted. That sentence reads, "If

any such law is not annulled by the Congress of the United States within one year of the date of its receipt by that body, it shall be deemed to have been approved." This sentence of section 19 states the authority of the Congress of the United States to annul acts of the local Legislature, an authority that is unquestioned. In practice the sentence has been construed as creating a period of one-year's duration during which local Acts are more or less in limbo. As a practical matter, this has had no significance insofar as the great bulk of the Acts are concerned. It has, however, consistently caused bond counsel to assert that no bonds of the Government of Guam could be marketed until the passage of a year during which the Congress might annul the authorization of the Guam legislature. No comparable language exists in the Revised Organic Act for the Virgin Islands although that Act also specifically recognizes the authority of the Congress to annul Acts of the local legislature. We therefore recommend the following amendment to H.R. 7329:

Amend existing section 6 by designating the existing subsection as "(a)" and by adding at the end thereof a new subsection (b) as follows: "(b) Section 19 of the Organic Act of Guam (48 U.S.C. 1423i) is further amended by deleting the last sentence thereof."

In addition, we also recommend repeal of section 25(b) of the Organic Act of Guam (48 U.S.C. 1421c(b)). The first sentence of that paragraph provides "Except as otherwise provided in this Act, no law of the United States hereinafter enacted shall have any force or effect in Guam unless specifically made applicable by Act of the Congress either

by reference to Guam by name or by reference to 'possessions'." The quoted sentence is an unusual provision and is today inconsistent with many of the standard references existing in Federal laws to the territories. The term possession is used infrequently in new legislation. For example, if a Federal statute is enacted and made applicable to the United States, and that term is defined for the purposes of the statute as the several States and the territories of the United States, such statute technically would not be applicable to Guam in view of the existing provision we have identified. We cannot cite an example of a holding that a statute intended to be applicable to Guam has been held inapplicable because it did not meet the test specified, but, at the same time, we see no value in perpetuating this sentence when it might so easily be deleted.

The balance of the section authorized a study commission whose function has been completed.

We therefore suggest that H.R. 7329 be amended by inserting a new section immediately following existing section 6 to be numbered 7 and the remaining sections to be renumbered as appropriate:

"Sec. 7. Section 25(b) of the Organic Act of Guam (48 U.S.C. 1421c(b)) is repealed."

There are with me today the Governor of Guam and others having considerable knowledge of the territory and of the details that are involved in these bills who will answer any questions you may have.

Thank you.