

MR. FISKE

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December 10, 1954

MEMORANDUM

TO: Ambassador Collins
FROM: Turner C. Cameron, Jr.
SUBJECT: Report of Franco-American Working Group on Establishment
of a National Assembly in Vietnam

There are attached the following papers:

- 1) a joint report of the working group,
- 2) a draft ordinance establishing a Provisional National Assembly, and
- 3) principal provisions of a proposed electoral decree.

Monsieur de Bresson is submitting the French texts of these papers to General Ely. Our suggestions are in line with the directives upon which you and General Ely agreed in your meeting on December 1.

You will notice that the size of the proposed assembly is larger than you originally had in mind. However, if our proposal to leave 25 seats allotted to North Vietnam vacant is accepted, the effective total membership would be 174. Our reasons for proposing an assembly of this size are as follows:

- 1) The Viet Minh National Assembly had approximately 400 members.
- 2) The National Congress of 1953 had 200 members.
- 3) Since in our proposal the powers of the assembly are strictly limited and carefully defined, we felt an assembly composed of approximately 200 members would give more of an appearance of democracy.

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4) This size seems normal for a country with the population of Vietnam and would provide greater possibility for new leadership to emerge.

5) For technical reasons, it proved desirable to propose that one deputy should be elected for 5 provincial councilors. These councils are, in general, made up of 10 or 15 members.

We have examined the revised draft proposal for a National Assembly prepared by the Government. This draft is better presented than the former, but it has all the same weaknesses and some additional ones. For example, Article 8 appears to provide that the Sects, religious and professional groups and elected Municipal and Provincial Councilors must be consulted on each deputy. In addition, the revised draft exposes in the most naive manner the Government's distrust of the democratic process.

If you and General Ely approve the suggestions contained in the attached papers, the next step might be for you to outline to Diem the broad lines of our thinking and suggest that he designate a Vietnamese expert to meet with Monsieur de Bresson and me to discuss the details.

3 Enclosures

As listed above

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FRANCO-AMERICAN WORKING GROUP

Subject: Proposal for a Provisional National Assembly.

In accordance with instructions given December 1, 1954, by General of the Army Paul Ely and Ambassador Lawton Collins, the Franco-American Working Group has drafted:

- 1) a proposal for an ordinance establishing a National Assembly for Vietnam,
- 2) a note listing the essential points of the decree fixing the provisions for the election of this Assembly.

The Working Group, in accordance with instructions received, has:

- provided for a system having a certain elective character,
- defined in precise terms the powers of the Assembly, in particular limiting its right of interpellation and withdrawing its constitutional power,
- inserted a provision relative to the organization of the first session of the Assembly,
- provided for a sizable representation for North Vietnam,
- followed, in so far as possible, the form of the proposal already drafted by the Vietnamese government.

In response to two questions put to it, the Working Group notes that:

- 1) it would seem impossible that creation of the National Assembly could be effected other than by an ordinance of the Chief of State,

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Although in the absence of a constitution this procedure is not required by any legal ruling, any other formula would present serious political problems. Because:

- the two other Assemblies which have met in Vietnam since 1950 (the Provisional National Council and the National Congress of 1953) did so by ordinance of the Chief of State,
- an ordinance of His Majesty could annul a decree issued on this subject by President Ngo Dinh Diem.

2) the final form of the texts relating to the National Assembly should be prepared by a limited Franco-American-Vietnamese Committee.

Finally, the Working Group feels that it should call attention to the fact that:

- the presentation of the Vietnamese government proposal is faulty and must be further improved,
- with respect to the proposal for an electoral decree it would not seem desirable to put it in the required format because many of its provisions can not be definitely determined without consultation with Vietnamese government experts.

Saigon, December 9, 1954

J. J. de Bresson
Legal Counselor
French Commissariat General

Turner C. Cameron, Jr.
First Secretary
American Embassy

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Translation

- ORDINANCE OF THE CHIEF OF STATE -

I- The Provisional National Assembly is composed of 199 elected members.

The members of the Provisional National Assembly are elected by:

- members of the Provincial Councils of the free territory,
- members of the Provincial Councils who have withdrawn from the occupied territory,
- members of Municipal Councils of the free territory,
- members of the Municipal Council who have withdrawn from Hanoi,
- members of the Municipal Council of Dalat and notables of the mountain provinces of Vietnam (P. M. S.),
- refugees,
- the Sects who have participated in the armed struggle,
- the syndicates.

A subsequent decree of the President of the Government will fix the division of the seats among each of the categories mentioned above as well as the date and the provisions governing the elections.

II- The list of members elected to the Provisional National Assembly is published in a decree of the President of the

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Government which fixes also the date and the provisional organization of the first session of the Assembly.

The mandate of a member of the Provisional National Assembly ends with the dissolution of the Assembly.

Members of the Provisional National Assembly will receive an emolument which will be fixed by decree.

Membership in the Provisional National Assembly is incompatible with the exercise of a public function.

Any employee of the administration and any member of the military, whatever may be his position, is considered as having been placed on leave without pay the day he accepts his mandate.

Any member of the Provisional National Assembly who accepts during the course of his mandate any public function from the administration is considered as having surrendered his mandate.

This provision does not apply with respect to:

- a member of the Government,
- a University professor,
- an individual charged with a temporary or special mission by the Government.

In case a member of the Provisional National Assembly is asked to participate in the Government, he must obtain the permission of the Assembly before accepting.

No member of the Assembly may be prosecuted, searched, or arrested because of opinions or votes cast by him in the exercise of his functions.

No member of the Assembly during the term of his mandate may be prosecuted or arrested for a crime or minor violation, except with the authorization of the Assembly, unless caught in the act. The detention or prosecution of a member of the Assembly is suspended if the Assembly requests it.

III- The Provisional National Assembly functions in accordance with a set of rules which it will determine itself.

The Provisional National Assembly elects at its first session its Secretariat by secret ballot and by a majority of the votes cast.

The Secretariat consists of a President, two Vice-Presidents, and six Secretaries.

The Assembly should, at its first session, establish its committees.

The Provisional National Assembly meets in regular session once each month on call of its President. The duration of each regular session may not be less than ten days.

The Assembly is called into special session either on the request of the Chief of State or the Prime Minister or at the request of half of its members.

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The Assembly may deliberate validly only if at least half of its members is present.

If the above mentioned quorum cannot be brought together, another meeting will take place within 24 hours and this time deliberations of the Assembly are considered as valid no matter how many members are present.

Votes of the Provisional National Assembly are taken by secret ballot and on the basis of a majority of the members present.

Meetings of the National Assembly are public. They are held in secret only upon the request of its President or on the request of the Prime Minister.

Reports of debates are published in the Official Journal of Vietnam.

The Prime Minister and Ministers have access to the Assembly. They have a right to be heard when they request it.

The Provisional National Assembly must examine all questions which are referred to it within a period of five days, except those questions which require a longer delay for study.

Urgency is declared by a decision of the Prime Minister.

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IV- The National Assembly deliberates with a view to reaching a decision:

- on the proposed national budget prepared by the Government,
- on the accounts concerning the execution of the budget,
- on the method of establishment, the rates and the regulations concerning the collection of direct and other taxes collected for the benefit of the State,
- on the acquisition, transfer, exchange, modification of use and purpose of public real property.

The Provisional National Assembly gives its advice on all questions referred to it by the President of the Government. During the course of debates concerning these questions, the members have the right of interpellation.

The Assembly must be consulted:

- on the composition, election, and procedure of the future National Constitutional Assembly,
- on the plans concerning programs of economic, technical, administrative, and social interest, the financing of which is provided both from the resources of Vietnam as well as from foreign aid.

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In case of disagreement between the Government and the Assembly, the Government may request the examination of the matter at a second reading at the next meeting.

If the disagreement continues, the dispute will be submitted to arbitration by the Chief of State.

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ELECTORAL DECREE

The electoral decree, intended for publication at the same time as the Ordinance establishing the Provisional National Assembly, should include the following provisions:

I- Allocation of Seats:

1. Election of 92 deputies (1 deputy to five Provincial Councillors or fraction of 5 greater than two, except for two Provinces of little importance) by:
 - the Provincial Councillors elected in 1953;
 - the Provincial Councillors elected, for the three liberated provinces of Central Vietnam, by the appointed Communal Councillors.
2. Election of 16 deputies by the Municipal Councils elected in 1953, on the following basis:
 - 14 seats for Saigon-Cholon (2 per ward)
 - 2 seats for Tourane
(As for Hue, it is no longer a regional capital and is represented in the Provincial Council.)
3. Election of 21 deputies by the Sects, on the following basis:
 - 8 seats for the Cao Dai,
 - 8 seats for the Hoa Hao,
 - 5 seats for the Binh Xuyen.

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4. Election of 5 deputies on the following basis:
 - 3 for the Vietnamese Confederation of Christian Workers,
 - 2 for the Confederation of Workers of Vietnam.
5. Election of 30 deputies representing North Vietnam, on the following basis:
 - 3 by the Municipal Council which withdrew from Hanoi,
 - 22 by the Provincial Councillors who withdrew from North Vietnam,
 - 5 by the refugees.

NOTE:

1. 25 seats would be left vacant in order better to symbolize the representation of North Vietnam.
2. As for representatives of the refugees, the camps should be organized into electoral districts under the aegis of the Commissariat General for Refugees.
6. Election of 10 deputies by the elected Municipal Council of Dalat and by the appointed notables of the 4 mountain Provinces of South Vietnam (P. M. S.).

II- Method of Balloting:

Dual balloting will take place within a brief interval

for individual candidates to avoid on the one hand, too wide a distribution of votes, and on the other hand, election deals.

III- Candidates:

Candidates must:

- be of Vietnamese nationality,
- not have incurred any sentence for crimes or for any of the misdemeanors listed hereafter: (theft, fraud, breach of trust, misappropriation of public funds, corruption, graft, indecent behavior),
- never have been a member of any anti-nationalistic party or organization, nor worked on their behalf,
- have resided, with the exception of candidates from the military forces, for at least six months within the province or city where they will present themselves as candidates.

COMMENT:

Special electoral conditions must be established in consultation with the interested groups for:

- the Sects,
- the Syndicates,
- the Refugees.