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DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
WASHINGTON, D. C. 20301

6 August 1969

MEMORANDUM FOR CHIEF, INTERNATIONAL AFFAIRS DIVISION
OJAG, DEPARTMENT OF THE ARMY

1-159227

DEPUTY ASSISTANT JUDGE ADVOCATE GENERAL
INTERNATIONAL LAW, OJAG, DEPARTMENT
OF THE NAVY

1-159228

CHIEF, INTERNATIONAL LAW DIVISION
OJAG, DEPARTMENT OF THE AIR FORCE

1-159227

SUBJECT: Proposed Organic Act for Micronesia

An Interagency Committee is presently considering an Organic Act proposed for Micronesia. These considerations are at a staff level and will continue to a policy level. May we have your comments as soon as reasonably possible as to the provisions in this Act which should be relevant to the interests of the Department of Defense.

Since the Act is both lengthy and complex, the comments can either be made on the copies of the Act which are attached to this memorandum, otherwise kindly telephone me and we can discuss them between one another. Since the Act involves both legal and policy considerations and since both are under current review, your comments may be addressed to both. In reviewing the Act, it is appropriate to bear in mind that it will be submitted to the Aspinall Committee, United States Congress, Committee on Interior and Insular Affairs.

Moreover, the Act which is presently being prepared will in large measure be the Act which the United States will attempt to fall back on in its negotiations with representatives of the Micronesians, and at the present time it is our understanding that the proposed Act currently being revised will not be submitted to them at the outset of negotiations.

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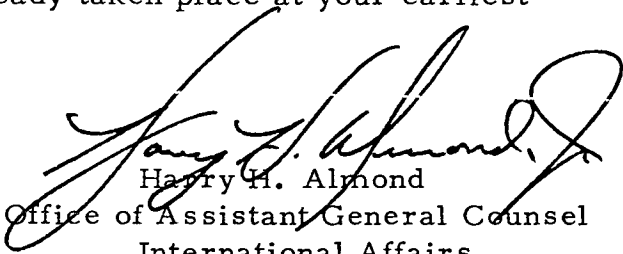
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Where particular issues are raised requiring research and depth, would you kindly let us know, since some of these issues will be distributed for research among the four agencies presently engaged in drafting a revised version of this Act (the Departments of Defense, State, Justice and Interior).

In addition to this Act, I am enclosing a copy of the Trusteeship Agreement between United States and the Security Council of the United Nations and call attention to the fact that the proposals presently contemplate that the United States will present the Security Council with a plebiscite and with the position of the United States that the Micronesians have "moved towards self-government." Your comments might consider whether this proposal is in any way defective both in view of the Trusteeship Agreement as well as by virtue of Articles 75 through 85 inclusive of the United Nations Charter. (See particularly Article 83.)

It is self-evident that the Department of Defense interests in this matter are to retain all aspects which enable the United States to exercise its powers to maintain the territory - whether as an unincorporated territory of the United States or otherwise - as a strategic territory with precedence to be given to the United States interests in acquiring land and excluding all other countries from acquiring land, and in using those lands for strategic and defense purposes. Since discussions have already been under way, I would be pleased to discuss the developments that have already taken place at your earliest convenience.


 Harry H. Almond
 Office of Assistant General Counsel
 International Affairs

Att:
 a/s

cc: Commander Kuhn, ISA 1-159230
 Captain Miller, JCS 1-159231
 Mr. Niederlehner Master Chron
 Circulating Subj: ILP-Trust Territory

A B I L L

To provide an organic act for the Territory of Micronesia and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an organic act is enacted for the territory of Micronesia as follows:

ORGANIC ACT OF MICRONESIA

SEC. 101. (a) The Trust Territory of the Pacific Islands, consisting of the islands formerly administered by the United States of America pursuant to a Trusteeship Agreement with the Security Council of the United Nations, shall hereinafter be ^{associated with} a part of the United States and is declared to be ^{a self governing,} an unincorporated territory of the United States, and to be known ~~as the "territory of~~ "Micronesia".

(b) The Government of Micronesia shall have the powers set forth in this Act, shall have power to sue by such name, and with the consent of the Congress of Micronesia, may be sued upon any contract entered into with respect to, or any tort committed incident to, the exercise by the Government of Micronesia of any of its lawful powers.

(c) The Government of Micronesia shall consist of three branches, executive, legislative, and judicial, and its relations with the Federal Government shall be ^{conducted through such agency as the President of the US shall determine.} ~~under the general administrative supervision of the Secretary of the Interior.~~

Citizenship

SEC. 102. (a) The following persons, and their children born after July 18, 1947, are hereby declared to be citizens of the United States as of (date of organic Act of territory of Micronesia), if they were residing on (organic Act date), on the islands of Trust Territory of the Pacific Islands or other territory over which the United States exercises rights of sovereignty:

(1) All inhabitants of the islands of the Trust Territory of the Pacific Islands on July 18, 1947, including those temporarily absent from the islands of the Trust Territory of the Pacific Islands on that date, who were citizens of the Trust Territory of the Pacific Islands, who after that date continued to reside in the islands of the Trust Territory of the Pacific Islands or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire foreign nationality; and

(2) All persons born in the islands of the Trust Territory of the Pacific Islands who resided in the islands of the Trust Territory of the Pacific Islands on July 18, 1947, including those temporarily absent from the islands of the Trust Territory of the Pacific Islands on that date, who after that date continued to reside in the islands of the Trust Territory of the Pacific Islands or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire foreign nationality.

(b) All persons born ^{or naturalized} in the islands of the Trust Territory of the Pacific Islands on or after July 18, 1947, (whether before or after (Organic Act date)) ^{who are} subject to the jurisdiction of the United States, are declared to be citizens of the United States except [that] in the case of any person born after (Organic Act date), who has taken affirmative steps to preserve or acquire foreign nationality.

(c) Any person hereinbefore described who is a citizen or national of a country other than the United States and desires to retain his present political status shall have made ^{a declaration under oath of such desire} prior to (two years after Organic Act date), [a declaration under oath of such desire,] said declaration to be in form and executed in the manner prescribed by regulations. From and after the making of such a declaration any such person shall be held not to be a national of the United States by virtue of this section.

Bill of Rights

SEC. 103. (a) No law shall be enacted in Micronesia respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of their grievances.

(b) No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

(c) The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall

not be violated; and no warrant for arrest or search shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

(d) No person shall be subject for the same offense to be twice put in jeopardy of punishment; nor shall he be compelled in any criminal case to be a witness against himself.

(e) No person shall be deprived of life, liberty, or property without due process of law.

(f) Private property shall not be taken for public use without just compensation.

(g) In all criminal prosecutions the accused shall have the right to a speedy and public trial; to be informed of the nature and cause of the accusation and to have a copy thereof; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

(h) Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

(i) Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist in Micronesia. ^{nor}

(j) No bill of attainder, ex post facto law, or law impairing the obligation of contracts shall be enacted.

(k) No person shall be imprisoned for debt.

(l) The privilege of the writ of habeas corpus shall not be suspended, unless, when in cases of rebellion or invasion or imminent danger thereof, the public safety shall require it.

(m) No qualification with respect to property, income, political opinion, or any other matter apart from citizenship, civil capacity, and residence shall be imposed upon any voter.

(n) No discrimination shall be made in Micronesia against any person on account of race, ^{Sex,} ~~language,~~ or religion, nor shall the equal protection of the laws be denied.

(o) No person shall be convicted of treason against the United States unless on the testimony of two witnesses to the same overt act, or on confession in open court.

(p) ~~The employment of children under the age of sixteen years in any occupation injurious to health or morals or hazardous to life or limb is hereby prohibited.~~

(q) ~~There shall be compulsory education for all children, between the ages of six and sixteen years.~~ *As soon as practicable after the effective date of this act, there shall be provided*

(r) No religious test shall ever be required as a qualification to any office or public trust under the government of Micronesia.

(s) No person who advocates, or who aids or belongs to any party, organization, or association which advocates, the overthrow by force or violence of the government of Micronesia or of the United States shall be qualified to hold any public office of trust or profit under the government of Micronesia.

(t) The following provisions of and amendments to the Constitution of the United States are hereby extended to Micronesia, and shall have the same force and effect there as in the United States or in any State of the United States: Article I, section 9, clauses 2 and 3; Article IV, section 1 and section 2, clause 1; the First to Ninth Amendments inclusive; the Thirteenth Amendment; the second sentence of section 1 of the Fourteenth Amendment; and the Fifteenth and Nineteenth Amendments. All laws enacted by the Congress of the United States that are applicable to the Trust Territory of Pacific Islands and the Congress of Micronesia which are inconsistent with the provisions of this subsection are repealed to the extent of such inconsistency.

The Executive

SEC. 104. (a) The executive authority of the government of Micronesia shall be vested in an executive officer, whose title shall be "Governor of Micronesia", and shall be exercised under the supervision of the Secretary of the Interior. The Governor shall be appointed by the President, by and with the advice and consent of the Senate of the United States, and shall hold office at the pleasure of the President and until his successor is appointed and qualified. He shall be a citizen of the United States, shall be not less than thirty-five years of age, and shall have been a resident of Micronesia for at least three years prior to the date of his appointment.

(b) The Governor shall have general supervision and control of all executive agencies and instrumentalities of the government of Micronesia. He shall faithfully execute the laws of the United States

applicable to Micronesia, and the laws of Micronesia. He may grant pardons and reprieves and remit fines and forfeitures for offenses against the local laws, and may grant respites for all offenses against the applicable laws of the United States until the decision of the President can be ascertained. He may veto any legislation as provided in this Act. He shall commission all officers that he may be authorized to appoint. He may call upon the commanders of the armed forces of the United States in Micronesia, or summon the posse comitatus, or call out the militia, to prevent or suppress violence, insurrection, or rebellion; and he may, in case of rebellion, invasion, or imminent danger thereof, when the public safety requires it, suspend the privilege of the writ of habeas corpus, or place Micronesia, or any part thereof, under martial law, until communication can be had with the President and the President's decision thereon communicated to the Governor. He shall annually, and at such other times as the President or the Congress may require, make official report of the transactions of the government of Micronesia to the Secretary of the Interior, and his said annual report shall be transmitted by such Secretary to the Congress. He shall perform such additional duties and functions as may, in pursuance of law, be delegated to him by the President, or by the Secretary of the Interior. He shall have the power to issue executive regulations not in conflict with any applicable law. The Governor may submit such recommendations for the enactment of legislation to the legislature as he shall consider to be in the people's interest.

SEC. 105. The President shall appoint a Lieutenant Governor of Micronesia who shall possess the qualifications required for appointment as Governor and who shall have all the powers of the Governor in the case of a vacancy in the office of Governor or the disability or temporary absence of the Governor. He shall have custody of the seal of Micronesia and shall countersign and affix such seal to all executive proclamations and all other executive documents. He shall record and preserve the laws enacted by the legislature. He shall promulgate all proclamations and orders of the Governor and all laws enacted by the legislature. He shall have all such executive powers and perform such other duties as may be prescribed by this Act or assigned to him by the Governor. He shall hold office at the pleasure of the President and until his successor is appointed and has qualified.

SEC. 106. The Secretary of the Interior may from time to time designate the head of an executive department of the government of Micronesia or other person to act as Governor in case of a vacancy in the office, or the disability or temporary absence of both the Governor and the Lieutenant Governor, and the person so designated shall have all the powers of the Governor for so long as such condition continues. The Governor or Acting Governor may from time to time designate an officer or employee of the executive branch of the government of Micronesia to act as Lieutenant Governor of Micronesia in case of a vacancy in the office of Lieutenant Governor of Micronesia or the disability or temporary absence of the Lieutenant Governor of

Micronesia or while the Lieutenant Governor is acting as Governor, and the person so designated shall have all the powers of the Lieutenant Governor so long as such condition continues, except for the power set forth in the first sentence of section 105 of this Act. No additional compensation shall be paid to any person acting as Governor or as Lieutenant Governor under this Act.

The Legislature

SEC. 107. The Legislature of Micronesia shall be known as the "Congress of Micronesia" (hereinafter referred to in this Title as the "Congress"), and shall consist of two Houses, the Senate and the House of Representatives. The two houses shall sit separately except as otherwise provided herein.

When the Congress shall convene, each House shall organize by the election of one of its number as presiding officer and such presiding officer shall be designated by the title of "President of the Senate" or "Speaker of the House of Representatives", as the case may be. When the Congress meets in joint session, the Speaker of the House of Representatives shall preside.

SEC. 108. (a) The legislative power of the Congress of Micronesia shall extend to all rightful subjects of legislation, except that no legislation may be inconsistent with

- (i) treaties or international agreements of the United States;
- (ii) this Act or other laws of the United States applicable to Micronesia; or
- (iii) Executive Orders of the President of the United States and Orders of the Secretary of the Interior.

(b) No law shall be passed by the Congress imposing any tax upon property of the Government of the United States or property of the government of Micronesia; nor shall the property of nonresidents be taxed at a higher rate than the property of residents. No import or export

levies shall be imposed on goods imported into Micronesia from the United States or any of its territories or transported between or among the Districts of Micronesia, or any political subdivision thereof. The levy of duties on goods imported into Micronesia is hereby reserved to the government of Micronesia.

(c) Bonds and other obligations may be issued by the Government of Micronesia: Provided, That no public indebtedness of Micronesia shall be authorized or allowed in excess of 10 per centum of the aggregate tax valuation of the property in Micronesia. Bonds or other obligations of the Government of Micronesia payable solely from revenues derived from any public improvement or undertaking shall not be considered public indebtedness of Micronesia within the meaning of this section. All bonds issued by the Government of Micronesia or by its authority shall be exempt, as to principal and interest, from taxation by the Government of the United States or by the Government of any State, Territory, or possession, or any political subdivision thereof, or by the District of Columbia.

(d) At the opening of a legislative session and at any time thereafter the Governor may submit legislation to the Congress and recommend its enactment.

SEC. 109. (a) Appropriations, except as otherwise provided in this Act, and except such appropriations as shall be made from time to time by the Congress of the United States, shall be made by laws enacted by the Congress of Micronesia.

(b) Prior to his final submission to the Secretary of the Interior of requests for Federal funds necessary for the support of governmental functions in Micronesia, the Governor shall prepare a preliminary budget plan. He shall submit such plan to the Congress of Micronesia in joint session for its review and recommendations with respect to such portions as relate to expenditures of funds proposed to be appropriated by the Congress of the United States. With respect to such portions of the preliminary budget plan, the Governor shall adopt such recommendations of the Congress as he may deem appropriate, but he shall transmit to the Secretary of the Interior all recommendations he has not adopted.

(c) If at the termination of any fiscal year the Congress of Micronesia shall have failed to pass appropriation bills providing for payments of the necessary current expenses of the government and meeting its legal obligations for the ensuing fiscal year, then the several sums appropriated in the last appropriation bills for the objects and purposes therein specified, so far as the same may be applicable, shall be deemed to be reappropriated, item by item.

(d) All appropriations made to or by the government of the Trust Territory of the Pacific Islands prior to the date of enactment of this Act shall be available to the government of Micronesia.

SEC. 110. For the purpose of representation in the Congress, Micronesia is divided into six Districts, as provided by the laws of Micronesia.

The Senate shall consist of twelve members, who shall be known as "Senators", of which each District shall elect two.

The House of Representatives shall consist of twenty-one members, who shall be known as "Representatives", and who shall be elected from each District as follows:

In the Marinana Islands District, three;

In the Marshall Islands District, four;

In the Palau District, three;

In the Ponape District, four;

In the Truk District, five;

In the Yap District, two.

Each of the six Administrative Districts shall be subdivided into single member election districts of approximately equal population, as the Congress of Micronesia may from time to time by law provide, and each such election district shall elect one of the Representatives to which the Administrative District is entitled.

Election districts shall be reapportioned every 10 years on the basis of population.

SEC. 111. In order to be eligible to election as a member of the Congress a person shall:

(a) be a citizen of the United States who shall have resided in Micronesia for at least five years;

(b) have attained the age of twenty-five years at the time of his election; and

(c) have been a bona fide resident of the District from which he is elected for at least one year next preceding his election.

No person who has been expelled from the Congress for giving or receiving a bribe or for being an accessory thereto, and no person who has been convicted of a felony by any court of the Trust Territory or Micronesia or any court with the jurisdiction of a district court of the United States, shall sit in the Congress unless the person so convicted has been pardoned and has had restored to him his civil rights.

SEC. 112. The franchise shall be vested in those persons who have resided in Micronesia for at least one year, who are citizens of the United States and are eighteen years of age or over. Additional qualifications, not inconsistent with section 103 (m) of this Act, may be prescribed by the Congress.

SEC. 113. General elections shall be held biennially in each even numbered year on the first Tuesday following the first Monday in November. All elections shall be held in accordance with such procedures as this Act and the laws of Micronesia may prescribe. Legislators shall be chosen by secret ballot of the qualified electors of their respective districts.

SEC. 114. Each Senator shall hold office for a term of four years. Each Representative shall hold office for a term of two years.

The terms of all members of the Congress shall commence at noon on the third day of January following their election, except as otherwise provided by law.

SEC. 115. Any person employed by any branch of the Government of Micronesia, or any political subdivision thereof, shall be accorded leave without pay, for a period not to exceed 30 days prior to and including the day of the election, for the purpose of seeking election to the Congress. If any person is elected, he shall resign from his employment with the Government of Micronesia or any political subdivision thereof, prior to the date upon which his term of office commences.

No person serving as a member of legislative body of any political subdivision of the Government of Micronesia shall be eligible, while so serving, to serve as a member of the Congress of Micronesia.

No member of the Congress shall receive any compensation, other than that provided for in this Act, from the Government of Micronesia or any political subdivision thereof.

SEC. 116. There shall be a regular session of the Congress held in each year at such time and for such duration as may be prescribed by the laws of Micronesia, except that until such provision is made, the Congress shall convene on the second Monday in July and continue for not to exceed 45 consecutive calendar days.

The Governor may call special sessions for such period of time and at such time and place, as in his opinion the public interest

may require. No legislation shall be considered at any special session other than that specified in the call therefor or in any special message by the Governor to the Congress while in such session.

SEC. 117. The enacting clause of all bills shall be: "Be it enacted by the Congress of Micronesia," and no law shall be enacted except by bill. Bills may originate in either House, and may be amended or altered or rejected by the other.

SEC. 118. Every bill passed by the Congress shall, before it becomes a law, be entered upon the journal and presented to the Governor. If he approves it, he shall sign it, but if not he shall, except as hereinafter provided, return it, with his objections, to the Congress within ten days (Sundays excepted) after it shall have been presented to him. If he does not return it within such period, it shall be a law in like manner as if he had signed it, unless the Congress by adjournment prevents its return, in which case it shall be a law if signed by the Governor within thirty days after it shall have been presented to him; otherwise it shall not be a law.

When a bill is returned by the Governor to the Congress with his objections, the Congress shall enter his objections at large on its journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the Congress agree to pass it, it shall be sent to the Governor, and shall become law unless it affects the National defense or National interest of the United States, in which event he shall within ten days transmit it to the President of the United States. If the President of the United States approves it, he shall sign it. If he shall not approve it, he shall return it to the Governor so stating, and it shall not be a law. If he neither approves it nor disapproves it within ninety days from the date of transmittal to him by the Governor, it shall be a law in like manner as if he had signed it.

If any bill presented to the Governor contains several items of appropriation of money, he may object to one or more of such items, or any part or parts, portion or portions thereof, while approving the other items, parts, or portions of the bill. In such a case he shall append to the bill, at the time of signing it, a statement of the items, or parts or portions thereof, to which he objects, and the items, or parts or portions thereof, so objected to shall not take effect.

SEC. 119. All laws enacted by the Congress shall be reported by the Governor to the Secretary of the Interior and by him to the Congress of the United States.

SEC. 120. Neither House may adjourn for more than two consecutive days nor may either House adjourn sine die without the concurrence of the other House.

SEC. 121. The Governor shall cause resolutions and laws to be published within thirty days after they become law and shall make provision for their distribution to public officials and sale to the public.

SEC. 122. (a) A majority of the members of each House shall constitute a quorum of such House for the transaction of business. A smaller number may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as each House may provide.

(b) A bill in order to become a law shall pass two readings in each House, on separate days, the final passage of which in each House shall be by a majority vote of all the members of such House, which vote shall be entered upon the journal.

(c) Every legislative act shall embrace but one subject and matters properly connected therewith, which subject shall be expressed in the title; but if any subject shall be embraced in an act which shall not be expressed in the title, such an act shall be void only as to so much thereof as shall not be embraced in the title.

(d) Every bill when passed by the House in which it originated, or in which amendments thereto shall have originated, shall immediately be certified by the presiding officer and sent to the other House for consideration.

(e) No law shall be amended or revised by reference to its title only; but in such case the act, as revised, or section or subsection as amended, shall be re-enacted and published at full length.

(f) All legislative proceedings shall be conducted in the English language: Provided, That knowledge of the English language shall not be a qualification for membership in the Congress. Nothing herein shall limit the right of a member to use his native language if he lacks fluency in English, and the Congress shall provide for interpretation into English in such cases.

(g) Each House shall keep a journal of its proceedings, and publish the same in English.

(h) The business of the Congress, and of the Committee of the Whole, shall be transacted openly and not in secret session.

(i) The Congress shall be the sole judge of the elections and qualifications of its members, shall have and exercise all the authority and attributes inherent in legislative assemblies, and shall have the power to institute and conduct investigations, issue subpoenas to witnesses and other parties concerned, and administer oaths.

SEC. 123. No member of the Congress of Micronesia shall be held to answer before any tribunal other than the Congress for any speech or debate in the Congress, and the members shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the sessions of the Congress and in going to and from the same.

SEC. 124. Each member of the Congress shall be entitled to receive an annual salary of \$3,500, and the President of the Senate and the Speaker of the House of Representatives shall each be entitled to receive an additional \$500, all of which amounts shall be payable from funds appropriated by the Congress of the United States. Each member shall also be entitled to receive, from funds available to and appropriated by the Congress of Micronesia, travel expenses, an expense allowance, and per diem at the standard rates prescribed by the laws of Micronesia for each day the member is in a travel status to and from sessions of the Congress, while in session, or while on other official legislative business. Per diem shall not be payable to members of the Congress for a regular or a special session when such session is held on the island of their residence. The term "official legislative business" shall mean only legislative business authorized by the Chairman of the pertinent Committee of the Congress of Micronesia and performed by one or more members of that Committee, as designated by the Chairman. Travel shall be performed by the most expeditious and direct means: Provided, That compensation, travel, expense allowances, and per diem shall not be allowed in excess of such amounts as may be budgeted therefor.

SEC. 125. No member of the Congress shall, during the term for which he was elected or during the year following the expiration of the term for which he was elected, be appointed to any office which was created by the Congress during such term.

SEC. 126. Whenever, prior to six months before the date of the next general election, a vacancy occurs in either house of the Congress of Micronesia, the Governor shall call a special election to fill such vacancy. In case of a vacancy occurring within six months of the next general election, no special election shall be held and the Governor may fill such vacancy by appointment.

SEC. 127. Every member of the Congress of Micronesia and all officers of the government of Micronesia shall take the following oath or affirmation: "I solemnly swear (or affirm) in the presence of Almighty God that I will well and faithfully support the Constitution of the United States, the laws of the United States applicable to Micronesia and the laws of Micronesia, and that I will conscientiously and impartially discharge my duties as a member of the Congress of Micronesia (or as an officer of the Government of Micronesia.)"

SEC. 128. The members of the Congress holding office on the effective date of this Title shall continue to serve until the first general election is held pursuant to section 113 of this Act, except that Senators who were elected at the last general election prior to the effective date of this Title shall continue to serve until the expiration of their four-year terms.

The Judiciary

SEC. 129. (a) There is created a court of record to be designated the "District Court of Micronesia", and the judicial authority of Micronesia shall be vested in the District Court of Micronesia and in such court or courts as may have been or may hereafter be established by the laws of Micronesia. The District Court of Micronesia shall have the jurisdiction of a district court of the United States in all causes arising under the Constitution, treaties, and laws of the United States, regardless of the sum or value of the matter in controversy, shall have original jurisdiction in all other causes in Micronesia, jurisdiction over which has not been transferred by the Congress of Micronesia to other court or courts established by it, and shall have such appellate jurisdiction as the Congress of Micronesia may determine. The jurisdiction of and the procedure in the courts of Micronesia other than the District Court of Micronesia shall be prescribed by the laws of Micronesia.

Appeals to the District Court of Micronesia shall be heard and determined by an appellate division of the court consisting of three

judges, of whom two shall constitute a quorum. The judge appointed for the court by the President shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges assigned to the court from time to time pursuant to section 243(a) of this Act. The concurrence of two judges shall be necessary to any decision by the District Court of Micronesia on the merits of an appeal but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

(b) The rules heretofore or hereafter promulgated and made effective by the Supreme Court of the United States pursuant to section 2072 of title 28, United States Code, in civil cases; section 2073 of title 28, United States Code, in admiralty cases; sections 3771 and 3772 of title 18, United States Code, in criminal cases; and section 53 of Title 11 in bankruptcy cases; shall apply to the District Court of Micronesia and to appeals therefrom; except that no provisions of any such rules which authorize or require trial by jury or the prosecution of offenses by indictment by a grand jury instead of by information shall be applicable to the District Court of Micronesia unless and until made so applicable by laws enacted by the Congress of Micronesia, and except further that the terms "attorney for the government" and

"United States Attorney", as used in the Federal Rules of Criminal Procedure, shall, when applicable to cases arising under the laws of Micronesia, mean the Attorney General of Micronesia or such other person or persons as may be authorized by the laws of Micronesia to act therein.

SEC. 130. (a) The United States Court of Appeals for the Ninth Circuit shall have jurisdiction of appeals from all final decisions of the District Court of Micronesia in all cases involving the Constitution, laws, or treaties of the United States or any authority exercised thereunder, from interlocutory orders, in all habeas corpus proceedings, and in all other civil cases where the value in controversy exceeds \$3,000 exclusive of interest and costs.

(b) Any party may appeal to the Supreme Court of the United States from an interlocutory or final judgment, or order of the District Court of Micronesia, holding an Act of Congress unconstitutional in any civil action, suit, or proceeding to which the United States or any of its agencies or any officer or employee thereof, as such officer or employee, is a party. A party who has received notice of appeal under this section shall take any subsequent appeal or cross appeal to the Supreme Court. All appeals or cross appeals taken to other courts prior to such notice shall be treated as taken directly to the Supreme Court.

SEC. 131. (a) The President shall, by and with the advice and consent of the Senate, appoint a judge for the District Court of Micronesia who shall hold office for the term of eight years and until

his successor is chosen and qualified unless sooner removed by the President for cause. The judge shall receive a salary payable by the United States which shall be at the rate prescribed for judges of the United States District Courts. The Chief Judge of the Ninth Judicial Circuit of the United States may assign a judge of a court of Micronesia, a judge of the Island Court of Guam, or a circuit or district judge of the Ninth Circuit, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit, to serve temporarily as a judge in the District Court of Micronesia whenever it is made to appear that such an assignment is necessary for the proper dispatch of the business of the court.

(b) The President shall appoint, by and with the advice and consent of the Senate, a United States attorney and United States marshal for Micronesia to whose offices the provisions of chapters 31 and 33 of title 28, United States Code respectively, shall apply.

(c) The provisions of chapters 21, 41, 43, 49, and 57 of title 28, United States Code, shall apply to the District Court of Micronesia.

SEC. 132. The High Court of the Trust Territory of the Pacific Islands is abolished on the effective date of this Act and all causes pending before said Court on the effective date of this Act are transferred to the District Court of Micronesia for disposition as such Court finds appropriate.

Fiscal Provisions

SEC. 133. Effective on the first day of July following the effective date of this Act, all customs duties and Federal income taxes derived from Micronesia, the proceeds of all taxes collected under the internal-revenue laws of the United States on articles produced in Micronesia and transported to the United States, its territories, or possessions, or consumed in Micronesia, and the proceeds of any other taxes which may be levied by the Congress on the inhabitants of Micronesia and all quarantine, passport, immigration, and naturalization fees collected in Micronesia shall be covered into the treasury of Micronesia and held in account for the government of Micronesia, and shall be expended for the benefit and government of Micronesia, as the Congress of Micronesia may by law prescribe.

SEC. 134. Effective on the first day of January following the effective date of this Title, the income-tax laws in force in the United States of America and those which may hereafter be enacted shall be held to be likewise in force in Micronesia, except that the proceeds of such taxes shall be paid into the treasury of Micronesia.

SEC. 135. As soon as possible following the termination of each fiscal year, the Governor of Micronesia shall certify to the Secretary of the Interior the net amount of revenue collected by the Government of Micronesia during the preceding fiscal year. There shall thereafter each year be transferred and paid over to the Government of the Trust Territory, from funds in the United States Treasury not otherwise appropriated, a sum equal to the net amount of revenue collected by the Government of Micronesia, as certified by the Governor. The moneys so transferred and paid over shall constitute a separate fund in the treasury of Micronesia and may be expended as the Congress of Micronesia, by law, may determine: Provided, That the approval of the Secretary of the Interior shall be obtained before such moneys may be obligated or expended. Until such time as funds available to the government of Micronesia pursuant to this section and Section 133 are sufficient to meet the obligations of the government of Micronesia, there is authorized to be appropriated such additional sums as may be needed to pay such obligations.

SEC. 136. Articles which are the growth, production, or manufacture of Micronesia coming into any State or possession of the United States from Micronesia shall be entered at the several ports of entry free of duty.

SEC. 137. (a) For purposes of the Tariff Schedules of the United States (19, U.S.C., sec. 1202), Micronesia shall be treated as an insular possession of the United States.

(b) Subsection (a) of this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the effective date of this Title.

SEC. 138. Schedule 8, Part 2, Subpart A, Items 813.30 and 813.31 of the Tariff Schedules of the United States (19 U.S.C., sec. 1202), are amended by inserting the word "Micronesia," immediately following the word "Guam".

Miscellaneous Provisions

SEC. 139. (a) The Governor of Micronesia shall receive an annual salary to be paid by the United States at a rate provided for Level V of the Executive Schedule in Section 5316, Title 5, in light of compensation paid appointive governors of Guam and the United States Code.

(b) The Lieutenant Governor of Micronesia shall receive an annual salary to be paid by the United States at a rate established in accordance with the standards provided in the Classification Act of 1949, as amended.

(c) The Governor and the Lt. Governor of Micronesia, and members of their immediate staffs, shall have the status of officers and employees of the United States. Effective two years from the effective date of this Act, no other employees of the Government of Micronesia shall have the status of Federal employees. Except as herein provided, the Federal status of each employee of the Department of the Interior in the Trust Territory and of each employee of the Government of the Trust Territory, shall cease either upon the termination of his transportation agreement in effect on the effective date of this Act, or two years after the effective date of this Act, whichever occurs first.

(d) All persons employed in Micronesia on the effective date of this Act may, except as otherwise provided in this Act or other law, continue their employment.

(e) The Governor of Micronesia may appoint or remove any officer or employee of the Government of Micronesia whose appointment is not otherwise provided for, in this Act or other law.

SEC. 140. The title to all property, real and personal, owned by the Government of the Trust Territory, and all interests in property, held by the Government of the Trust Territory, are hereby transferred to the Government of Micronesia, except that whatever right, title, or interest the Government of the Trust Territory has in particular tracts of tidelands, submerged lands, or filled lands

in or adjacent to the islands of Micronesia are hereby conveyed to the United States. The term "tidelands, submerged lands, or filled lands" shall have the meaning ascribed to it in section 1(a) of Public Law 88-183 (77 Stat. 338).

SEC. 141. The Public Land Laws of the United States shall not apply to land ceded to the United States, but the Congress of the United States shall enact special laws for their management and disposition, except that all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil or national defense purposes of the United States or may be assigned for the use of local governmental purposes, shall be used solely for the benefit of the citizens of Micronesia.

SEC. 142. Public Law 88-183, approved November 20, 1963, (77 Stat. 338), is amended,

(a) by inserting the words "the Governor of Micronesia," immediately after the words "Virgin Islands," in section 1(a);

(b) by inserting the word "Micronesia," immediately after the words "Virgin Islands," in sections 1(e), 2(a), and 3(c);

(c) by inserting the word "Micronesia," immediately after the words "American Samoa," in section 3(a);

(d) by inserting the word "Micronesia," immediately after the words "Virgin Islands," wherever they appear, in section 4(a);

and

(e) by inserting the words "or the government of Micronesia" immediately after the word "Guam" in section 4(b).

SEC. 143. The President of the United States shall appoint a commission of seven persons, at least three of whom shall be residents of Micronesia, to survey the field of Federal statutes and to make recommendations to the Congress of the United States within twelve months after the effective date of this Act as to which statutes of the United States not applicable to Micronesia on such date shall be made applicable to Micronesia, and as to which statutes of the United States applicable to Micronesia on such date shall be made inapplicable.

SEC. 144. The laws of the Trust Territory in force on the effective date of this Act, except as modified herein, are hereby continued in force, subject to modification or repeal by competent authority. Whenever the terms "High Commissioner", "Deputy High Commissioner", and "Trust Territory" or "Trust Territory of the Pacific Islands" occur in such laws, they are amended to read "Governor", "Lieutenant Governor", and "Micronesia".

SEC. 145. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 146. This Act may be cited as the Organic Act of Micronesia.

Agreement approved by the Security Council of the United Nations April 2, 1947, respecting trusteeship for the former Japanese mandated islands. Approved by the President of the United States of America July 18, 1947, pursuant to authority granted by a joint resolution of the Congress of the United States of America July 18, 1947; entered into force July 18, 1947.

July 18, 1947
[T. I. A. S. 1665]

Handwritten notes:
Trust Territory
file

TRUSTEESHIP AGREEMENT FOR THE FORMER
JAPANESE MANDATED ISLANDS
APPROVED AT THE ONE HUNDRED AND TWENTY-FOURTH
MEETING OF THE SECURITY COUNCIL

PREAMBLE

WHEREAS Article 75 of the Charter of the United Nations provides for the establishment of an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent agreements; and

59 Stat. 1049.

WHEREAS under Article 77 of the said Charter the trusteeship system may be applied to territories now held under mandate; and

59 Stat. 1049.

WHEREAS on 17 December 1920 the Council of the League of Nations confirmed a mandate for the former German islands north of the equator to Japan, to be administered in accordance with Article 22 of the Covenant of the League of Nations; [1] and

WHEREAS Japan, as a result of the Second World War, has ceased to exercise any authority in these islands;

Now, THEREFORE, the Security Council of the United Nations, having satisfied itself that the relevant articles of the Charter have been complied with, hereby resolves to approve the following terms of trusteeship for the Pacific Islands formerly under mandate to Japan.

ARTICLE 1

The Territory of the Pacific Islands, consisting of the islands formerly held by Japan under mandate in accordance with Article 22 of the Covenant of the League of Nations, is hereby designated as a strategic area and placed under the trusteeship system established in the Charter of the United Nations. The Territory of the Pacific Islands is hereinafter referred to as the trust territory.

Trust territory.

ARTICLE 2

The United States of America is designated as the administering authority of the trust territory.

¹ [Treaties, Conventions, International Acts, Protocols, and Agreements Between the United States of America and Other Powers, 1910-1923. Vol. III, p. 3342, compiled by C. F. Redmond, Washington, D. C.]

ARTICLE 3

Powers of administering authority.

The administering authority shall have full powers of administration, legislation, and jurisdiction over the territory subject to the provisions of this agreement, and may apply to the trust territory, subject to any modifications which the administering authority may consider desirable, such of the laws of the United States as it may deem appropriate to local conditions and requirements.

ARTICLE 4

59 Stat. 1050.

59 Stat. 1048.

The administering authority, in discharging the obligations of trusteeship in the trust territory, shall act in accordance with the Charter of the United Nations, and the provisions of this agreement, and shall, as specified in Article 83 (2) of the Charter, apply the objectives of the international trusteeship system, as set forth in Article 76 of the Charter, to the people of the trust territory.

ARTICLE 5

Maintenance of peace and security.
59 Stat. 1049, 1050.

In discharging its obligations under Article 76 (a) and Article 84 of the Charter, the administering authority shall ensure that the trust territory shall play its part, in accordance with the Charter of the United Nations, in the maintenance of international peace and security. To this end the administering authority shall be entitled:

1. to establish naval, military and air bases and to erect fortifications in the trust territory;
2. to station and employ armed forces in the territory; and
3. to make use of volunteer forces, facilities and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for the local defense and the maintenance of law and order within the trust territory.

ARTICLE 6

59 Stat. 1049.

Development of political institutions.

In discharging its obligations under Article 76 (b) of the Charter, the administering authority shall:

1. foster the development of such political institutions as are suited to the trust territory and shall promote the development of the inhabitants of the trust territory toward self-government or independence, as may be appropriate to the particular circumstances of the trust territory and its peoples and the freely expressed wishes of the peoples concerned; and to this end shall give to the inhabitants of the trust territory a progressively increasing share in the administrative services in the territory; shall develop their participation in government; shall give due recognition to the customs of the inhabitants in providing a system of law for the territory; and shall take other appropriate measures toward these ends;
2. promote the economic advancement and self-sufficiency of the inhabitants, and to this end shall regulate the use of natural

Economic advancement.

resources; encourage the development of fisheries, agriculture, and industries; protect the inhabitants against the loss of their lands and resources; and improve the means of transportation and communication;

3. promote the social advancement of the inhabitants, and to this end shall protect the rights and fundamental freedoms of all elements of the population without discrimination; protect the health of the inhabitants; control the traffic in arms and ammunition, opium and other dangerous drugs, and alcohol and other spirituous beverages; and institute such other regulations as may be necessary to protect the inhabitants against social abuses; and

Social advancement.

4. promote the educational advancement of the inhabitants, and to this end shall take steps toward the establishment of a general system of elementary education; facilitate the vocational and cultural advancement of the population; and shall encourage qualified students to pursue higher education, including training on the professional level.

Educational advancement.

ARTICLE 7

In discharging its obligations under Article 76 (c), of the Charter, the administering authority shall guarantee to the inhabitants of the trust territory freedom of conscience, and, subject only to the requirements of public order and security, freedom of speech, of the press, and of assembly; freedom of worship, and of religious teaching; and freedom of migration and movement.

Guarantee of designated freedoms.
59 Stat. 1049.

ARTICLE 8

1. In discharging its obligations under Article 76 (d) of the Charter, as defined by Article 83 (2) of the Charter, the administering authority, subject to the requirements of security, and the obligation to promote the advancement of the inhabitants, shall accord to nationals of each Member of the United Nations and to companies and associations organized in conformity with the laws of such Member, treatment in the trust territory no less favourable than that accorded therein to nationals, companies and associations of any other United Nation except the administering authority.

Treatment to be accorded designated nationals, etc.
59 Stat. 1049, 1050.

2. The administering authority shall ensure equal treatment to the Members of the United Nations and their nationals in the administration of justice.

3. Nothing in this Article shall be so construed as to accord traffic rights to aircraft flying into and out of the trust territory. Such rights shall be subject to agreement between the administering authority and the state whose nationality such aircraft possesses.

Traffic rights of aircraft.

4. The administering authority may negotiate and conclude commercial and other treaties and agreements with Members of the United Nations and other states, designed to attain for the inhabitants of the trust territory treatment by the Members of the United Nations and other states no less favourable than that granted by them

Negotiation of treaties, etc.

to the nationals of other states. The Security Council may recommend, or invite other organs of the United Nations to consider and recommend, what rights the inhabitants of the trust territory should acquire in consideration of the rights obtained by Members of the United Nations in the trust territory.

ARTICLE 9

Federation with other U. S. territories.

The administering authority shall be entitled to constitute the trust territory into a customs, fiscal, or administrative union or federation with other territories under United States jurisdiction and to establish common services between such territories and the trust territory where such measures are not inconsistent with the basic objectives of the International Trusteeship System and with the terms of this agreement.

ARTICLE 10

International cooperation.

The administering authority, acting under the provisions of Article 3 of this agreement, may accept membership in any regional advisory commission, regional authority, or technical organization, or other voluntary association of states, may co-operate with specialized international bodies, public or private, and may engage in other forms of international co-operation.

ARTICLE 11

Citizenship.

1. The administering authority shall take the necessary steps to provide the status of citizenship of the trust territory for the inhabitants of the trust territory.

Diplomatic protection.

2. The administering authority shall afford diplomatic and consular protection to inhabitants of the trust territory when outside the territorial limits of the trust territory or of the territory of the administering authority.

ARTICLE 12

Legislation.

The administering authority shall enact such legislation as may be necessary to place the provisions of this agreement in effect in the trust territory.

ARTICLE 13

59 Stat. 1050, 1051.

The provisions of Articles 87 and 88 of the Charter shall be applicable to the trust territory, provided that the administering authority may determine the extent of their applicability to any areas which may from time to time be specified by it as closed for security reasons.

ARTICLE 14

Application of international conventions.

The administering authority undertakes to apply in the trust territory the provisions of any international conventions and recommendations which may be appropriate to the particular circumstances of the trust territory and which would be conducive to the achievement of the basic objectives of Article 6 of this agreement.

ARTICLE 15

The terms of the present agreement shall not be altered, amended or terminated without the consent of the administering authority.

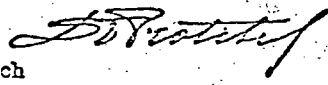
Non-alteration of terms.

ARTICLE 16

The present agreement shall come into force when approved by the Security Council of the United Nations and by the Government of the United States after due constitutional process. [1]

Entry into force.

Certified corrected true copy
For the Security Council Affairs Department


D. Protitch
Director in charge of Security Council Affairs Department

¹ [Approved by the Security Council of the United Nations, Apr. 2, 1947; and by the Government of the United States of America, July 18, 1947.]