

AGENDA

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Aug 12, 1969

General Discussion On the Proposed Organic Act
of Micronesia

A. Matters of General Concern.

1. What risks if any will there be in the United States going forward with State's proposal for a unilateral termination of the Trusteeship Agreement with the Security Council (State proposes that the United States presents the Security Council with the Micronesians under some form of self-government which in turn shall by referendum adopt the "Organic Act"?)
2. What proposals if any are raised by State proposals for self-government:
 - a. The proposal for a Governor to be appointed by the United States for a ten-year transitional period (note that this assumes that the United States commitments under the Trusteeship arrangement are to bring the Micronesians "toward self-government" and that this commitment does not require a showing that self-government has been fully achieved.
3. What protection may need be needed to assure that United States security interests (by Micronesian legislation or otherwise) shall not be jeopardized?
4. What security risks are entailed in the Organic Acts proposals to assimilate all Micronesians as United States citizens?

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B. Areas of Specific Concern.

1. Are there any questions raised by the proposed Bill of Rights in general and in particular by paragraphs?
2. What should the United States do to protect its interests in land presently held as retained land and land held under use and occupancy agreements?
 - a. Should these agreements or any of them be renegotiated?
 - b. What provisions should be made as to acquisitions of land in the future?
 - c. What comments if any on the proposed draft of Interior?
3. What comments if any on the Judiciary Act?
 - a. Does this Act suggest that "self-government" is not sufficiently to be achieved?
4. The Organic Act formerly provided the United States President with power to veto Micronesian legislation. It might reach into areas of United States security interests. It is now proposed that this might be managed through executive orders, or otherwise.

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Fiscal provisions

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SEC.

(A) As soon as possible following the termination of each fiscal year, the Governor of Micronesia shall certify to the Secretary of the Treasury the net amount of revenue collected by the Government of Micronesia during the preceding year. There shall thereafter each year be transferred and paid over to the Government of Micronesia, 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.

(B) There are hereby authorized to be appropriated by the Congress of the U.S. for each of the fiscal years through 1981 such sums as may be necessary in addition to appropriations made by the Congress of Micronesia to bring the total budget to a level not to exceed \$50,000,000 annually.

U.S. Congress
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SEC. 136

(a) General headnote 3(a) of the Tariff Schedules of the United States, as amended, (19 U.S.C. 1202) is further amended by adding the phrase "or the Trust Territory of the Pacific Islands" after the word "possession" wherever it appears in such headnote, and after the words "United States" where they first appear in such headnote.

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date of the enactment of this Act.

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Sec. 140. Effective after the date of this Act, no privately or tribally owned real property or use rights in such property in the districts of Micronesia may be transferred, sold or alienated to non-residents of Micronesia unless such transfer, sale or alienation is first approved in writing by the majority vote of a Commission to be especially established for that purpose in accordance with the laws of Micronesia.

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(b) The Governor shall annually submit to the Congress of Micronesia in joint session assembled estimates of revenues and a recommended budget for appropriation for the next fiscal year. With respect to such additional sums as are authorized in Section 135(b) to be appropriated by the United States Congress, the Governor shall submit to the Congress of Micronesia a preliminary budget plan for recommendation and review. The Governor shall adopt such recommendations as he may deem appropriate, but he shall transmit to the President or his delegate all recommendations he has not adopted.

(c) If any appropriation bill presented to the Governor shall contain several items of appropriation of money, he may object to one or more of such items, or any part or parts thereof, while approving the other items or parts of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the item or items, part or parts thereof, to which he objects, and the item or items, part or parts thereof, so objected to shall have the effect of being vetoed.

(d) Existing paragraph (c) becomes paragraph (d).

Existing paragraph (d) should be moved to the fiscal provisions section or to the final section where the "savings" clauses are located.

Section - Micronesia

- a. **The United States Government, or any agency or department thereof, shall have the right to take land or any interest in land, including any temporary use in land or interest in land for its use in Micronesia in accordance with condemnation procedures established under United States Federal laws. Except in the case of a national emergency declared by the President of the United States, these procedures shall not be used until the need for such use has first been reviewed with a consultative commission established by the Congress of Micronesia. In the event the consultative commission does not approve the need for the taking by the United States, the United States District Attorney may then submit the proposed taking to the President of the United States for final determination.**
- b. **The United States Congress shall have the exclusive power to legislate over lands whether such lands have been taken for temporary use or otherwise held by the United States Government or any agency or Department thereof.**

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The Judiciary

Sec. ____ The judicial power of Micronesia shall be vested in a supreme court designated the "Supreme Court of Micronesia", an Island Court for each administration district, and in such court or courts of inferior jurisdiction as may have been or may hereafter be established by the Congress of Micronesia.

Sec. ____ The territorial jurisdiction of the supreme court shall extend to the whole of Micronesia. The territorial jurisdiction of an Island Court shall extend to the whole of the administration district for which it is constituted, or any part thereof. The inferior courts now or hereafter established by local law shall have such territorial jurisdiction as may have been or may hereafter be established by the Congress of Micronesia.

Sec. ____ The supreme court shall consist of a chief justice, six associate justices and such temporary associate justices as may be designated. The Governor shall, by and with the advice and consent of the Senate of Micronesia, appoint the chief justice and associate justices who shall hold office for a term of six years and until a successor is chosen and qualified unless sooner removed by the Governor for cause: Provided, that any vacancy or vacancies occurring within the court, whether by reason of disqualification, disability, death, resignation, removal, absence from Micronesia or inability to attend, or for any other reason, shall, for the hearing and determination of any cause, be temporarily filled by designation of the Governor.

The associate justices of the supreme court, in addition to serving as associate justices of the Supreme Court of Micronesia, shall serve and preside over the Island Courts of Micronesia in accordance with rules established by the Supreme Court of Micronesia.

Sec. ____ No person shall be appointed to the Supreme Court of Micronesia unless, for a period of at least three years prior to his appointment, he has been admitted to the practice of law in a jurisdiction of the United States in which the successful completion of a bar examination is a prerequisite to such practice. Any person so appointed must be of good moral character and, as a condition of his serving, shall be required to take the same oath or affirmation as is required of members of the Congress of Micronesia and officers of the government of Micronesia.

The justices appointed or temporarily designated shall receive such salaries as the Congress of Micronesia shall establish, which in no event shall be less than the salaries presently paid to the Chief Justice and Associate Justices of the High Court of the Trust Territory of the Pacific Islands.

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Sec. ____ . The laws of the United States relating to causes, appeals and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings between the courts of the United States and the ~~courts~~ ^{Territorial District court} of Micronesia.

3.
Sec. ____ . Irrespective of any other law, all final judgments or decrees rendered by the Supreme Court of Micronesia which are not otherwise removable to ~~the District Court of Micronesia~~ ^{Territorial} may be reviewed by the Ninth Judicial Circuit ~~Court~~ by writ of certiorari.

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issue
Sec. ____ . The Supreme Court of Micronesia, when in session, shall consist of the chief justice and three associate justices three of whom shall constitute a quorum: Provided, that no associate justice shall sit on a case or proceeding which he heard as a judge of an Island Court.

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The concurrence of two justices shall be necessary for a determination of any appeal by the Supreme Court of Micronesia, but a single judge may make all necessary orders concerning any appeal prior to the hearing and determination thereof, 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.

Sec. ____ . The Supreme Court of Micronesia shall have jurisdiction to review on appeal all decisions of the Island Courts.

Sec. ____ . Each Island Court shall have original jurisdiction in all matters arising under the laws of Micronesia, except as may heretofore or hereafter be established by the Congress of Micronesia.

Sec. ____ . The qualifications and salaries of Island Court judges shall be as set forth in Sec. ____ , of this Act. The qualifications and salaries of all other judges of courts of inferior jurisdiction shall be ~~fixed~~ established by the Congress of Micronesia.

see Judiciary Act report?

Sec. 129 (a). There is created a United States district territorial 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 exclusive jurisdiction of all controversies civil actions where the matter in controversy exceeds, exclusive of interest or cost, the sum or value of \$3000, and is between citizens of different States; citizens of a State, and foreign states or citizens or subjects thereof; and citizens of different States and in which foreign states or citizens or subjects thereof are additional parties; and said district court have shall/exclusive jurisdiction for the condemnation of real and personal property by departments or agencies of the United States /under the power of eminent domain.

(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 including admiralty and maritime cases; section 2075 of Title 28, United States Code, in bankruptcy cases; and sections 3771 and 3772 of Title 18, United States Code, in criminal cases; shall apply to the ^{Territorial} 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 ^{Territorial} District Court of Micronesia unless and until:

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, include 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 ^{Territorial} 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 or sum in controversy exceeds \$3,000, exclusive of interest and costs.

^{Territorial} Irrespective of any other law, final judgments or decrees rendered by the Supreme Court of Micronesia which are not otherwise removable to the District Court of Micronesia, may be reviewed by the United States Court of Appeals for the Ninth Circuit.

(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. Change only "Guam" to Micronesia on page 25 of draft.

Sec. 132(a). 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 or to the Supreme Court of Micronesia for appropriate disposition.

(b) The District Court for each of the six administration districts of the Trust Territory of the Pacific Islands is abolished on the effective date of this Act and all causes pending before ^{the} respective Courts of said districts on the effective date of this Act are transferred to the Island Court/~~xxxx~~ ^{having} territorial jurisdiction in the administration district of the Court abolished hereby.