

USUN

A 26-60

July, 1969

HOUSE OF REPRESENTATIVES
Congress of Micronesia

10/3, 1969

President
Trusteeship Council
United Nations Building
New York, New York

Sir:

I transmit herewith a certified copy of House
Joint Resolution No. 62 which was adopted by the
Congress of Micronesia, Third Congress, Second
Regular Session of JULY, 1969.

Respectfully,



G. Keine
Clerk
House of Representatives

THE HOUSE OF REPRESENTATIVES OF THE
CONGRESS OF MICRONESIA


We hereby certify that the foregoing Joint Resolution was adopted in the House of Representatives of the Congress of Micronesia, Third Congress, Second Regular Session in AUGUST 26, 1969, by not less than two thirds vote of all the members to which the House is entitled.



BETHWEA HENRY
Speaker, House of Representatives


CARL HEINE
Clerk, House of Representatives

THE SENATE OF THE CONGRESS OF MICRONESIA

We hereby certify that the foregoing Joint Resolution was adopted in the Senate of the Congress of Micronesia, Third Congress, Second Regular Session in AUGUST 26, 1969, by not less than two-thirds vote of all the members to which the Senate is entitled.


MATA KABUA
President of the Senate


VICTORIO UHERBELAU
Clerk of the Senate

DEPARTMENT OF STATE A/CDC/MR

REVIEWED BY L EDWARD DATE 11/11/85

RDS or XDS EXT. DATE _____

TS AUTH. _____ REASON(S) _____

ENDORSE EXISTING MARKINGS Discussions on the Future of the TTPI

DECLASSIFIED RELEASABLE

RELEASE DENIED

PA or FOI EXEMPTIONS _____

CONFIDENTIAL

R

68

DD-FYI

03

7

R

SP

Monday, October 6, 1969

The meeting was once again quite brief and at the end it was decided to recess the discussions until next Monday, October 13, 1969, so that the Micronesians could have time to formulate their positions on each of the eleven points they had raised. Both sides agreed that they would continue to exchange position papers during the intervening week so as to improve the chances for a meaningful discussion on the 13th.

Topics of Discussion:

1. Judicial - The Micronesians tabled their version of the judicial section (attachment 1). As they explained it, this left to them, at their constitutional convention, the opportunity to draft the provisions of the local court system. They had included provisions providing access to the 9th Circuit Court about which they felt very strongly. They had dropped the Federal District Court largely because they thought this was an unnecessary layer. Further discussion revealed that the major problem was apparently one of misunderstanding as to the functions of the various courts. This can presumably be cleared up very easily.

2. Land - Assistant Secretary Loesch acknowledged that we had not dealt with the point they had raised as to renegotiation of present agreements. He then tabled additional provisions on this point (attachment 2) explaining that these would provide for expeditious settlement of claims of inadequate compensation.

Further discussion revealed that aside from the matter of compensation, perhaps a more important point was the fact that the Micronesians had not been involved in these earlier arrangements and now wished to have a say. It was not entirely clear whether they wished only a review of the present arrangements, or if they wished them all terminated, with new arrangements arrived at through discussion with the Government of Micronesia in each case if current needs still dictated such land was required. Both sides agreed to consider this matter further and to exchange ideas during the week.

CONFIDENTIAL

DECLASSIFIED

3. Tariff Barriers - We tabled language (attachment 3) which we explained would provide for a free flow of locally produced goods back and forth between the United States and Micronesia.

4. Constitutional Convention - Assistant Secretary Loesch, commenting on the paper which the Micronesian Delegation had tabled on their point No. 1 re a constitutional convention, said that we had no difficulty in principle with such a concept. We did feel that there would have to be certain limits on such a convention. We agreed that we might try to draft some of the limitations which we thought would have to be included.

IO:UNP:SRPeale:jkb 10/6/69

DECLASSIFIED

UNCLASSIFIED

Micronesian Constitution

THE JUDICIARY

SEC. 1. The judicial authority of Micronesia shall be vested in such court or courts as shall be established or provided for by the constitution or laws of the legislature of Micronesia. The courts of Micronesia shall have original and appellate jurisdiction as shall be provided by law.

SEC. 2. The appointment, qualifications, tenure of office, and salaries of judges of courts of Micronesia shall be as prescribed by the constitution and laws of the legislature of Micronesia.

SEC. 3. Subject to the provisions of the Constitution of Micronesia and this Act, an appeal shall lie to the United States Court of Appeals for the Ninth Circuit from a final judgment of the highest court of Micronesia:

(a) As of right, 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 \$1,000 exclusive of interest and costs;

(b) As of right, in all cases involving substantial question of law as to the interpretation or effect of any provision of the Constitution of Micronesia;

(c) As of right, from any conviction by the highest court of Micronesia in the exercise of its criminal jurisdiction whereby the appellant has been sentenced to death or to imprisonment for a term exceeding five years or to a fine of \$1,000 or over;

(d) With the leave of the United States Court of Appeals for the Ninth Circuit in any other case, if in the opinion of that court the question involved in the appeal is one which by reason of its general or public

DECLASSIFIED

importance, or of the magnitude of the interests affected, or for any other reason, ought to be submitted to the United States Court of Appeals for the Ninth Circuit for decision.

SEC. 4. Notwithstanding the provisions of Section 3 of this Act, the United States Court of Appeals for the Ninth Circuit may, in any case in which it considers necessary, appropriate, or proper, and at any time, grant special leave to appeal to that Court from any final judgment of the highest court of Micronesia, subject to such conditions as to security for costs and otherwise as the United States Court of Appeals for the Ninth Circuit deems necessary.

SEC. 5. The determination of the United States Court of Appeals for the Ninth Circuit on any appeal from the highest court of Micronesia under Sections 3 and 4 of this Act, shall be transmitted to the Clerk of the highest court of Micronesia by the Clerk of the United States Court of Appeals for the Ninth Circuit under its seal, and judgment shall thereupon be entered by the highest court of Micronesia in conformity with that determination, or such other proceedings by way of a new trial or otherwise shall be taken in the highest court of Micronesia as are required by that determination.

SEC. 6. Any party may appeal to the Supreme Court of the United States from an interlocutory or final judgment, or order of the United States Court of Appeals for the Ninth Circuit, holding an Act of Congress of the United States 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.

DECLASSIFIED

08
7.2

LANDS

New subsection (c) to Section 1. Reletter other subsections accordingly.

(c)(1) A special cause of action is hereby created under which any person or group of persons may, within a period of one year from the effective date of this act, bring suit in the District Court of Micronesia against the Government of Micronesia for the sole purpose of determining whether such person or group of persons were paid a fair price for the land presently retained and used by the United States Government pursuant to agreements referred to in subsection (b).

(ii) In determining whether a fair price was paid, the Court shall consider, among other things, the market value of the land at the time agreement governing its retention and use was entered into, the nature and duration of the retention and use, the future value, if any, of any reversionary interests in the land, economic factors having an effect on the market value at the time the agreement for retention and use of the land was entered into, and any equitable considerations that might be relevant to the question of whether a fair price was paid.

(iii) In the event the Court finds, in any case, that any person or group of persons received less than a fair price for retention and use of the land in question, it shall enter an appropriate judgment against the Government of Micronesia in an amount, plus interest at

DECLASSIFIED

05-414977

DECLASSIFIED

the rate of 6% per annum thereon from the date the particular agreement in question was entered into, which will make up the difference between the amount actually paid and what would have constituted a fair price.

(iv) Legal assistance in the prosecution of claims under this subsection shall be provided, free of charge, by the Government of Micronesia.

(v) Any money judgment awarded pursuant to this subsection shall be paid by the Government of Micronesia from funds to be appropriated especially for that purpose by the Congress of the United States. Such appropriations shall also include an additional amount to cover preceding year's costs as reflected in the annual Budget of the Government of Micronesia of any public assistance provided under this subsection.

DECLASSIFIED

05-414978