

REVIEW OF OCTOBER POLITICAL STATUS DISCUSSIONS

General: The Micronesians arrived on September 30 and began negotiations the following day. After a week of discussions it appeared to the US group that the issue of US military use of lands in Micronesia was important in obtaining agreement. During the second week, the Micronesians held a caucus to determine their position on various issues, and presented a number of issue papers to the US group. During the final week, discussions resumed with further exchanges centered mainly on the land question.

Land Question: The land issue appears to have become central to an agreement by the Micronesian delegation. It involves primarily the question of whether the United States should have the right of eminent domain in Micronesia. The Micronesian position is that the United States should not have that right, but that the Government of Micronesia or a body acting by its authority should have the power to permit or reject military acquisition of land in Micronesia. The US position has been that whatever the procedure used, the United States would have the power to condemn land for military or other use. The two positions, as expressed, are irreconcilable; however, it is not yet clear that the position expounded by the Micronesian delegation is immutable.

On October 16 Assistant Secretary Loesch (the Chairman of the US negotiating team) announced to the US team that he had been directed by Secretary Hickel to make a proposal to the Micronesians without consulting with or informing other team members. He complied with these instructions, notifying the Micronesian delegation that, if it would commit itself to "permanent association" with the United States, Secretary Hickel would "agree to their land position" and attempt to obtain the approval of Secretaries Laird and Rogers. The Micronesians agreed to this proposition, and also that if either side failed to obtain "favorable response" to the proposition (the Micronesians on "permanent association"), then both sides would renew negotiations from the positions held prior to the Department proposal. The Interior proposal was clarified so as to exclude agreement on the totally unacceptable Micronesian position regarding territorial seas. Before departing the Micronesians indicated that they hoped to hear further from Secretary Hickel during his proposed trip to Micronesia planned for November.

Results: The concrete results of the October meetings were limited to the Micronesian concurrence to the tentative Interior proposal and the mutual agreement to continue

meeting. However, for the first time there has been an opportunity for an exchange of views. A channel of communication has been opened for future discussions on both a formal and informal basis, in both the United States and the Trust Territory. The United States has learned of the prime importance of the land issue, at least at this time.

Obviously a settlement of some kind must be reached on this issue if an overall agreement is to be achieved. The question remains whether the United States can put its land proposal in an overall package of sufficient attractiveness to secure Micronesian acceptance, or whether only our foregoing of the right of eminent domain will suffice.

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LANDS AND PROPERTY

SEC. 1.

(a) All right, title and interest in and to all property, real and personal, now owned, retained, controlled, held, used or claimed by the Government of the Trust Territory of the Pacific Islands or as to waters and sub-water rights adjacent thereto are hereby transferred to the Government of Micronesia, to have and to hold, with right of free disposal, absolutely and unconditionally forever.

(b) All right, title and interest in and to all property, real and personal, now owned, retained, controlled, held, used or claimed by the United States Government in whatever capacity within the Trust Territory of the Pacific Islands or as to waters and sub-water rights adjacent thereto, except as provided in (c), are hereby transferred to the Government of Micronesia, to have and to hold, with right of free disposal, absolutely and unconditionally forever.

(c) Nothing stated in (a) or (b) above shall impair the existing agreements between the Trust Territory Government and the United States Government or any agency or instrumentality thereof insofar as they relate to land use and retention, except expressly as follows:

(i) Any "retained" or "use" land not in fact now in use by the United States Government shall pass under (a) and (b) above to the Government of Micronesia at once.

(d) As of right, upon petition by the Government of Micronesia in all cases involving substantial questions of international law affecting the rights or claims of Micronesia or Micronesians;

(e) By the Government of Micronesia, 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 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. The determination of the United States Court of Appeals for the Ninth Circuit on any appeal from the highest court of Micronesia 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. 5. 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, determining the constitutionality of an Act of Congress of the United States. 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

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STATEMENTS IN SUPPORT OF THE PROPOSITION THAT:

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Consensus

I. The people of Micronesia should be allowed to draft and adopt their own constitution, i.e., to organize a government pursuant to a constitution of their own adoption.

A. The policy governing the relationship between the United States and Micronesia should be based on the principles of mutual consent and self-determination.

B. In accordance with the above principles, it is essential to any change in political status for Micronesia that United States fully understand the wishes of the people of Micronesia in order that it can be properly guided in working with the people of Micronesia to carry out their wishes.

C. As people, the Micronesians desire to live together under their chosen political system, and under a structure of government of their own making. They should be accorded the freedom by and through an enabling legislation passed by the United States Congress granting complete freedom to choose the form of government which they desire.

D. In order that the people of Micronesia may decide on the future constitution of their islands, it behooves the Micronesian people to decide whether, when, and in what manner they wish to express their preference.

E. The Micronesian Political Status Delegation poses the following steps and timeframe to be worthy of consideration:

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1. Enactment by the U. S. Congress of an enabling legislation to allow Micronesians to organize a government of their own choosing, to authorize and otherwise direct the Congress of Micronesia to create a Constitutional Convention within three years from the effective date of the enabling legislation or by 1972, whichever date is the later, to draft a constitution to be submitted to the voters of Micronesia; to require a referendum by eligible voters of Micronesia to approve such a constitution by a majority vote; and to authorize the transmittal by the U.S. President of a ratified constitution to the Congress of the United States if the President finds such constitution to conform with the provisions of the enabling act and of the constitution of the United States.

2. Congress of Micronesia creates a Constitutional Convention, to be composed of members representing various ethnic and cultural groups and islands of Micronesia, to draft a constitution; Congress of Micronesia shall also be responsible to finance such a Constitutional Convention.

3. Constitutional Convention drafts a Constitution and submits it to the voters of Micronesia for ratification by a majority vote.

4. If Constitution ratified, the United States President submits same to the United States Congress.

5. Measures taken to terminate the Trusteeship Agreement. ?

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 Micronesia. The court or 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 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 civil cases where the value in controversy exceeds \$3,000 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 or Laws 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 one year or to a fine of \$1,000 or over;

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SEC. 1. All Micronesian citizens shall be entitled to U.S. consular and diplomatic services and protection, to the same extent and under the same terms and conditions, as citizens of the United States.

SEC. 2. After the formation of the Government of Micronesia, no existing treaties, executive agreements or other international obligations to which the United States is a party shall apply to and be binding upon Micronesia unless and until the Micronesian Government expressly indicates in formal writing its accession thereto.

SEC. 3. Upon request of the Government of Micronesia, and only during such time as the request is not withdrawn, the United States shall:

(a) represent Micronesia, without cost to Micronesia, in all United Nations and international agencies; and

(b) conduct such external (international) affairs as Micronesia may assign to the United States, on behalf of the Micronesian Government.

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DEFENSE

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SEC. 1. Upon request of the Government of Micronesia, and only during such time as the request is not withdrawn, the United States shall take such action on behalf of Micronesia as shall be required to assure the security of Micronesia in the face of foreign aggression.

SEC. 2. After the formation of the Government of Micronesia, Micronesia agrees not to allow any country other than the United States and the United Nations to enter into any part of Micronesia and its territorial waters for military purposes for such period of time as the Government of Micronesia shall determine.

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SETTLEMENT OF DAMAGE CLAIMS

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SEC. 1. The U.S., in its sovereign or Trustee capacity, shall settle, effectuate and fully fund and implement, before the Micronesian Government shall come into existence or within the period of two years from the effective date of this Act, whichever is earlier, any and all pre-war, war, and post-war claims against the United States. The total amount of settlement and liquidation of claims against the United States shall require and be subject to prior consent and approval of the Congress of Micronesia.

SEC. 2. The United States shall use every effort on its part to negotiate and conclude the settlement of claims against Japan, Germany, or other country. The Congress of Micronesia shall choose such Micronesian Representatives as it shall deem necessary to assist, advise, and participate in any negotiation by the United States for the settlement and liquidation of Micronesian damage claims.

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(ii) Any and all other "use" or "retention" land, whether acquired by the United States, whether from the Government of the Trust Territory of the Pacific Islands or otherwise, shall pass to the Government of Micronesia no later than five (5) years after the effective date of the Constitution of Micronesia.

(iii) The Government of Micronesia shall, by its own law, provide a speedy and efficient way to grant temporary use of any publicly owned property upon joint declaration of an emergency by the Government of the United States and the Government of Micronesia. Upon termination of the specific use for which "use" or "retention" rights have been given, any property held under such rights shall revert to Micronesia. A change in use shall not be permitted, except upon the consent of the Government of Micronesia.

(d) Micronesia shall have within its land areas and adjacent sea, such system or systems of ownership, use, title, registry and transfer as may be decided upon by the Government of Micronesia. The systems may be the same or different for different areas or districts.

(e) The Government of Micronesia shall determine and fix its rights in and to tidelands, the continental shelf, the territorial sea, the deep ("high") seas, the ocean floor or seabed, fisheries, and navigation of waters in accordance with such accepted theory of international law as may be in the best interests of Micronesia.

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SEC. Micronesia is granted the right, upon its request and proper provision of Micronesia law, to have one or more "free ports" or "free trade zones" in so far as and in the manner provided in sections 81(a) to 81(u) of 19 U.S.C. as amended.

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TARIFFS

SEC. It is the intent hereof that Micronesian products shall enter the United States and its territories free of United States duty and that United States products, upon the authorization by Micronesia by specific legislation, may enter Micronesia freed of any United States export duty and/or Micronesian entry duty, and to that end

SEC. (a) The following sections of the Tariff Act of 1930, as amended, are hereby amended by inserting "Micronesia", immediately after "Johnston Island", each place it appears therein:

- (1) Section 401(k) (19 U.S.C., sec. 1401(k)).
- (2) Section 557(a) (19 U.S.C., sec. 1557 (a)).
- (3) Section 562 (19 U.S.C., sec. 1562)..

(b) Section 401(a) of the Anti-Smuggling Act, as amended (19 U.S.C. sec. 1709(a)), is hereby amended by inserting "Micronesia", immediately after "Johnston Island".

(c) Sections 542, 544, and 545 of Title 18 of the United States Code are hereby amended by inserting "Micronesia", immediately after "Johnston Island", each place it appears therein.

(d) For the purpose of the Tariff Schedules of the United States, Micronesia shall be entitled to the same privileges as the insular possessions of the United States which are outside the custom territories of the United States.

(e) This section shall apply with respect to articles entered or withdrawn from warehouse, for consumption after the effective date of this Act.

prior to such notice shall, after such notice, be treated as taken directly to the Supreme Court.

SEC. 6. (USC _____ shall be amended so as to carry out the above provisions.)

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CITIZEN ENTRY INTO UNITED STATES

SEC. Whether or not Micronesian citizens are made United States citizens or have and carry United States passports, all such citizens of whatever age, sex or condition shall at all times have free entry for any period into the United States and its territories or possessions free of any restrictions and for any purpose, and while therein to engage in education, employment, business or other activity not inimical to the safety and security of the United States.

To this end and for this purpose, the following laws of the United States are amended as follows:

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SHIPPING, AVIATION AND COMMUNICATIONS

SEC. It is the desire of Micronesia and the United States that, so far as feasible, the same laws, treaties, conventions, rules and regulations govern as to shipping, aviation and communications in, to and from Micronesia as apply to Hawaii, subject always to the unique features of Micronesia.

SEC. To this end and for this purpose the Government of Micronesia shall formally indicate, after survey by the Commission set up in sec. _____, what laws, treaties, executive agreements, conventions or rules and regulations on shipping, aviation and communications shall apply to Micronesia and to what extent.

SEC. No law, treaty, agreement, conventions, rule or regulation hereafter brought into effect by the United States shall apply as to Micronesia except after consultation and consent by the Government of Micronesia.

SEC. Micronesia shall be entitled to maintain and use United States currency as its medium of exchange, and to that end the following laws are amended to add "Micronesia" immediately after "Liberia."

SEC. Micronesia shall be entitled to maintain and use United States postal services at the same rates and on the same terms as apply in Hawaii, and to that end the following laws are amended to add "Micronesia" immediately after "Virgin Islands."

SEC. The banking services and particularly the federal reserve and federal deposit insurance systems of the United States shall apply to Micronesia as they presently do to Hawaii, and to that end the following laws are amended by inserting immediately after "Virgin Islands" the word "Micronesia."

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SEC. 1. Upon the effective date of this Act, no new legislation or act of the United States of America shall extend, or be deemed to extend, to Micronesia as part of its law, unless it is expressly declared in such act or law that Micronesia through its constitutional process has requested and consented to its being enacted and being made applicable to Micronesia.

SEC. 2. A Statutory Survey Commission is hereby created, consisting of fourteen members, seven of whom shall be appointed by the President of the United States and the other seven members to be appointed by the Congress of Micronesia. This Commission shall survey the Federal statutes and recommend within one year of the effective date of this Act to both the United States Congress and the Congress of Micronesia those laws of the United States which the Commission recommends shall apply or not apply to Micronesia. The Commission shall meet and coordinate its work with the members of the Constitutional Convention herein before authorized to be created pursuant to this Act. The Congress of Micronesia shall review the recommendations of the Commission and shall in turn recommend to the United States Congress those laws which it recommends shall apply to Micronesia.

SEC. 3. Effective on the first day of July following the effective date of this Act, all customs duties derived from Micronesia, the proceeds of all taxes collected under the internal revenue laws of

the United States, its territories and possessions, or consumed in Micronesia, and the proceeds of any other taxes which may be levied by the United States Congress and all quarantine, passport, immigration and naturalization fees collected in Micronesia shall be paid into the treasury of the Government of Micronesia and shall be expended as the legislature of Micronesia may by law prescribe.

SEC. 4. The Government of Micronesia shall have authority and power to enact such tax laws and other revenue laws for the support of public works and other essential government services in Micronesia. There shall be a Micronesian Government Account and such other public funds or accounts as may be provided by the legislature of Micronesia. No taxation shall be imposed except by law. All taxes and other revenues and money raised or received by the Government of Micronesia shall be paid into the Micronesian Government Account unless required or permitted by law to be paid into any other public fund or account.

SEC. 5. (a) As soon as possible after the end of each fiscal year, the chief executive of the Government of Micronesia shall certify to the Secretary of the Treasury of the United States the net amount of revenue raised by the Government of Micronesia pursuant to its tax laws and other revenue laws during the preceding fiscal 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 raised by the Government of Micronesia, as certified by the chief executive of the Micronesian Government.

(b) Until such time as funds available to the Government of Micronesia are sufficient to meet the obligations of the Government, there is hereby authorized to be appropriated by the Congress of the United States such additional sums as may be necessary to pay such obligations.

SEC. 6. The collection, receipt, custody, banking, issue, expenditure, care, management of money credited or to be credited to the Micronesian Government Account or to any other public fund or account shall be as prescribed by law.

SEC. 7. The Government of Micronesia shall provide for the auditing of its financial books by an auditor who shall be the auditor of the Micronesian Government Account and of all other public funds or accounts, and of the accounts of all departments and offices of the Government of Micronesia and of such other public, statutory, or local authorities or bodies as may be provided by law.

SEC. 8. No provision of this Act shall be construed to prohibit the Government of Micronesia from negotiating and concluding agreements for financial and technical assistance or of a cultural or scientific nature with any other country.

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DEPARTMENT OF INTERIOR LAND PROPOSAL

The Department of Interior proposal in effect accepts the Micronesian position of land acquisition by the United States, i.e., that the US forego the right of eminent domain in Micronesia and rely upon consultation and bargaining to satisfy any need for land.

The Department proposal is based upon a number of important factors:

1. Culture. Especially at this stage of economic development, the Micronesians are inherently attached to the small bits of land which make up Micronesia. Land is an integral part of their traditional cultures, and the means of subsistence for most. External conditions notwithstanding, they want to have the final word on land usage.

2. US Foreign Policy. It has long been assumed by the United Nations and foreign governments, as well as the Micronesians themselves, that our primary interest in Micronesia is a military one. However, more favorable international response would be generated by the discharging of our present U.N. obligation to protect the Micronesians against the loss of their lands and resources being more visible than our strategic interests.

3. Future Relations with Micronesia. If the Micronesians continue to believe that the only US interest in the area is a military one, we may expect continuation of the external and internal political problems that have arisen in the past whenever we have sought to use land in Micronesia. If their vanity is assuaged and they feel wanted by the United States not only for their landholdings, as the Department proposal would likely do, then we can expect much less Micronesian opposition to US land usage, and will promote a much closer association in every respect.

4. Keeping Out Foreign Military. One of the two primary objectives of US policy in Micronesia is to ensure that the area is never again used by foreign powers for any military purposes. This requirement is met by the Department proposal.

5. Eminent Domain Power Seldom Used. The great majority of military land acquisitions in the Trust Territory to date have been made through a negotiating process rather than through use of existing condemnation procedures. To be sure, the existence of condemnation statutes may have

been of significant influence in these acquisitions, but, in fact, they were generally not used. In addition, as political ties strengthen between the United States and Micronesia, it is likely that the Micronesians will desire a closer relationship, which would necessarily include our reacquiring the power of eminent domain.

6. Micronesian Willingness to Sell or Lease Land.

There seems generally to be a willingness among those Micronesians concerned to transfer an effective interest in or lease land in those areas which would be of value to the US military, i.e., the Northern Marianas and perhaps Palau. In addition, as the Micronesian economy becomes more money-based, and land becomes an economic commodity, it is reasonable to expect that leaders seeking the economic advantages of American presence will be even more willing to transfer or lease land for military or other uses.

7. Opportunity for Early Settlement. In the October negotiations, the Micronesians were strongly united in their opposition to the United States having full power of eminent domain in Micronesia.

If the land question is central to their acceptance of any US proposal, it is reasonable to assume that, unless the US changes its position on the matter, the Micronesian delegation will not agree to a permanent association until their economy is sufficiently developed to reduce markedly their attachment to and near-religious feelings about their land. Thus, by our continuing to hold this position, whatever its advantages to us over other alternatives, a polarization of the present Micronesian position, which might prevent any compromise or agreement whatsoever, is quite possible.

8. Acquisition Procedure. The acquisition procedure to be used is perhaps as important to the success of land acquisition as the power of eminent domain. The most important procedural question is: What Micronesians or group of Micronesians must approve US land acquisitions in Micronesia? The Congress of Micronesia, taken as a whole, is quite conservative and rather anti-military. The Mariana Islands District Legislature, and, it is surmised, the Palau Legislature to a lesser extent, notwithstanding its recent resolution relating to bases

in Palau, view military presence favorably because of the great economic impact it would have upon their districts.

It is therefore important that the respective district legislature, or a group acting under its authority, be the authorizing body for US land acquisitions, possibly with appeal by the US to the Congress of Micronesia in the case of disapproval by the district legislature. Such a procedure would have the following added advantages:

- a. It follows the policy of decentralization of authority advocated by the Committee on Government Organization of the Congress of Micronesia, a policy which is endorsed by the Congress and by the Department of the Interior.
 - b. It allows each district to determine its own desired rate of economic growth, and could conceivably result in inter-district competition for military installations.
- The effect of the unilateral appeal provision would be to encourage the Congress

of Micronesia to permit land acquisitions for projects of territory-wide benefit. This provision would also ease acquisition for multi-district programs, or projects opposed by local parochial interests.

- c. The district legislatures are presently composed mainly of government employees, who are more likely to be sympathetic to US and Administration needs than the more independent members of the Congress of Micronesia.

Conclusion. If an early resolution of the future political status is desired by the United States, the only proposal made thus far which Interior believes would be accepted by the Micronesians in the near future is the Department proposal, which has already been accepted in principle. If this proposal can be designed in its procedure to afford the United States fairly wide latitude in acquiring land in Micronesia without the use of condemnation procedures, the result may well be an early settlement with the Micronesians in a manner favorable to the long-range interests of the United States.



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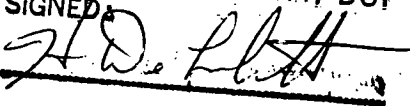
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CONSTITUTIONAL CONVENTION BILL

A BILL

TITLE I	CONSTITUTIONAL CONVENTION	P.2
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DECLASSIFIED/RELEASED ON
 4/29/88 UNDER PRO-
 VISIONS OF E.O. 12356 BY
 HARRY DELASHMUTT, CHIEF
 BRANCH OF SECURITY, DOI
 SIGNED: 

A B I L L

To provide for the creation of a constitutional government by the people of Micronesia, the future political status of the Trust Territory of the Pacific Islands and for other purposes.

Whereas the Trust Territory of the Pacific Islands was placed under the Trusteeship system, established in the Charter of the United Nations, by means of the Trusteeship Agreement approved by the Security Council of the United Nations on April 2, 1947, and the United States Government on July 18, 1947, after due constitutional process; and

Whereas the United States of America was designated under the terms of the Trusteeship Agreement as the administering authority of the Trust Territory of the Pacific Islands; and

Whereas the United States has heretofore assumed obligations for the civil administration of the Trust Territory in accordance with the terms of the Trusteeship Agreement; and

Whereas the Congress of the United States of America by the Act of June 30, 1954 provided that until Congress shall further provide for the government of the Trust Territory of the Pacific Islands, the executive, legislative and judicial authority necessary for the civil administration of the Trust Territory shall continue to reside in such person or persons and shall be exercised in such manner and through such agency or agencies as the President of the United States may direct or authorize; and

Whereas by Executive Order numbered 11021, the President of the United States vested responsibility in the Secretary of the Interior for the civil administration of all the Trust Territory; and

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Whereas the Congress of Micronesia, the popularly elected legislative body of the Trust Territory of the Pacific Islands, has requested the President and the Congress of the United States to give consideration to the future political status of the Trust Territory; and

Whereas a Constitutional Convention is a basic method of ascertaining the wishes of the people and seeing such wishes reflected in a structure of government; and

Whereas the Congress deems it appropriate that in the process of developing self-government, the people of the islands of Micronesia should enjoy certain rights and responsibilities inherent in the representative form of government;

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Micronesian Constitutional Convention and Political Status Act".

TITLE I -- CONSTITUTIONAL CONVENTION

SEC. 101. In recognition of the principles of government by consent of the governed and right of self-determination, the people of the islands of Micronesia are authorized, to form a government for the islands of Micronesia pursuant to a constitution of their own adoption as provided by this Act.

SEC. 102. The Congress of Micronesia is authorized to call a constitutional convention to convene not later than January 1971 to formulate and draft a constitution for the islands of Micronesia in accordance with

this Act. The procedure for the drafting, and adoption of the constitution by the people of Micronesia shall be in accordance with the rules and regulations established by the Congress of Micronesia. The delegation from each district to the Congress of Micronesia shall select from among its members one representative to the constitutional convention. Additional delegates shall be elected from among the qualified voters of each district to be apportioned as the Congress of Micronesia shall direct, provided that each district shall receive at least one additional delegate.

SEC. 103. The recommendation of the constitutional convention of a draft constitution for the islands of Micronesia shall be submitted not later than January of 1972 to the Congress of Micronesia for adoption.

SEC. 104. Upon adoption by the Congress of Micronesia, the proposed constitution shall be forwarded to the President of the United States. If the President finds that the proposed constitution provides a republican form of government, includes a bill of rights, and conforms substantially with the applicable provisions of this Act and the Constitution of the United States of America, he shall so certify to the High Commissioner of the Trust Territory, who shall so advise the Congress of Micronesia. If the President finds that the proposed constitution does not provide for a republican form of government, or for a bill of rights, or does not conform substantially with the provisions of this Act or the Constitution of the United States, he shall so advise the High Commissioner of the Trust Territory, stating wherein in his judgment the constitution does not so provide or conform. The High Commissioner shall in turn submit such message to

the Congress of Micronesia for further action. The revised document shall be returned to the President and the same procedure repeated until the President and Congress of Micronesia are in agreement.

Sec. 105. (a) Upon certification by the President to the High Commissioner of the Trust Territory in accordance with section 104 of this Title, the High Commissioner shall, within thirty days after receipt of such certification, issue a proclamation for a referendum to be held not more than ninety days after the date of the proclamation on the following proposition:

"Shall the peoples of the Trust Territory of the Pacific Islands join in a political association with the United States of America as provided in the Constitution of Micronesia and the Micronesian Constitutional Convention and Political Status Act?"

(b) The High Commissioner of the Trust Territory of the Pacific Islands shall, within thirty days following the referendum, certify the results to the President. If the President finds that a majority of the legal votes cast at the referendum are in favor of adopting the proposition, he shall issue a proclamation so stating, and the Constitution of Micronesia, and Title III and IV of this Act shall become effective upon the date specified in the proclamation. In the event the foregoing proposition is not adopted at the referendum by a majority of the legal votes cast, none of the provisions of Titles III and IV of this Act shall become effective.

TITLE II

CHARACTER OF THE CONSTITUTION OF MICRONESIA - - MANDATORY PROVISIONS.

SEC. 201. The Constitution of Micronesia shall be republican in form, shall provide for three separate branches, legislative, executive, and judicial, and shall contain provisions either as a part thereof, or as an ordinance appended thereto to the effect that - -

(1) The inhabitants of Micronesia are nationals of the United States to the extent provided for in Title III, Chapter 2 of this Act.

(2) No legislation enacted by the Congress of Micronesia may be inconsistent with the Constitution of the United States, and the laws of the United States made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States.

(3) 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. 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. No taxes or export levies shall be imposed upon the exportation of goods from Micronesia to the United States, its territories or possessions.

(4) The business of the Congress, and of the Committee of the whole, shall be transacted in sessions open to the public.

(5) 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) (in the presence of Almighty God) (affirm) 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)."

(6) 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.

(7) The power, authority and functions of the Governor, Lieutenant Governor and Acting Governor provided for in Title III, Chapters 4 and 5, shall be recognized.

(8) The judicial authority of the Government of Micronesia shall be vested in one paramount court, and such inferior courts as may be provided for in the Constitution of Micronesia or by act of the Legislature of Micronesia. Judges of the paramount court shall be appointed by the chief executive, by and with the advice and consent of the Legislature of Micronesia, as provided in the Constitution of Micronesia, shall hold their offices during good

behavior, and along with other judges of Micronesia, shall not have their compensation diminished during their continuance in office.

(9) The paramount court of Micronesia shall have jurisdiction to review on appeal all decisions of the inferior courts in accordance with rules prescribed by the Legislature of Micronesia. It may from time to time prescribe rules for the conduct of its business and that of the inferior courts.

(10) The decisions of the courts of Micronesia shall be subject to review by the United States Court of Appeals for the Ninth Circuit as provided for in Title III, Chapter 6 of this Act.

(11) The jurisdiction and powers of the District Court for Micronesia and of its judges and officers provided for in Title III, Chapter 6, shall be recognized.

(12) No public indebtedness 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.

(13) The rights of the United States to acquire property as set forth in Title III, Chapter 8 of this Act shall be recognized.

(14) No privately or communally owned real property or use rights in such property in Micronesia may be transferred, sold, alienated or leased for a term in excess of ten years to non-residents or corporations owned or controlled by non-residents of Micronesia unless such transfer, sale, alienation, or lease 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, provided, however, that this does not limit the right of the United States Government to acquire property or use of property by purchase or exchange as may be negotiated between the parties concerned.

(15) The territorial sea of the islands of Micronesia shall be delimited in accordance with the laws and treaties of the United States, and shall not exceed the limits maintained by the United States in its international relations. All laws and treaties of the United States of general application regarding navigable waters, the territorial sea, the high seas, including but not limited to the contiguous zone and the continental shelf, and fisheries shall be applicable with respect to Micronesia.

(16) The rights, privileges, and immunities of citizens of the United States shall be respected in Micronesia as though Micronesia were a State of the Union and subject to the provisions of clause 1, section 2 of article IV of the Constitution of the United States.

TITLE III

POLITICAL STATUS OF MICRONESIA

- Chapter 1. Government of Micronesia.
- Chapter 2. Citizenship.
- Chapter 3. Nonvoting Delegate in Congress of the United States.
- Chapter 4. Executive Power prior to January 5, 1981.
- Chapter 5. Executive Power on or after January 5, 1981.
- Chapter 6. Power of Federal Courts.
- Chapter 7. Fiscal Provisions.
- Chapter 8. Government Property.

Chapter 1.

Government of Micronesia

SEC. 311. (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, will hereafter be associated with the United States as a self-governing, unincorporated territory of the United States and to be known as "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 relations of the Government of Micronesia with the Federal Government shall be conducted through such agency of the United States as the President may designate.

Chapter 2.

CITIZENSHIP

SEC. 321. (a) The following persons, and their children born after July 18, 1947, are hereby declared to be nationals of the United States as of the effective date of this Act, if, on such date, they were residents of an island of the 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 residents of the Trust Territory of the Pacific Islands, who after that date continued to reside on 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 the effective date of this Act) who are subject to the jurisdiction of the United States and who have not taken affirmative steps to preserve or acquire foreign nationality, are declared to be nationals of the United States.

(c) Any person hereinbefore described who is a citizen or national of a country other than the United States and desired to retain his present political status shall make a declaration under oath of such desire prior or two years after the effective date of this Act, 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 citizen or national of the United States by virtue of this section.

SEC. 322. Paragraphs 36 and 38 of subsection (a) of section 101 of the Immigration and Nationality Act (66 Stat. 163, 8 U.S.C. 1101 (a) (36) and (38)), are hereby amended by inserting "Micronesia", immediately after "Guam", where it appears in each paragraph.

Chapter 3.

NON-VOTING DELEGATE IN CONGRESS OF THE UNITED STATES

SEC. 331. (a) There shall be a non-voting Delegate in the United States House of Representatives for Micronesia. The non-voting Delegate shall be elected by the people qualified to vote for members of the Congress of Micronesia at the next general election after the effective date of this Act and thereafter at such general election

every second year thereafter. The term of office shall commence on the 3d day of January following the date of election.

(b)(1) No person shall be eligible for election as a non-voting Delegate who (a) is not a national of the United States and of Micronesia and (b) is not at least twenty-five years of age. In case of a vacancy in the office of non-voting Delegate by death, resignation, or otherwise, the office shall remain vacant until his successor is elected and qualified.

(2) The non-voting Delegate shall have such privileges in the House of Representatives as may be afforded him under the Rules of the House of Representatives. The non-voting Delegate shall receive the same compensation, allowances, and benefits as a Member of the House of Representatives.

Chapter 4.

Alternative A

EXECUTIVE POWER PRIOR TO JANUARY 5, 1981.

SEC. 341 (a) Until the first Monday in January 1981, the executive authority of the Government of Micronesia shall be vested in an executive officer, whose title shall be "Governor of Micronesia". 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 for a term of four years or until his successor is appointed and qualified. He shall be a citizen or national of the United States and shall be not less than thirty years of age. The Governor shall maintain his official residence in Micronesia during his incumbency.

(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, with the approval of the President in cases of Federal offenses, may restore civil rights in Micronesia, 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, 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 President of the United States, or such officer as the President may designate, and his said annual report also shall be transmitted to the Congress of the United States and the Congress of Micronesia. He shall perform such additional duties and functions as may, in pursuance of law, be assigned to him by the President, or by his delegate. He shall have the power to issue executive regulations not in conflict with any applicable law.

SEC. 342. (a) The Governor may submit such recommendations for the enactment of legislation to the Congress of Micronesia as he shall consider to be in the people's interest.

(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 373 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) 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. 343. (a) Every bill passed by the Congress of Micronesia shall, before it becomes a law, be 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 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 may 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.

(b) 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. 344. Until the first Monday in January 1981, 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 Congress of Micronesia. He shall immediately 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 or until his successor is appointed and has qualified.

SEC. 345. Until the first Monday in January 1981, the President or his delegate 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 344 of this Act. No additional compensation shall be paid to any person acting as Governor or as Lieutenant Governor under this Act.

SEC. 346. (a) Until the first Monday in January 1981, 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 of the United States Code.

(b) Until the first Monday in January 1981, 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) Until the first Monday of January 1981, the Governor and the Lieutenant Governor of Micronesia, and members of their immediate staffs, shall have the status of Federal officers and employees of the United States.

Chapter 5.

EXECUTIVE POWER ON OR AFTER JANUARY 5, 1981.

SEC. 351. (a) Beginning with the first Monday in January 1981, the executive power of Micronesia shall be vested in a Governor who shall be elected by the people of Micronesia. The Constitution of Micronesia shall provide for the powers and duties of the Governor; it may also provide for the office of a Lieutenant Governor. The manner of the election of those officers shall be determined by the Constitution or laws of Micronesia. The first election for Governor and Lieutenant Governor, if any, shall be held on November 4, 1980.

(b) As of the date the first elected chief executive of Micronesia takes office, the President or his delegate is authorized to appoint a Comptroller for the territory of Micronesia. He shall have the same duties and authorities in Micronesia as those prescribed by Public Law 90-497, 48 U.S.C. 1422d (Supp. IV, 1965-1968), for the government comptroller for Guam. He shall perform such additional duties as the President or his delegate may prescribe.

SEC. 352. The Governor of Micronesia shall have the following powers and duties in addition to those conferred upon him by the Constitution and laws of Micronesia. He shall be responsible for the faithful execution of the laws of Micronesia and the laws of the United States applicable to Micronesia. He may with the approval of the President restore in Micronesia such civil rights as may have been lost as the result of convictions in Federal or State courts. He shall make to the President or his delegate an annual report of the transactions of the Government of Micronesia for transmission to the Congress and such other reports at such other times as may be required by the Congress or under applicable Federal law. Whenever it becomes necessary, in case of disaster, invasion, insurrection, or rebellion, or imminent danger thereof, or to prevent or suppress lawless violence, he may request assistance of the military or naval commanders of the Armed Forces of the United States, which assistance may be given at the discretion of such commanders if not disruptive of, or inconsistent with, their Federal responsibilities. He shall have the powers set forth in section 343(b) as long as funds have to be appropriated by the Congress of the United States pursuant to section 375(b).

Chapter 6

POWER OF FEDERAL COURTS

SEC. 361. (a) There is created a court of record to be designated the "District Court of Micronesia". Said district court shall have the powers of a United States District Court, and shall have original jurisdiction of all causes or controversies arising under the Constitution,

treaties, and laws of the United States, regardless of the sum or value in controversy, and where all of the parties on either side of the controversy are citizens or subjects of a foreign State or States, or citizens of a State, territory, or District of the United States not domiciled in Micronesia, wherein the matter in dispute exceeds, exclusive of interest or cost, the sum or value of \$3,000.

(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 District Court of Micronesia and to appeals therefrom; except that no provisions of any such rules or other statute 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. The District Court of Micronesia may prescribe and publish rules of practice and procedure not inconsistent with the aforementioned Federal rules.

SEC. 362. 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. 363. (a) The President shall, by and with the advice and consent of the Senate of the United States, 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 for the Court of Appeals of the Ninth Circuit of the United States may assign a justice of the paramount Court of Micronesia, or a circuit or district judge of the Ninth Circuit, or the Chief Justice of the United States Supreme Court 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 of the United States, a United States attorney and United States Marshal for Micronesia to whose offices the provisions of chapters 35 and 37 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. 364. (a) All final judgments or decrees of the paramount Court of Micronesia may be reviewed by the United States Court of Appeals for the Ninth Circuit by writ of certiorari in accordance with such rules as that Court may prescribe.

(b) In determining whether a writ of certiorari will be granted by the United States Court of Appeals for the Ninth Circuit, the following, among other reasons, shall be considered: whether the case presents a federal question of substance, and, whether the paramount Court of Micronesia has decided a question arising under the local law of Micronesia in a manner which is inescapably wrong or patently erroneous.

SEC. 365. The laws of the United States relating to removal of 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 of Micronesia.

Chapter 7.

FISCAL PROVISIONS

SEC. 371. The levy of duties on goods imported into Micronesia is hereby reserved to the Government of Micronesia.

SEC. 372. 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.

SEC. 373. 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 of the Government of Micronesia, as the Congress of Micronesia may by law prescribe.

SEC. 374. Effective on the first day of January following the effective date of this Act, 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. 375. (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 received by the Government of Micronesia during the preceding fiscal 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 received by the Government of Micronesia, as certified by the Governor.

(b) Until such time as funds available to the Government of Micronesia pursuant to this section and sections are sufficient to meet the obligations of the Government of Micronesia, there is authorized to be appropriated by the Congress of the United States such additional sums as may be needed to pay such obligations.

SEC. 376. (a) The following sections of the Tariff Act of 1930, as amended, are hereby amended by inserting "Micronesia", immediately after "Johnston Island", each place it appears therein:

- (1) Section 401(k) (19 U.S.C., sec. 1401(k)).
- (2) Section 557(a) (19 U.S.C., sec. 1557(a)).
- (3) Section 562 (19 U.S.C., sec. 1562).

(b) Section 401(a) of the Anti-Smuggling Act, as amended (19 U.S.C. sec. 1709(a)), is hereby amended by inserting "Micronesia", immediately after "Johnston Island".

(c) Sections 542, 544, and 545 of Title 18 of the United States Code are hereby amended by inserting "Micronesia", immediately after "Johnston Island", each place it appears therein.

(d) For the purposes of the Tariff Schedules of the United States, Micronesia shall be entitled to the same privileges as the insular possessions of the United States which are outside the custom territories of the United States.

(e) This section shall apply with respect to articles entered or withdrawn from warehouse, for consumption after the effective date of this Act.

Alternative B

THE EXECUTIVE POWER

SEC. 341. The powers and functions of the Executive Branch of the Government of Micronesia shall be established and organized as provided in the Constitution of Micronesia.

SEC. 342. (a) The Executive Branch of the Government of Micronesia shall have the following powers and duties in addition to those conferred upon it by the Constitution and laws of Micronesia. It shall be responsible for the faithful execution of the laws of Micronesia and the laws of the United States applicable to Micronesia. It may with the approval of the President restore in Micronesia such civil rights as may have been lost as the result of convictions in Federal or State courts. It shall make to the President or his delegate an annual report of the transactions of the Government of Micronesia for transmission to the Congress and such other reports at such other times as may be required by the Congress or under applicable Federal law. Whenever it becomes necessary, in case of disaster, invasion, insurrection, or rebellion, or imminent danger thereof, or to prevent or suppress lawless violence, it may request assistance of the military or naval commanders of the Armed Forces of the United States, which assistance may be given at the discretion of such commanders if not disruptive of, or inconsistent with, their Federal responsibilities.

(b) If any bill presented to the Executive Branch of the Government of Micronesia contains several items of appropriation of money, it 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. This provision shall be in effect so long as funds have to be appropriated by the Congress of the United States pursuant to section 375(b).

SEC. 343. The President of the United States shall appoint, with the advice and consent of the Senate of the United States an official to be known as the "Presidential Representative in Micronesia" who shall, with a suitable staff, serve as an advisor to the Government of Micronesia. The Presidential Representative shall provide the Government of Micronesia, including the District level, with appropriate advice and assistance. Should the Presidential Representative determine that any proposed action by the Government of Micronesia would substantially and adversely affect the foreign relations or national defense of the United States, he shall immediately refer the matter, together with his comments and the views of the Government of Micronesia, to the President for final decision. The President's decision shall be binding and shall be implemented

immediately. Should the President not concur with the views of the Government of Micronesia, he shall inform the Government of Micronesia in writing of his reasons within thirty days.

It is the intention of this section that the services of the Presidential Representative and his staff shall be provided only so long as they are needed by the Government of Micronesia. Consistent with this purpose, the President, after consultation with the Government of Micronesia, shall reduce the staff of the Presidential Representative as soon as practicable. Upon determination by the President, again after consultation with the Government of Micronesia, that the advice and assistance to be provided by the Presidential Representative is no longer needed, he shall after consulting the Congress of the United States, abolish the position and functions of the Presidential Representative.

SEC. 344. The President is authorized to appoint a Comptroller for the territory of Micronesia. He shall have the same duties and authorities in Micronesia as those prescribed by Public Law 90-497, 48 U.S.C. 1422d (Supp. IV, 1965-1968), for the government comptroller for Guam.

CHAPTER 8.

L A N D S

SEC. 381. (a) The title to all property, real and personal, owned by the Government of the Trust Territory of the Pacific Islands, and all interest including rights of use in property held by the Government of the Trust Territory of the Pacific Islands, are hereby transferred to the Government of Micronesia, including all right, title, or interest of the Government of the Trust Territory of the Pacific Islands in tidelands, submerged lands, or filled lands in or adjacent to the islands of Micronesia. 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), but shall not include any such lands which by local or customary laws or rights are held in private or communal ownership.

(b) During the three year period referred to in subsection (c), nothing herein shall impair the existing agreements between the Trust Territory Government and the United States Government or any agency or instrumentality thereof insofar as they relate to land use and retention, and the Government of Micronesia takes all such land as set forth in Section (a) above subject to such agreements; provided, however, that such retention and use will at all times be consistent with the public purposes of the United States.

(c) (i) Within three years from the effective date of this Act, the retention and use rights of the United States Government covered by subsection (b) shall terminate, unless, within that time the United States proceeds to acquire, in accordance with subsection (d) or (e) hereof, whatever rights in such lands may be considered necessary for the public purposes of the United States.

(ii) In any such acquisition, the amount to be paid for the land, or interest therein, shall be the current fair market value of the interest acquired, less any amount or amounts previously paid, gratuitously or otherwise, therefor.

(d) The departments and agencies of the United States Government are hereby authorized to, and may acquire real property or any interest in real property, including any temporary use for public purposes in Micronesia, in accordance with provisions of this subsection and subsection (e).

(1) In no event may the estate in property sought to be acquired by the United States be of a greater quantum than a base or determinable fee. The limiting event which will terminate such a fee will be the cessation for a period of five years, of the use of the land for the public purposes of the department or agency for which it was acquired. Upon termination, fee ownership in the land shall revert automatically to the person, persons or entity from whom it was acquired, or their heirs, or successors.

(ii) At least one month prior to any regular session of the Congress of Micronesia, the United States may present to the Governor of Micronesia a description of any land in which it wishes to acquire an interest together with a complete statement of the nature of the interest sought to be acquired, the full justification, in the public interest, of the need for such interest and a detailed appraisal report of the fair market value of the interest, prepared by qualified independent appraisers.

(iii) The Governor shall thereupon prepare and immediately submit to the Congress of Micronesia, for consideration in its regular session, a bill which will contain a description of the land in which the United States wishes to acquire an interest, the nature of the interest, together with a complete statement of justification of the public need for such interest, and a detailed appraisal of the fair market value of the interest prepared in accordance with paragraph (ii) of this subsection.

(iv) Upon the request of the United States, the Governor shall call and submit to a special session of the Congress of Micronesia any bill otherwise covered by subsection (iii) hereof. The Governor shall, upon request, also include such a bill with any other business for which a session of the Congress of Micronesia may be specially called.

(v) In the event the Congress of Micronesia agrees with the need for the acquisition by the United States of the interest in

any particular piece of land sought to be acquired, and with the appraisal for the value of the interest, it shall pass the bill, or that part of the bill relating to that particular piece of land, and the bill, or the part thereof passed, shall become law, binding as to such interest, on all parties.

(vi) In the event that the Congress of Micronesia agrees with the need for the acquisition by the United States of the interest in any particular piece of land sought to be acquired, but disagrees with the appraised value of the interest, the United States shall be entitled to immediate possession of the land in question; but the parties shall proceed forthwith to attempt to agree upon the question of value. If agreement is reached, the bill shall be appropriately amended to reflect the agreed upon value, and when passed shall become law. If no agreement can be reached then the value question shall be submitted immediately to the highest court of Micronesia which will then proceed to determine whether the price proposed by the appraisal represents the fair market value. In order to assist in making this determination, such court may, in accordance with such rules as it may promulgate, convene a special jury of Micronesian citizens from the district in which the land is located to render an advisory verdict on the question of fair market value. The decision of the court shall be final, subject, however, to review, on appeal, by the United States Court of Appeals for the 9th Circuit, as provided in subsection (vii).

(vii) In the event that the Congress of Micronesia fails to act on a bill in the session at which it has been introduced or disagrees with the need for the acquisition by the United States of the interest in any particular piece of land sought to be acquired, or in the event that the United States wishes to appeal from a final decision of the highest court of Micronesia rendered in accordance with subsection (vi), then an appeal may be taken to the United States Court of Appeals for the 9th Circuit, which shall entertain such appeal in accordance with such rules as it may prescribe and shall make a final decision, binding on all parties either as to need or value, or both, as may be appropriate in any particular case.

(e) After the effective date of this Act, no privately or communally owned real property, or use rights in such property in Micronesia may be transferred, sold, alienated or leased for a term in excess of ten years to non-residents or corporations owned or controlled by non-residents of Micronesia unless such transfer, sale, alienation, or lease 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.

SEC. 382. The Public Land Laws of the United States shall not apply to land, if any, ceded to the United States, but the Congress of the United States shall enact special laws for their management and disposition.

TITLE IV

PROVISIONS OF A TRANSITIONAL NATURE

SEC. 401. Upon the effective date of this Act, no employees of the Government of Micronesia other than those referred to in section 346 shall be appointed as Federal employees as long as they are employed by the Government of Micronesia. Those Federal employees who, on the effective date of this Act, have served one year or less under their then current transportation agreement shall be terminated as Federal employees upon the expiration of that agreement. Those Federal employees with less than one year to serve under their then current transportation agreement shall upon completion of that agreement be offered not to exceed one additional year of employment as Federal employees.

SEC. 402. (a) The High Court of the Trust Territory of the Pacific Islands is abolished as of the effective date of this Act and all causes decided by or pending before said Court on the effective date of this Act are transferred to the District Court of Micronesia or to the courts of Micronesia as may be appropriate for disposition.

(b) The District Courts for each of the Districts of the Trust Territory of the Pacific Islands are abolished on the effective date of this Act and all causes decided by or pending before the respective Courts of said Districts on the effective date of this Act are transferred to the courts having territorial jurisdiction in the District of the Court abolished hereby.

SEC. 403. All appropriations made to or by the Government of the Trust Territory of the Pacific Islands prior to the date of this Act becomes effective shall be available to the Government of Micronesia.

SEC. 404. 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. 405. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 406. This Title shall become effective, in accordance with the provisions of section 105 of Title I of this Act, on the date specified in the proclamation of the President authorized by said section.