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THE UNDER SECRETARY OF STATE
WASHINGTON

NSC UNDER SECRETARIES COMMITTEE

UNCLASSIFIED
SECRET

April 11, 1970

NSC-U/SM 65a

TO : The Deputy Secretary of Defense
The Assistant to the President for
National Security Affairs
The Director of Central Intelligence
The Chairman of the Joint Chiefs of Staff
Under Secretary of the Interior

SUBJECT: Micronesia Status Talks

I am enclosing a proposed decision memorandum concerning the forthcoming round of status talks with Micronesia.

Since there appears to be full agreement among the agencies on how to proceed, I propose to dispense with the meeting now scheduled for Tuesday, April 14, at 11:00 a.m. If you believe that we should meet on this matter, please advise no later than 10:00 a.m., Tuesday.

Comments and concurrences should be provided by telephone to Mr. Ruser, Ext. 22026.


Elliot L. Richardson
Chairman

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Partially Declassified/Released on 12-31-81
(F08-15679) under provisions of E.O. 12356
by D. Sirko, National Security Council

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4/11/70

NSC UNDER SECRETARIES COMMITTEE

SECRET

NSC-U/DM

TO : The Deputy Secretary of Defense
The Assistant to the President for
National Security Affairs
The Director of Central Intelligence
The Chairman of the Joint Chiefs of Staff
Under Secretary of Interior

SUBJECT: Micronesian Status Talks

The Committee has reviewed the proposed U.S. position for the next round of talks with the Micronesian Status Delegation beginning May 4 (NSC-U/SM 65) and agrees:

1. The U.S. Delegation will state the willingness of the Administration to recommend to the Congress legislation for a constitutional convention if there is substantial agreement with the Micronesian Congress on a draft constitutional convention bill. The delegation will submit this offer orally and in writing in the form of a statement of principles and a draft constitutional convention bill.

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2. The draft bill and draft statement are in substance approved, with the understanding that the inter-agency group will make further editorial and technical refinement of these documents without affecting the substance of the U.S. position.

3. In the event our proposals are received unfavorably by the Micronesians, the U.S. delegation should make clear the ultimate limits of the U.S. position along the lines pp. 16-17 of the briefing paper, viz. that the trusteeship status can not be modified or terminated without U.S. consent and that in view of our continuing strategic interests, we would be required to maintain the trusteeship indefinitely if the Micronesians do not wish to enter into a permanent association with the United States.

4. Congressional consultations should be held after we know the results of the Saipan talks inasmuch as the constitutional convention approach represents a change in the U.S. position more

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procedural than substantive and Micronesian acceptance of this offer is, in any case, not assured.

5. The Committee also noted that the prospects for the Micronesian status talks, on the basis of the information now available to the United States, must be considered uncertain. The last Micronesian submission envisaged a virtually independent Micronesia "in free association with the United States" while preserving the benefits of full and permanent association. It is not clear whether this submission was advanced for bargaining purposes or whether it represents a firmly held view of the status delegation which would be supported by a majority of the Micronesian Congress and the Micronesian community.

6. The Committee noted the lack of reliable information about the political conditions in the Territory and requested the Departments of Interior

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and State to work out arrangements with the High Commissioner to obtain better political reporting from the Territory.

Elliot L. Richardson
Chairman

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A



Congress of Micronesia

CAPITOL HILL

SAIPAN

MARIANA ISLANDS

96950

February 27, 1970

ATE

Amata Kabua
President

Yap District
Petrus Tun
Rafel Mochell

Truk District
Tostwo Nakayama
Andon Amaralich

Ponape District
Bailey Oltor
Ambilios Iehsi

Palau District
David Ramarui
Lazarus Salii

Marshalls District
Amata Kabua
Isaac Laawi

Mariannas District
Olympio T. Borja
Vice President
Francisco T. Palacios

HOUSE OF REPRESENTATIVES

Bethwel Henry
Speaker

Mariannas District
Benjamin Mianglona
Nicolas Palacios
Felix Rabauliman

Marshalls District
Henry Samuel
Vice Speaker
Ekapap Silk
Ataji Balos
Charles Dominick

Palau District
Polycarp Basillus
Roman Tmetuchi
Minoru Ueki

Ponape District
Bethwel Henry
Joab Sigrab
Oltor Paul
Heinrich Iriarte

Truk District
Chitomu Nimwes
Raymond Settli
Eady Dola
Manno Nakayama
Sasao Haruo

Yap District
John Rugullmar
John Mangafol

Honorable Harrison Loesch
Assistant Secretary
United States Department
of the Interior
Office of the Secretary
Washington, D.C. 20240

Dear Farrison:

On February 18th, I sent to you from Palau two copies of a proposed bill that our Delegation had prepared in response to your proposal which you had given to us during your last trip here. I hope you have received the document by now.

At this time, I simply wish to informally let you know that, unless the United States is willing to let the Micronesians draft and adopt their own constitution, I do not see much chance for successful negotiations between your group and ours. You will note from our proposal that a provision to this effect is provided for. Your group must be willing to consider this.

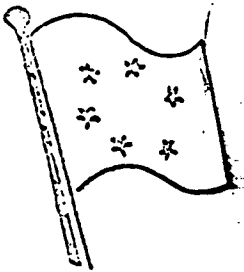
Unless I hear further from you, we will expect your arrival on Saipan on or before March 23rd for the next round of our discussions.

Let me know by dispatch if there is any change in the schedule.

Best wishes,

Lazarus Salii
Chairman
Micronesian Status Delegation

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MICRONESIAN POLITICAL STATUS DELEGATION

Capitol Hill

Saipan

Mariana Islands 96950

March 19, 1970

Lazarus Salii
Chairman

Ekpap Silk
Co-Chairman

Tosiwo Nakayama

Andon Amaraich

Bailey Olter

Francisco Palacios

Benjamin Manglona

John Mangefel

Olter Paul

Minoru Ueki

Honorable Harrison H. Loesch
Assistant Secretary of Interior
Department of the Interior
Washington, D. C. 20240

Dear Secretary Loesch:

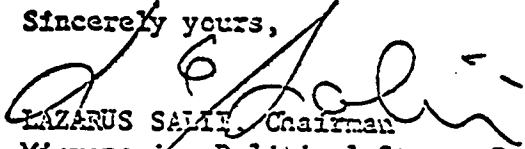
This letter is to inform you of the latest developments concerning the Micronesian Political Status Delegation of the Congress of Micronesia. Our delegation convened in Saipan on March 17, and had an interesting and informative meeting with the members of the United Nations Visiting Mission on March 18.

We plan to convene again during the last week in April to make final preparations for the upcoming talks with your delegation. In the meantime, the members of our delegation would appreciate it very much if you could provide us with the following information concerning the United States Delegation which will be coming to Saipan: the names and titles of the members and staff, the department or agency they represent, and the authority they have to speak for their respective departments or agencies. Also, we would appreciate it very much if you could provide us with a copy of the document which created your delegation.

We are looking forward to continuing our discussions with your delegation on May 4, and we are confident that now that the initial groundwork has been laid, our talks will be most fruitful, and will provide us with the information required for us to report our findings and recommendations to the Congress of Micronesia in July.

Our very best wishes and personal regards.

Sincerely yours,


LAZARUS SALII, Chairman
Micronesian Political Status Delegation
Congress of Micronesia

cc: Honorable Amata Kabua, President - Senate
Honorable Bethwel Henry, Speaker - House of Representatives
Honorable Ekpap Silk

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B.

~~MINOR Ueki~~

MAR 23 1970

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~~ADMINISTRATIVELY RESTRICTED~~

CONSTITUTIONAL CONVENTION BILL

A BILL

TITLE I	CONSTITUTIONAL CONVENTION	P.2
TITLE II	CHARACTER OF THE CONSTITUTION OF MICRONESIA	P.4
TITLE III	POLITICAL STATUS OF MICRONESIA	P.7
TITLE IV	PROVISIONS OF A TRANSITIONAL NATURE	P.23

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 under said Agreement the United States has the authority to extend its laws to the Trust Territory; 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 ~~ad~~ministration 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

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 Enabling 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. This Act shall be submitted, within six months from the date of its enactment, to the qualified voters of the Trust Territory of the Pacific Islands for acceptance or rejection through Territory-wide referendum to be held in accordance with the laws of the Trust Territory. Upon approval of this Act by a majority of the voters

participating in such referendum the Congress of Micronesia is authorized to call a constitutional convention to convene within six months from the date of the referendum 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 one year after the convening of the constitutional convention to the Congress of Micronesia for transmission 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 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 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. 104. (a) Upon certification by the President to the High Commissioner of the Trust Territory in accordance with section 103 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 Enabling 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.

SEC. 105. Amendments to the Constitution of Micronesia may be made from time to time in accordance with the same procedures and subject to the same conditions as those provided for the drafting, approval and adoption of the Constitution.

TITLE II

CHARACTER OF THE CONSTITUTION OF MICRONESIA

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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 imports or export levies shall be imposed on goods imported into Micronesia from the United States or any of its territories or transported within 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) Every member of the Congress of Micronesia and all officers of the Government of Micronesia shall take an oath or affirmation to support the Constitutions of Micronesia and the United States and all laws applicable to Micronesia.

(5) The power, authority and functions of the Executive Branch of the Government of Micronesia provided for in Title III, shall be recognized.

(6) 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 Congress of Micronesia. The selection and tenure of the judges of the courts shall be provided for in the Constitution of Micronesia or by act of the Congress of Micronesia.

(7) 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 Congress of Micronesia. It may from time to time prescribe rules for the conduct of its business and that of the inferior courts.

(8) 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 5 of this Act.

(9) The jurisdiction and powers of the District Court for Micronesia and of its judges and officers provided for in Title III, Chapter 5, shall be recognized.

(10) 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.

(11) The rights of the United States to acquire property as set forth in Title III, Chapter 7 of this Act shall be recognized.

(12) 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.

(13) 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. Non-Voting Delegate in Congress of the United States.
- Chapter 4. Executive Power.
- Chapter 5. Power of Federal Courts.
- Chapter 6. Fiscal Provisions.
- Chapter 7. 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, commonwealth 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 subject to the provisions of Article 4, section 3, clause 2 of the Constitution of the United States and shall be conducted through such agency of the United States as the President may designate.

Chapter 2.

NATIONALITY AND CITIZENSHIP

SEC. 321. (a) The following persons, and their children born after July 18, 1947, are hereby declared to be nationals but not citizens 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 citizens of the Trust Territory of the Pacific Islands 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). subject ~~to~~ the jurisdiction of the United States who, before the effective date of this Act, have taken no affirmative steps to preserve or acquire a foreign nationality are declared to be nationals but not citizens of the United States on the date born or naturalized.

(c) Any person hereinbefore described who is a citizen or a national of a country other than the United States, and who desires to retain his present political status, shall make a declaration under oath of such desire within two years after the effective date of this Act, or within six months after attaining the age of 21 years, whichever comes later, said declaration to be in the form and executed in the manner prescribed by regulations. From and after the making of such a declaration any such person shall be held not to be a national of the United States.

SEC. 322. Section 325 of the Immigration and Nationality Act (66 Stat. 248, 8 U.S.C. 1436) is hereby amended by inserting, following the language "United States" at the end of the section, the language "or within any of the islands of the Trust Territory of the Pacific Islands."

SEC. 323. Section 310.(a) of the Immigration and Nationality Act (66 Stat. 239, as amended, 8 U.S.C. 1421 (a)) is hereby amended by inserting, following the language "the District Court of the Virgin Islands of the United States," the language "the District Court of Micronesia,".

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

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. 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 it 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 365(b).

SEC. 343. The President is authorized to appoint a Comptroller for Micronesia. He shall have the same duties and authorities in Micronesia as those prescribed by Public Law 90-496, 48 U.S.C. 1599 (Supp. IV, 1965-1968), for the government comptroller for the Virgin Islands.

Chapter 5

POWER OF FEDERAL COURTS

SEC. 351. (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. 352. 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. 353. (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. 354. (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. 355. 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 6.

FISCAL PROVISIONS

SEC. 361. The levy of duties on goods imported into Micronesia is hereby reserved to the Government of Micronesia.

SEC. 362. 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. 363. 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 of Micronesia 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. 364. 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. 365. (a) As soon as possible following the termination of each fiscal year, the Executive Authority of Micronesia shall certify to the Secretary of the Treasury the net amount of revenue, exclusive of Federal matching and grant funds, 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 Executive Authority.

(b) Until such time as funds available to the Government of Micronesia pursuant to this section and sections 363 and 364 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. 366. (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.

SEC. 367. The Executive Authority of the Government of Micronesia shall make to the President or his delegate an annual report of the transactions of the Government of Micronesia for transmission to the Congress of the United States and such other reports at such other times as may be required by the Congress or under applicable Federal law.

Chapter 7

GOVERNMENT PROPERTY

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 interests in such property including rights of use and 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, held by the Government of the Trust Territory of the Pacific Islands, are hereby transferred to the Government 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 subsection (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 Title, 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 (f) 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 property, or interest therein, shall be the current fair market value of the interest acquired, exclusive of any improvements made by the United States or assigns, and less any amount or amounts previously paid, gratuitously or otherwise, therefor.

(d) The United States Government, its departments and agencies, are hereby authorized to, and may acquire for public purposes in Micronesia property or any interest in property, including any temporary use, in accordance with this subsection and subsection (f). Such property, including that owned or controlled by private parties or the Government of Micronesia, may be acquired under this subsection by purchase, lease, exchange, gift, or otherwise under such terms and conditions as may be negotiated by the parties, subject to the limitation in subsection (g).

(e) In no event may the estate in property sought to be acquired by the United States be of a greater quantum than a fee on a conditional limitation. The limiting event which will terminate such a fee shall be the absence for a period of five years of the use of the land for the public purposes of the United States Government. 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.

(f) In the event the United States is unable to acquire property or an interest in property by negotiation in accordance with subsection (d), then it may acquire property or an interest therein in accordance with the following procedure:

(i) At least one month prior to any regular session of the Congress of Micronesia, the United States may present to the Executive of Micronesia a statement describing the property in which it wishes to acquire an interest including therein the nature of the interest sought to be acquired, the public purposes for such interest, and a detailed appraisal report of the fair market value of the interest prepared by qualified independent appraisers. The Executive shall thereupon prepare and immediately submit to the Congress of Micronesia, for consideration in its regular session, a bill incorporating the statement and requiring the conveyance of the property or interest or both therein to the United States.

(ii) Upon the request of the United States, the Executive shall immediately call and submit to a special session or submit to a special session already convened of the Congress of Micronesia any bill otherwise covered by subsection (i) hereof.

(iii) In the event the Congress of Micronesia agrees with the need for the acquisition by the United States of the property or any interest in property sought to be acquired, and further agrees with the appraisal for the value of the property or 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.

(iv) In the event that the Congress of Micronesia agrees with the need for the acquisition by the United States of the property or interest sought to be acquired, but disagrees with the appraised value thereof, the United States shall be entitled to immediate possession of said property or right to exercise its interest; but both parties shall proceed forthwith to attempt to agree upon the question of value. If agreement is reached, the bill shall be amended to reflect the agreed upon value, and when passed shall become law. If no agreement can be reached, the question of value shall be promptly submitted to the highest court of Micronesia which will proceed to determine whether the price proposed by the appraisal represents the fair market value.

To assist in making this determination, such court may, in accordance with such procedures as it may by rules adopt, convene a special jury of Micronesia citizens from the geographical area in which the property 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 Ninth Circuit, as provided in subsection (v).

(v). In the event that the Executive does not introduce a bill as required by this subsection, or the Congress of Micronesia fails to act on a bill in the session at which it has been introduced, or it does not pass the bill, or it disagrees with the need for the acquisition by the United States of property or interest in property 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 (iv), then the United States shall have the right to appeal the United States Court of Appeals for the Ninth Circuit, which shall entertain such appeal in accordance with such rules as it may prescribe and shall make a final decision, binding as to need or value, or both, and, if appropriate, the court shall order the conveyance of the property or interest in property to the United States.

(vi) An appeal may be taken to the United States Court of Appeals for the Ninth Circuit by any person whose property or

interest in property is acquired by the United States under provisions of this subsection.

(vii) Final decisions of the United States Court of Appeals for the Ninth Circuit rendered in accordance with subsections (v) and (vi) may be reviewed by the United States Supreme Court on petition for a writ of certiorari in accordance with 28 U.S.C. 2101.

(g) After the effective date of this Act, no privately or communally owned real property, use rights, or interests in such property in Micronesia may be transferred, sold, alienated or leased for a term in excess of ten years to non-residents, corporations owned or controlled by non-residents of Micronesia, or the United States Government under the provisions of subsection (d), except by descent or devise, unless such transfer, sale, alienation, gift, or lease is first approved in writing by the majority vote of a commission to be especially established from residents in the geographic area where the real property is located for that purpose in accordance with the laws of Micronesia.

TITLE IV

PROVISIONS OF A TRANSITIONAL NATURE

SEC. 401. After the effective date of TITLES III AND IV of this Act, no employees of the Government of Micronesia shall be appointed as Federal employees as long as they are employed by the Government of Micronesia; except that Federal employees in the

Government of Micronesia on the effective date of TITLES III and IV of this Act shall not be terminated as Federal employees until the expiration of their current transportation agreements.

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 of Micronesia as may be appropriate for disposition.

SEC. 403. All appropriations made to or by the Government of the Trust Territory of the Pacific Islands prior to the effective date of this Act 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 on such date shall be made inapplicable.

UNCLASSIFIED

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.