



United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

AUG - 5 1970

Dear Mr. President:

During one of our recent appearances before committees of the U.S. Congress, in executive session, questions were posed to Administration witnesses as to the constitutionality of section 381 (g) in our proposed constitutional convention bill, which had been included to provide Micronesians with control over alienation of their land. Specifically, I was asked to provide a legal opinion bearing on this question. Since some doubts have been expressed as to the effectiveness of section 381 (g) for the purpose intended, I consider it entirely appropriate that the Congress of Micronesia have copies of our submission to the United States Congress.

The question has been raised by Micronesians, I understand, as to whether "legal residence" could be defined by the Commonwealth Government in such a way as to make section 381 (g) genuinely effective in practice. The Office of the Solicitor has advised me that the legal requirements under which residency is established in any particular state or other political subdivision are established by the local legislature. In other words, it is a proper exercise of legislative authority to lay down the requirements under which a person acquires the status of a legal or permanent resident of a particular place so as to permit him to vote or run for office or be subject to the jurisdiction of the courts in divorce suits, probate matters, guardianship, custody and support of minors, etc. See, 25 AM. Jur. 2d, Domicile. Thus, legal residence can be defined by the Congress of Micronesia in a manner substantially to accomplish the purposes of section 381 (g).

We remain convinced that the proposed constitutional convention bill would be both effective and constitutional in giving Micronesians the power to limit the sale or lease of land to non-Micronesians.

I am sending an identical letter to the Speaker, House of Representatives, Congress of Micronesia.

Sincerely yours,

**Harrison Loesch**  
Harrison Loesch  
Assistant Secretary

Honorable Amata Kabua  
President of the Senate  
Congress of Micronesia  
Saipan, Mariana Islands 96950

Enclosures:

Letter of 25 June 1970 to Rep. Carey signed by Secretary Loesch, enclosing a memorandum of 18 June 1970 signed by Brewster Chapman, Associate Solicitor.

cc:

Sec. File  
Sec. RF  
ES/PLM  
State Dept.  
Defense Dept.

FRadewagen:cd:orm:7/31/70