

TWENTY-SECOND DAY

Monday, January 29, 1973

The House of Representatives of the Fifth Congress of Micronesia, First Regular Session, 1973, was called to order at 10:16 a.m., Monday, January 29, 1973.

Speaker Bethwel Henry presided.

A moment of silent prayer was observed.

The Chief Clerk called the roll. Seventeen members were present; Representatives Hadley, Moses, Oikeriil, and Tman were excused.

Speaker Henry suspended reading of the Journal.

COMMUNICATIONS

No High Commissioner Communications were reported.

No Departmental Communications were reported.

Senate Communication No. 6, transmitting S.J.R. No. 26, expressing sympathy to the family of the late President Johnson.

Senate Communication No. 7, returning H.J.R. No. 15, SD1, expressing sympathy to the family of the late President Truman.

No Miscellaneous Communications were reported.

STANDING COMMITTEE REPORTS

None

SPECIAL COMMITTEE REPORTS

Special Committee Report No. 6, entitled "Marine Resources Development in Micronesia, a Report to the Congress of Micronesia prepared by the Joint Committee on Marine Resources, Fifth Congress of Micronesia, First Regular Session, January 1973."

Representative Haruo moved for adoption of the report; Floor Leader Silk seconded.

Representative Domnick moved that the adoption of the report be deferred until a later date so the members could have time to study it; Representative Setik seconded, and the motion carried by voice vote.

ASSIGNMENT OF MEASURES

The Speaker called attention to Referral Sheet No. 13 attached to the Order of the Day for the assignment of measures.

UNFINISHED BUSINESS

None

BILL CALENDAR

None

RESOLUTION CALENDAR

Floor Leader Silk moved for adoption of SD1 of H.J.R. No. 15; Vice-Speaker Dois seconded, and the Chief Clerk read the title, "Conveying deepest sympathy and condolences to the family of former United States President, the Honorable Harry S. Truman." The motion carried by voice vote.

INTRODUCTION OF BILLS

H.B. No. 87

Introduced by: Rep. Haruo
Assigned to: Resources and Development

Providing for the organization and regulation of fishing cooperative associations and for the creation of district fishery associations and prescribing their duties, functions and powers, and for other purposes.

H.B. No. 93

Introduced by: Rep. Haruo
Assigned to: Resources and Development

To amend Section 101 of Title 53 of the Trust Territory Code to permit all foreign fishing vessels to enter certain specified ports in Micronesia for the purpose of obtaining provisions and supplies including food, fuel, water and bait fish and for the purpose of permitting shore leave for crew members, and for other purposes.

H.B. No. 94

Introduced by: Rep. Haruo
Assigned to: Appropriations

Appropriating the sum of \$30,000 to defray the expenses of the Joint Committee on Marine Resources until June 30, 1974.

H.B. No. 95

Introduced by: Rep. Haruo
Assigned to: Resources and Development

Amending Public Law 4C-48 and Chapter 1 of Title 33 of the Trust Territory Code to create a Department of Marine Resources.

H.B. No. 96

Introduced by: Rep. Haruo
Assigned to: Resources and Development/Appropriations

Appropriating the sum of \$600,000 for the construction of cold storage and ice making facilities for fishing cooperative associations.

H.B. No. 97

Introduced by: Rep. Haruo
Assigned to: Ways and Means

To amend Section 8 of Public Law 4C-2, as amended by Public Law 4C-94, to allow a tax deduction for that portion of gross revenue of fishing cooperative associations derived from the sale of fish.

H.B. No. 98

Introduced by: Rep. Haruo
Assigned to: Resources and Development/Appropriations

Appropriating the sum of \$90,000 for the operating expenses of the district fishing associations in each district.

H.B. No. 99

Introduced by: Rep. Haruo
Assigned to: Resources and Development/Appropriations

Appropriating the sum of \$300,000 from the General Fund of the Congress of Micronesia for the purpose of providing loans to members of fishing cooperative associations.

H.B. No. 100 Introduced by: Rep. Silk
Assigned to: Health Matters/Appropriations

To appropriate the sum of \$40,000 out of the General Fund of the Congress of Micronesia to supplement the amount appropriated under Public Law No. 3-33 as enacted in 1967 for a Super Dispensary in Jaluit Atoll, Marshall Islands District, and for other purposes.

INTRODUCTION OF RESOLUTIONS

H.J.R. No. 22 Introduced by: Rep. Haruo
Assigned to: Resources and Development

Creating a permanent Joint Committee on Marine Resources, authorizing it to study certain specified problems related to marine resource development and to recommend appropriate legislation to the Congress.

H.J.R. No. 23 Introduced by: Rep. Haruo
Assigned to: Resources and Development/Appropriations

Requesting the High Commissioner and the Chairman of the Joint Committee on Program and Budget Planning to adjust the Trust Territory Budget so that thirty-three percent of the funds budgeted for economic development be allocated for marine resources.

MISCELLANEOUS BUSINESS

Representative Domnick: Point of privilege. Mr. Speaker, I would like the House to recognize the presence of Mr. Clinton Atkinson, Regional Fishery attache for the U.S. Embassy in Japan. Mr. Speaker, I would like the House to recognize again the presence of our good friend who was here not too long ago, the Chief Magistrate of the Island of Kusaie, Mr. Norman Skillling. And, I would like to introduce to the House a newcomer, Mr. Rene Harris, Manager of Nauru Shipping Lines, who is here to testify on the measure before the House.

Representative Haruo: Mr. Speaker, I would like to say that Mr. Atkinson from the U. S. Embassy in Japan served as consultant to the Joint Committee on Marine Resources. We owe Mr. Atkinson and Ambassador Robert Ingersoll our special thanks for the wonderful cooperation they extended to your joint committee. Thank you, Mr. Speaker.

Representative Heine: Mr. Speaker, I would like to make a few brief remarks at this time.

"Mr. Speaker, undoubtedly every member of this honorable body, as a politician, has several different hopes and dreams. But setting aside politics, we are all Micronesians at heart and I am sure a single goal for our future and an united front against our common enemy is what we all have been praying for--this is our concern. Consequently, not without toil and sweat, we have gradually carved out of almost nothing a merging small but friendly united paradise islands in the center of our great Pacific Ocean. This is an example of what we can do if we set aside our differences and work hand in hand.

"But, Mr. Speaker, without contradicting what I have just said, may I also add the statement that we have not been alone in our lovely journey toward our new future. Those of us, of course, who were too young to comprehend the hardship Micronesians sustained under the power that ruled us before the United States will fail to appreciate even in small measure what American has done for us. As you well know, Mr. Speaker, perhaps a good number of us in this Chamber still have vivid memories of the pre-war era. Our education was very limited, our voice was muffled, and in many instances our lands were confiscated. And the words of freedom and independence did not have much meaning to us.

"But then at the conclusion of the war, and the signing of the U.N. Charter in San Francisco a new era was ushered into our islands. Surely, at first our new Administering Authority stumbled and experienced failures, but at the issuance of Secretarial Order 2918 many of these failures were gradually corrected. And because of that same Secretarial Order,

the Micronesian's voice can now be heard almost throughout the whole world.

"Mr. Speaker, what I am trying to say is that as a representative of the people in my district, I do not want to endorse the sentiment expressed in this Chamber against Mr. Truman, a President of the United States. As a man, perhaps Mr. Truman, like any of us, committed some or many errors. But as President of the United States of America, I respect him, and a man who is dead cannot challenge any criticism we make against him. I shall let him rest in peace, and I am very sure I am expressing the sentiment of my people in my district in the Marshall Islands. Thank you very much."

The Chair recognized Representative Haruo.

Representative Haruo: Mr. Speaker and fellow members of the House of Representatives:

"It has been said so many times that marine resources are our most important resource that it has become a cliché. But even though a cliché, I feel I must repeat it. Marine resources are our most important resource, and a very abundant resource. The potential for the development of this resource for the benefit of Micronesia is staggering. Effective utilization of the resources of the sea holds the key to our economic future. Properly developed, marine resources are capable of creating a rich, economically stable, self-sufficient Micronesia. But even more important, I feel that marine resources hold the key to our political future as well. We tend to think of economic development and political status as separate unrelated problems. But they are not. An economically self-sufficient Micronesia can stand up to the world and proclaim itself a nation and negotiate with the United States from a position of strength. An economically dependent Micronesia must deal from a position of weakness. How much different the political status negotiations would be if we could negotiate with the confidence that with or without the United States grant funds our nation and our people would thrive. If 25 years ago the United States had begun developing our economy, and particularly our marine resources, we could be in that position today.

"Mr. Speaker, earlier I spoke of marine resources as a problem. But, Mr. Speaker, I think it is more useful to think of them as a benefit--a gift--a means to emancipate our people--a solution. The resources of the sea surrounding our islands are immense, so immense that the major maritime nations of the world are begging and conniving to get access to them. Our problem isn't marine resources, it is devising a means to exploit them for our benefit without selling our souls in the process. Mr. Speaker, I feel that the recommendations contained in the Report of the Joint Committee on Marine Resources, which we are presenting to the Congress today, are the first step, a big step, in devising such a scheme.

"Fishery resources can be divided into two general categories--coastal fisheries and offshore fisheries. The resources in each category differ and we have abundant quantities of both. For us the coastal fishery means mainly reef fish and tuna caught near our islands. On the other hand, our primary offshore resource is skipjack. Not only does the resource differ between these two categories of fisheries, but also the capital requirements, technology, and the level of business sophistication required for successful development. Offshore fisheries are primarily an export industry requiring large expensive fishing vessels, reefer facilities, and a business organization sophisticated enough to deal in a large scale export business. The coastal fishery on the other hand can operate efficiently with relatively small, inexpensive fishing boats, simple equipment, and reefer facilities and can and should be managed by small scale, entirely Micronesian, business organizations.

"Mr. Speaker, in the time allowed our committee we were unable to comprehensively study both categories of fisheries and so, for several reasons, we concentrated our efforts on devising a means to develop a strong coastal fishery capable of satisfying the local demand and needs for fish in Micronesia. First of all, Mr. Speaker, we must develop business organizations capable of conducting both types of fisheries. Since the business aspects of a coastal fishery are less complex, they can be developed much quicker and are likely to have a lower incidence of failure. Once the business organizations for a coastal fishery become strong and effectively functioning they can expand their operations to include offshore fishing. Also capital requirements of a coastal fishery are much less demanding and are within our grasp now. As the coastal fishery develops and begins generating its own capital, the transition into offshore fishing will be easier. In addition, Mr. Speaker, one of our chronic economic problems is the growing reliance of the Micronesian people on imports--a

major item of which is imported canned fish. We actually find ourselves in the absurd position of eating fish caught in Micronesia, shipped to such places as Samoa for canning, and then returned as imports. Developing a strong coastal fishery capable of satisfying the local demand for fish should remove this problem. And finally, Mr. Speaker, we have totally mastered the technology for coastal fishing while the needed technology for offshore fishing is not yet within our experience. Though some Micronesians have been sent to Hawaii and other places for deep sea fishery training, we do not yet have a sufficient number of trained deep sea fishermen to provide crews for the development of an offshore fishery.

"In order to develop a strong coastal fishery, Mr. Speaker, the Joint Committee on Marine Resources recommends that fishing cooperatives be used as the primary business organization as is the case in Japan, Korea, Taiwan, and the Philippines. Cooperatives are a broad based community level institution with which our people have had much experience and which tend to spread the benefits of development over a large number of people. Experience has shown that cooperatives, if adequately supported and properly managed, are fully capable of developing a coastal fishery. But in order for fishing cooperatives to develop and grow they must be adequately supported financially so that they can build reefer facilities and make loans to fishermen to buy boats, motors, and equipment. They also must be closely regulated and well-managed. To regulate cooperatives, channel money to them and formulate district fishery policy, the committee recommends the formation of a district fishing association in each district to be composed of representatives from each of the cooperatives in the district plus the district representative of the Division of Marine Resources.

"Mr. Speaker, another major recommendation of the committee relates to granting port-of-call rights to foreign fishing vessels. The committee feels that one port in each district should be opened to all foreign fishing vessels, subject to the approval of each district legislature. Foreign fishing vessels should have the right to purchase food, fuel, water and other provisions, and also the right to purchase bait fish. The committee feels that the district fishing association should be the exclusive agent for the sale of provisions and bait fish to the foreign vessels and that the profit from this activity should be used to support the operating expenses of the district fishing association and the remainder distributed to the fishing cooperatives to be used by them for loans to member fishermen.

"Mr. Speaker, the committee also recommends that a permanent Joint Committee on Marine Resources be created to deal with a number of specific problems which the committee did not have time to adequately study and to provide continual legislative direction to the development of marine resources. The major specific problem which needs careful study by the committee relates to the question of how to most effectively develop the offshore fishery resource.

"Mr. Speaker, the committee also made quite a number of other recommendations which the limitation of time preclude me from reiterating. They may be found in the chapter of our report entitled, 'Recommendations,' and they are also summarized in the last chapter of the report.

"Mr. Speaker, today I am introducing ten pieces of legislation designed to carry out the program recommended in our report. Among them are four appropriation bills totalling \$1,020,000. Mr. Speaker, marine resources hold the potential to make our people economically self-sufficient and thus free them from this foreign imposed position of dependency which we find ourselves in, but it cannot be done without money. Economic development is not just important, it is essential if we are ever to be able to stand before the world proud and free. This Congress is going to be asked to make some hard decisions as to the disposition of our tax revenue.

"The hope of our committee is that economic development, particularly in the areas of agriculture and marine resources, will be given top priority in making those decisions.

"Thank you, Mr. Speaker."

The Speaker declared the House recessed at 10:40 a.m., subject to the call of the Chair.

RECESS

The House reconvened at 10:50 a.m. and the Chair recognized Representative Guerrero.

Representative Guerrero: Mr. Speaker and members of the House:

"Last week, our colleagues in the Senate received S.J.R. No. 13, which sought to censure the Attorney General's Office for representing the interests of noncitizens against the interests of the people of Micronesia. Today, Mr. Speaker, I have before me uncontestable proof that the intent of that resolution is justified. This legal document, Mr. Speaker, convinces me, as it should convince every member of this House and this Congress, that the Government of the Trust Territory of the Pacific Islands exists primarily to serve its own interests, and only secondarily to carry out its obligations to the people of Micronesia.

"Mr. Speaker, as the honorable members of this House may know, a few weeks ago several other citizens of the Trust Territory and residents of Saipan and I filed suit in the High Court of the Trust Territory to stop the construction of a hotel at Micro Beach on Saipan. My unalterable opposition to the use of Saipan's best and favorite public beach for a private hotel has been on record since November 1971. Micro Beach is and always has been a favorite spot for recreation for my people, and I want it to remain that way. If this hotel is allowed to be built, Micro Beach will be effectively lost to our people forever.

"I can comprehend why our Administration might hinder land development in areas where it might have future military needs. This is established as an element of the Trusteeship Agreement. I cannot, however, for the life of me see any reason why the Administration should favor a United States airline company over the wishes of the citizens of Micronesia on a matter which will provide that company with a handsome profit.

"After filing our case in the High Court of the Trust Territory, we became convinced that at the rate the hearings were going it would be a long time before a final decision would be made. Meanwhile, progress on the construction of the hotel continued. We, therefore, decided to file our suit in the United States District Court in Hawaii, hoping that a temporary injunction would be issued, restraining further construction on the hotel until the merits of the case have properly been presented. But, Mr. Speaker, on January 22, 1973, the Trust Territory Government filed in our own High Court a motion seeking to restrain me and my fellow Micronesian plaintiffs from pursuing our lawful cause in the courts of the United States.

"Mr. Speaker, is our Government interested in the greater good of the Micronesian people? It would seem by this example that they are not. The Government, obviously, is more interested in increased profits for the concerned airline. Mr. Speaker, I cannot understand why our Government has persistently shown its complete and utter disregard for the people of Micronesia in this matter from the beginning when the District Land Advisory Board recommended against the construction of this hotel all the way to the filing of a motion for an injunction which would prevent Trust Territory citizens from trying to protect the interests of their people. Mr. Speaker, it is right here on the document I hold. The Office of the Attorney General has signed the motion for injunction right along with the attorney for the airline. Here we have a motion for a temporary injunction against Micronesian citizens executed by a former attorney general and chief justice of the Trust Territory on behalf of the airline and signed by an assistant attorney general on behalf of the High Commissioner.

"Mr. Speaker, there is a very sharp and basic conflict of interest here. How can a person appointed to carry out the provisions of the Trusteeship Agreement, which includes protecting the rights and lands of the Micronesian people, turn around and sign a legal document which is designed to stop Micronesians from protecting those very rights and lands?

"I am very disturbed with the actions of our Government, a Government which seems devoted, not to promoting the welfare of the people of Micronesia, but instead, little by little, in every way it can, to break their will and destroy them. Mr. Speaker, I am one man who will not tolerate such treatment.

"And, incidentally, Mr. Speaker, I would like to read a passage from a speech which, by chance, I came across in a publication entitled, 'Pacific Islands Development Commission Seminar, Honolulu, Hawaii, March 10, 1972.' The passage on page 11 of the seminar report contains a speech by the High Commissioner of the Trust Territory of the Pacific Islands in response to a speech made by the Honorable John M. Haydon, Governor of American Samoa, from which I quote: 'John mentioned that 96% of the land in American Samoa belongs to Samoans. In our area 100% of the land belongs to the Micronesians. That which is called government land is currently held by the United States in trust for the people of Micronesia.'

"This statement is indeed erroneous. The High Commissioner claims that all land in Micronesia belongs to Micronesians, but, in fact, as the hotel case has clearly shown us, Micronesians have no right to determine the use of this so-called government land. If the High Commissioner had truly meant what he said in that speech, why did he completely ignore the advice of the Land Advisory Board in the hotel case and why is he now so insistent on pressing this case against the expressed wishes of the Micronesian people?

"Mr. Speaker, I would appreciate an answer to my remarks from the Administration. Thank you very much; Mr. Speaker.

"Mr. Speaker, for the record, may I insert this other document into the Journal?"

(The Chief Clerk accepted the documents which are appended to this Journal as pages 93, 94, 95, 96, and 97.)

ANNOUNCEMENTS

Chairman Nakayama announced that the Committee on Health Matters would delay their hearing by one day and meet at 1:30 p.m., January 30, 1973 in Committee Room No. 2.

Chairman Sigrah announced a meeting of the Committee on Education and Social Matters immediately following the session in the Library.

Chairman Setik announced that the Committee on Appropriations would meet with the Committee on Resources and Development at 1:00 p.m., January 29, 1973 in the House Chamber.

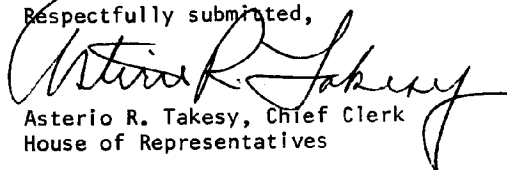
Chairman Haruo announced that the Joint Committee on Marine Resources would have a meeting at 8:30 a.m., January 30, 1973 in the House Chamber and that the public hearing scheduled for the Committee on Resources and Development would be postponed until 2:30 p.m., January 29, 1973.

Chairman Basilius announced a meeting of the Committee on Judiciary and Governmental Relations at 1:00 p.m., January 29, 1973 in Committee Room No. 2.

Speaker Henry: House Bill No. 1, which was originally assigned to the Committee on Appropriations, is hereby assigned also to the Committee on Resources and Development.

There being no further announcements, Floor Leader Silk moved that the House stand in recess. Vice-Speaker Dois seconded and the motion carried. The Speaker declared the House recessed at 11:00 a.m. until 10:00 a.m., Tuesday, January 30, 1973.

Respectfully submitted,


Asterio R. Takesy, Chief Clerk
House of Representatives

TRUST TERRITORY OF THE PACIFIC ISLANDS

TRIAL DIVISION OF THE HIGH COURT

MARIANA ISLANDS DISTRICT

HERMAN Q. GUERRERO, et al.,

Plaintiffs,

vs.

EDWARD E. JOHNSTON and
CONTINENTAL AIRLINES, INC.,

Defendants.

CIVIL ACTION NO. 1064

NOTICE OF MOTION FOR
TEMPORARY INJUNCTION

TO: Samuel Withers III, Edward C. King, and James E. Duggan, attorneys for
plaintiffs.

PLEASE TAKE NOTICE that the undersigned will bring the attached motion for
temporary injunction on for hearing before the Hon. Harold W. Burnett, at the Court-
house, Susupe, Saipan, Mariana Islands, on January 30, 1973, at 9:00 A.M., or as
soon thereafter as this matter can be heard, and that the motion will be submitted upon
the pleadings, and other documents on file herein.

CRAIN, RATHBUN & SHOECRAFT

By: Robert K. Shoecraft
Robert K. Shoecraft

Attorneys for defendant Continental
Airlines, Inc.

Carlos Salii
Carlos Salii
Attorneys for defendant, Edward E. Johnston

Rec'd & filed January 23, 1973
(Date)

Margaret C. Linnick
Clerk of Courts
Mariana Islands District
Saipan, Mariana Islands

02459

CRAIN, RATHBUN
& SHOECRAFT
ATTORNEYS AT LAW
CABRIL BUILDING
AGANA, GUAM 06910

TRIAL DIVISION OF THE HIGH COURT

1 MARIANA ISLANDS DISTRICT

2 HERMAN Q. GUERRERO, et al.)

3 Plaintiffs,)

CIVIL ACTION NO. 1064

4 vs.)

5 EDWARD E. JOHNSTON and)

AFFIDAVIT

6 CONTINENTAL AIRLINES, INC.,)

7 Defendants.)

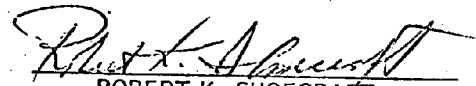
8 ROBERT K. SHOECRAFT, being first duly sworn, says: That he is one of the
9 attorneys for Continental Airlines, Inc., one of the defendants in the above-captioned
10 action; that on January 4, 1973, he travelled to Honolulu, Hawaii, to appear in the
11 United States District Court for the District of Hawaii in Civil Case No. 72-3720,
12 which was filed on December 29, 1972 by Herman Q. Guerrero, et al., the identical
13 plaintiffs in Trust Territory High Court Civil Action No. 1064; that on January 5 and
14 January 8, 1973, along with Katsuro Miho, Esquire and John D. McComish, Esquire,
15 of the firm of Fong, Miho, Robinson, Zimmerman and McComish, Hawaii attorneys for
16 Continental Airlines, Inc., affiant appeared in two hearings held in this matter in the
17 United States District Court for the District of Hawaii, after which the Court entered an
18 order decreeing, among other things, that all other proceedings were continued to
19 February 15, 1973.

20 Affiant further says that with the exception of two additional defendants,
21 UNITED STATES DEPARTMENT OF INTERIOR, Rogers C. B. Morton, Secretary of the
22 Interior, and Stanley S. Carpenter, Deputy Assistant Secretary of the Interior for
23 Territorial Affairs, the parties and issues in Trust Territory High Court Civil Action No
24 1064 and United States District Court for the District of Hawaii Civil Case No. 72-3720,
25 are identical.

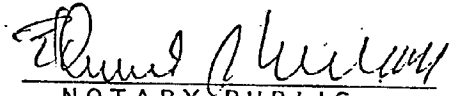
26 Affiant further says that Carlos Salii, Esquire, Assistant Attorney General of
27 the Trust Territory of the Pacific Islands, also appeared in Honolulu, Hawaii, as
28 attorney for Edward E. Johnston, High Commissioner of the Trust Territory of the

1 Pacific Islands, in the Honolulu hearing held on January 5, 1973. Affiant further says
2 that defendants have expended thousands of dollars already and will suffer irreparable
3 harm through the future expenditure of thousands of dollars more in travel and other
4 expenses if they are required to defend this action in two different courts which are
5 located thousands of miles apart.

6 Affiant further says that plaintiffs are all citizens or inhabitants of the Trust
7 Territory of the Pacific Islands and that plaintiffs voluntarily submitted to the juris-
8 diction of the Trust Territory courts when they filed their action on November 22, 1972,
9 and that Civil Action No. 1064 is still pending in the High Court of the Trust Territory
10 of the Pacific Islands.


ROBERT K. SHOECRAFT

13 SWORN TO before me and subscribed in my presence by Robert K. Shoecraft
14 on January 22, 1973, at Agana, Guam.


NOTARY PUBLIC
EDWARD S. TERLAJE, Notary Public
in and for the Territory of Guam, My
Commission expires: 7-13-72 1/26/77

26 January 23, 1973
(Date)
27 Margaret C. Sanchez
28 Plaintiff
Clerk of Courts
Mariana Islands District
Saipan, Mariana Islands
2 of 2

CRAIN, RATHBUN
& SHOECRAFT
ATTORNEYS AT LAW
GABRIEL BUILDING
AGANA, GUAM 96910

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TRUST TERRITORY OF THE PACIFIC ISLANDS
TRIAL DIVISION OF THE HIGH COURT

MARIANA ISLANDS DISTRICT

HERMAN Q. GUERRERO, et al.

Plaintiffs,

vs.

EDWARD E. JOHNSTON and
CONTINENTAL AIRLINES, INC.,

Defendants.

CIVIL ACTION NO. 1064

MOTION FOR TEMPORARY
INJUNCTION

Now comes the defendants herein and move that this Court issue a temporary injunction, restraining the plaintiffs and their attorneys from prosecuting or taking any further steps in the prosecution of Civil No. 72-3720, a civil case entitled THE PEOPLE OF SAIPAN, by and through HERMAN Q. GUERRERO, LINO M. OLOPAI, DAVID T. ALDAN, JESUS A. SASAMOTO, JUSTIN S. MANGLONA, NICK SANTOS, BEN A. GUERRERO, JOHN ROSARIO, RICK R. MARCIANO, JOAQUIN P. VILLAGOMEZ, plaintiffs, filed by the plaintiffs in the United States District Court for the District of Hawaii, on December 29, 1972, on the following grounds:

1. That Civil Action No. 1064 was filed in the High Court of the Trust Territory of the Pacific Islands on November 22, 1972, that at least two hearings have been held on this matter in the High Court, and that the case is still pending before the court.

2. That, with the exception of two additional defendants, the controversy in each court involves the same issues and the same parties.

3. Civil Action No. 1064 was the first suit brought by the plaintiffs and absent a showing of balance of convenience in favor of the second action, Civil Action No. 1064 should have priority.

4. Civil Action No. 1064 brings together all of the necessary parties and presents all of the major issues.

1 5. It is of obvious importance to all of the parties to have a single determi-
2 nation of their controversy, rather than several decisions, which, if they conflict, may
3 require separate appeals to difference courts of appeals.

4 6. That the additional expenditure of funds by the defendant to defend the
5 same action in two jurisdictions thousands of miles apart cannot be justified and is not
6 in the interests of justice.

7 7. That forum shopping by the plaintiffs, while Civil Action No. 1064 is
8 still being litigated, should not be permitted.

9 This motion is made on the basis of the affidavit of Robert K. Shoecraft,
10 the pleadings, motions and orders in Civil Action No. 1064, and other documents filed
11 herein.

12 Dated: January 22, 1973.

13 Respectfully submitted,

14 CRAIN, RATHBUN & SHOECRAFT
15 Attorneys for Defendant Continental Airlines, Inc.

16 By: Robert K. Shoecraft
17 Robert K. Shoecraft

18 Carlos Sali
19 CARLOS SALI, Assistant Attorney General
20 Attorney for Edward E. Johnston, High
21 Commissioner of the Trust Territory of the
22 Pacific Islands.

23
24
25 rec'd & filed January 23, 1973
26 (Date)
27 Marquita C. Jaramila
28 Clerk of Courts
Mariana Islands District
Saipan, Mariana Islands

CRAIN, RATHBUN
& SHOECRAFT
ATTORNEYS AT LAW
GABRIEL BUILDING
AGANA, GUAM 96910

024603