

NINETEENTH DAY

Friday, January 31, 1975

The House of Representatives of the Sixth Congress of Micronesia, First Regular Session, 1975, was called to order at 3:25 p.m., Friday, January 31, 1975.

Speaker Bethwel Henry presided.

A moment of silent prayer was observed.

The Chief Clerk called the roll, and all members were present.

The Speaker suspended reading of the Journal.

COMMUNICATIONS

High Commissioner Communication No. 6-13, transmitting a proposed bill relating to the organization of the Executive Branch.

Departmental Communication No. 6-11, from Director of Public Affairs, informing Congress of the discontinuation of funding for Low Cost Housing and Grant-in-Aid programs under the Community Development Division.

Senate Communiuation No. 6-3, transmitting S.B. No. 6-18, S.D.1, relating to lowering motor vehicle speed limits in hazardous areas.

Miscellaneous Communication No. 6-31, from Truk Legislator Sabi William relating to the drop in copra price and poor field trip service.

STANDING COMMITTEE REPORTS

Standing Committee Report No. 6-9, submitted by the Committee on Appropriations, re H.B. No. 6-3, "To appropriate the sum of \$11,000 from the General Fund of the Congress of Micronesia as a supplemental appropriation for the operation and contingent expenses of the Revenue Division of the Department of Finance of the Trust Territory for Fiscal Year 1975 and for other purposes."

Chairman Setik moved for adoption of the report; Floor Leader Tman seconded, and the motion carried by voice vote.

Standing Committee Report No. 6-10, submitted by the Committee on Appropriations, re H.B. No. 6-5, "To appropriate the sum of \$297,400 from the General Fund of the Congress of Micronesia for the purpose of defraying the operation and contingent expenses of the Revenue Division of the Department of Finance of the Trust Territory for Fiscal Year 1976 and for other purposes."

Chairman Setik moved for adoption of the report; Floor Leader Tman seconded, and the motion carried by voice vote.

Standing Committee Report No. 6-11, submitted by the Committee on Resources and Development, re H.J.R. No. 6-4, "Inviting the United Nations Development Programme Regional Office for the Western Pacific in Manila, Philippines, to relocate its regional office in the Trust Territory of the Pacific Islands."

Chairman Haruo moved for adoption of the report; Floor Leader Tman seconded, and the motion carried by voice vote.

SPECIAL REPORT ON CREDENTIALS

Special Committee Report No. 6-7, submitted by the Special Committee on Credentials, re "Credentials of John Haglelgam."

Chairman Domnick moved for adoption of the report; Floor Leader Tman seconded.

Rep. Basilius: Mr. Speaker, before we take action on the report, I would like to refer to page 2 of the report. In paragraph 4, I feel that a sentence should be omitted. It has a bad implication on our Congressman from Yap District.

Rep. Aafin: Mr. Speaker, I ask for a short recess.

The Speaker declared the House recessed at 3:30 p.m., subject to the call of the Chair.

The House reconvened at 3:35 p.m.

Rep. Edwards: Point of privilege, Mr. Speaker. Present with us this afternoon is a distinguished gentleman from Ponape who was a former Congressman and who is now the Director of the Community College of Micronesia. I would like to introduce to the House Mr. Daro Weital.

Speaker Henry: Thank you. Is there any further discussion on Special Committee Report No. 6-7?

Rep. Basilius: I have an amendment to offer to the Special Committee Report.

Speaker Henry: I will ask the Clerk to read to the House the amendment.

The Chief Clerk read the following amendment to Special Committee Report No. 6-7:

On page 2, paragraph 4, delete the following two sentences in their entirety:
"Your Committee feels that Representative Haglelgam may be confused about his true date of birth. In fact, the actual day may never be known."

Representative Basilius moved to suspend the rule on duplication of amendments; Floor Leader Tman seconded, and the motion carried by voice vote.

Representative Basilius moved that the amendment to Special Committee Report No. 6-7 be adopted; Floor Leader Tman seconded.

Rep. Haruo: Mr. Speaker, I get more confused about the proposed amendment. I think all of the appendixes attached to the report substantiate the confusion which perhaps happened to the innocent person. I do not believe that the proposed amendment deserves merit.

Rep. Aafin: Mr. Speaker, I agree with my colleague from Truk, but only to an extent. I think that the amendment should go in, and it will be up to any reader of this report to form his own opinion on the documents attached to the report.

Rep. Setik: Mr. Speaker, may I ask why my colleague from Palau wants to delete the first two sentences of Paragraph 4?

Rep. Basilius: The reason why I make a motion to delete the two sentences is that as far as I am concerned, I think that Congressman Haglelgam is not confused in the first place. The reason he is here is that he knew he was overage. As far as this House is concerned, I don't think we should make any implication that there was somebody confused because I believe that anybody who is a member of the House knows what he is doing. Maybe the testimony being offered to your Special Committee on Credentials gave some indication that there was confusion as far as the Credentials Committee of the Congress and as far as the record shows in Yap District. However, the person is well aware that he was over the age of 25. That is why he was running for the election. So the reason I am offering the amendment is to strike out the word "confused" because it is improper, as far as I am concerned.

Representative Sigrah moved for the previous question; Representative Domnick seconded, and the motion carried by voice vote.

Speaker Henry: There is a proposed amendment to strike out two sentences on page 2 of the report.

The motion carried by voice vote, and the amendment was adopted.

Floor Leader Tman: Point of information. I presume that the suspension of the rule regarding duplication of the report is still in effect?

Speaker Henry: Yes, that is correct. Are you ready to vote on the motion to adopt the report?

The motion to adopt Special Committee Report No. 6-7 as amended carried by voice vote.

Speaker Henry: May we give Congressman Haglelgam a hand?

(Applause.)

ASSIGNMENT OF MEASURES

The Clerk called attention to Referral Sheet No. 12 attached to the Order of the Day for the assignment of measures introduced on Thursday, January 30, 1975. The following Senate Bill was also assigned:

S.B. No. 6-34, SD1, SD2: To amend Section 2 of Public Law No. 5-60 granting the traditional chiefs who are delegates to the Micronesian Constitutional Convention the right to vote, and for other purposes.

UNFINISHED BUSINESS

None

BILL CALENDAR

H.B. No. 6-3: To appropriate the sum of \$11,000 from the General Fund of the Congress of Micronesia as a supplemental appropriation for the operation and contingent expenses of the Revenue Division of the Department of Finance of the Trust Territory for Fiscal Year 1975 and for other purposes.

Representative Setik moved to file H.B. No. 6-3; Floor Leader Tman seconded, and the Chief Clerk read the title. The motion carried by voice vote.

H.B. No. 6-5: To appropriate the sum of \$297,400 from the General Fund of the Congress of Micronesia for the purpose of defraying the operation and contingent expenses of the Revenue Division of the Department of Finance of the Trust Territory for Fiscal Year 1976 and for other purposes.

Representative Setik moved for passage of H.B. No. 6-5 on First Reading; Floor Leader Tman seconded, and the Chief Clerk read the title. The motion carried by voice vote.

RESOLUTION CALENDAR

H.J.R. No. 6-4: Inviting the United Nations Development Programme Regional Office for the Western Pacific in Manila, Philippines, to relocate its regional office in the Trust Territory of the Pacific Islands.

Representative Haruo moved for adoption of H.J.R. No. 6-4; Floor Leader Tman seconded, and the Chief Clerk read the title. The motion carried by voice vote.

INTRODUCTION OF BILLS

H.B. No. 6-124:

Introduced by: Rep. Haglelgam (and three others)
Assigned to: Health Matters

To recognize the importance of the environment for all Micronesians, and the public trust therein; to require governmental study and consideration of environmental effects before undertaking major governmental actions; to provide for actions for protection of natural resources and the environment; and to add Subchapters II and III to Chapter 13 of Title 63 of the Trust Territory Code for those purposes.

H.B. No. 6-125:

Introduced by: Rep. Guerrero
Assigned to: Appropriations

To appropriate the sum of \$50,000 from the General Fund of the Congress of Micronesia to defray the cost of renovating, repairing and improving the municipal community halls and recreational facilities, installation of street lights, and the purchasing and installation of a freezer to be used for storing and freezing the fishermen's catches in Chalan Kanoa, Saipan Island, Mariana Islands District, and for other purposes.

H.B. No. 6-126:

Introduced by: Rep. Refonopei
Assigned to: Judiciary and Governmental Relations

To repeal Chapter 1 of Title 27 of the Trust Territory Code, and for other purposes.

H.B. No. 6-127:

Introduced by: Rep. Albert
Assigned to: Appropriations

To appropriate the sum of \$70,000 from the General Fund of the Congress of Micronesia for installing water tanks, improving docks and supplementing the fund for seawalls on the islands of Fefan, Uman, Dublon, Tsis and Parem in the Namoneas area of the Truk Lagoon, Truk District.

H.B. No. 6-128:

Introduced by: Rep. Edwards
Assigned to: Education and Social Matters/Appropriations

To appropriate the sum of \$36,406 from the General Fund of the Congress of Micronesia to defray the administrative expenses of the Ponape District Housing Authority for Fiscal Year 1976.

H.B. No. 6-129:

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

To amend Section 3 of Public Law No. 5-21 relating to the definition of fishing cooperatives.

H.B. No. 6-130:

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

To appropriate the sum of \$60,000 from the General Fund of the Congress of Micronesia for the operating expenses of the district

fishing authorities in each district; repealing Public Law No. 5-73 and transferring funds appropriated thereunder, and for other purposes.

H.B. No. 6-131:

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

To appropriate the sum of \$240,000 from the General Fund of the Congress of Micronesia for use by the district fishing authorities in making loans to the fishing cooperative associations, and for other purposes.

H.B. No. 6-132:

Introduced by: Rep. Setik
Assigned to: Appropriations

To appropriate \$50,000 from the General Fund of the Congress of Micronesia to construct a seawall on Kuttu Island, Mortlock Islands, in the Truk District, and for other purposes.

H.B. No. 6-133:

Introduced by: Rep. Setik
Assigned to: Appropriations

To appropriate the sum of \$60,000 from the General Fund of the Congress of Micronesia to carry out the provisions of Public Law No. 5-106 relating to programs on unity of Micronesia, and for other purposes.

H.B. No. 6-134:

Introduced by: Rep. Moses
Assigned to: Judiciary and Governmental Relations

Providing for the organization of the Executive Branch of the Trust Territory Government at the district level; providing for advice and consent of certain district officials by the District Legislature; and for other purposes.

INTRODUCTION OF RESOLUTIONS

H.J.R. No. 6-23:

Introduced by: Rep. Guerrero (and two others)
Assigned to: Ways and Means

Expressing appreciation to the Honolulu YMCA for assistance with the development of youth recreation in Micronesia.

H.J.R. No. 6-24:

Introduced by: Rep. Guerrero (and two others)
Assigned to: Ways and Means

Commending the Aloha Council, Boy Scouts of America, for service to the youth of Micronesia.

H.J.R. No. 6-25:

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

Authorizing the Senate and House Committees on Resources and Development to establish contacts with countries in Southeast Asia and the Pacific region as well as international and subregional organizations with a view towards securing financial and technical assistance for the various districts of the Trust Territory, and to visit such countries and meet with such international organizations to achieve these ends.

H.R. No. 6-7:

Introduced by: Rep. Mafnas (and seventeen others)
Assigned to: Judiciary and Governmental Relations

Directing the Director of the Department of Personnel to upgrade the pay levels of policemen throughout the Trust Territory.

H.R. No. 6-8:

Introduced by: Rep. Edwards
Assigned to: Appropriations

Urging the High Commissioner to direct the District Administrator of the Ponape District and the Commissioner of the Ponape Transportation Authority to complete construction of the Ponape Island circumferential road, and for other purposes.

H.R. No. 6-9:

Introduced by: Rep. Moses
Assigned to: Judiciary and Governmental Relations

Requesting the Secretary of the Interior to amend Section 6 of Department of Interior Order No. 2918 of December 27, 1968.

MISCELLANEOUS BUSINESS

Rep. Refonopei: Mr. Speaker, I would like to make very short remarks, and I would like my interpreter to read them, with your permission.

Speaker Henry: You have the floor.

REMARKS BY REPRESENTATIVE REFONOPEI

Rep. Refonopei: Mr. Speaker and members of the House: Today I have introduced a bill for your consideration which will repeal Title 27 of the Trust Territory Code pertaining to alien property. Mr. Speaker, passage of this measure in this session may be premature, but I introduce it now to demonstrate my serious concern over the manner by which the United States government has acted with regard to our land.

The transfer of what the United States government calls "public lands," pursuant to the Department of the Interior Order No. 2969 is just another example of the United States government's utter disregard for the Congress of Micronesia and for the Micronesian people. The provisions of the Departmental Order represent another step in the historical progression of interference at the hands of foreign administrators. The Spanish, German, Japanese, and now the United States governments have all seen it to their unilateral advantage to take, covet and use without fair compensation, or, in other words, Mr. Speaker, to steal our land.

I have just received a letter from a constituent in Truk District requesting that I address myself to these issues. My constituent cites, for our interest, a book entitled "Micronesian Backgrounds, Historical and Social Settings," published by the Trust Territory Department of Education in 1970. This book traces the pattern of foreign interference in Micronesian ownership and use of land. Allow me to read you an excerpt from the book:

"It has been reported that a favorite method used by Japanese to get land was to make a lease agreement with a Micronesian and later change the lease to a sale. Nearly all leases in Saipan, for instance, required the person who leased the land from the Micronesian to pay the entire rent, even for as much as ten years, in advance. Now it is difficult to tell whether the land was sold or leased because these agreements were often not clearly written. Also, Japanese merchants often gave credit to Micronesians so they could buy goods without cash. If the Micronesians did not pay the debt, the Japanese merchant took title to his land. Therefore, it is difficult to decide in many cases whether land is still owned by Micronesians or was actually sold to Japanese."

Mr. Speaker, this pattern of usurpation of our land by foreign governments has continued under the United States Administration of the Trust Territory. Title 27 of the Trust Territory Code provides that the Attorney General shall act as alien property custodian for all property situated in the Trust Territory which was formerly owned by private Japanese nationals or by the Japanese Government. Title 27 further provides that the Attorney General as alien property custodian would use and manage the property for the benefit of the inhabitants of Micronesia.

Mr. Speaker, I assert that the United States has not held our land in trust for the indigenous inhabitants of the Trust Territory. Their actions demonstrate a contrary intent. The first paragraph of Departmental Order No. 2969 states that the United States government, as administering authority for the Trust Territory of the Pacific Islands, has always considered public lands in the Trust Territory to be the property of the people of the Trust Territory. Mr. Speaker and fellow Micronesians, I assert that the United States government has disregarded the real property rights of Micronesian citizens and that the transfer of our land by Departmental Order No. 2969 is in bad faith. The United States is returning only those lands which they do not want for military purposes. The United States is returning only some of our land and keeping the rest. Fellow colleagues, I ask you, how can the United States truthfully say that they held the land for our benefit and that as administering authority they have always considered public lands in the Trust Territory to be the property of the people?

This is only one of many problems regarding land which results from the conflict between our traditional land law and the imposed Anglo-American concepts of jurisprudence. In Truk District, for example, customary notions of ownership of land do not stop at the high tide mark as is the Anglo-American practice. According to Truk traditional land law, ownership rights extend into the sea. The lagoons and reefs of Truk provide a major portion of the daily diet for the Trukese people and have been traditionally subject to distinct and clearly recognized, private, extended-family rights. This marine area is known as the "och" and extends to the edge of the reef regardless of the water's depth. Like owning and using land, inhabitants of Truk District gather and use the resources of the och. Fish, octopus, shells, coral for tools and building materials, and other marine resources are all an integral part of the economic and social system.

The Trust Territory Code in Section 14 of Title 1 attempts to accord recognition to our traditional and local custom. It provides that due recognition be given to local customs except as otherwise provided by law. At first appearance, this section would recognize the Trukese ownership of the och; however, Section 2 of Title 67 of the Trust Territory Code defines the rights of citizens in areas below the high-water mark. The owner of land abutting the ocean has the right to all objects deposited on the shore, and maintains fishing rights in waters over reefs where the general depth of water does not exceed four feet at mean low water. It is quite obvious that the provisions in Title 67 conflict with Truk customary law regarding ownership of marine areas. The language of Title 1 of the Trust Territory Code giving recognition to local customs is insufficient to overcome the provisions of Title 67.

I am sure that similar conflicts between customary law and the written Anglo-American practice exist in other districts. I have given you this example of Truk customary law only to demonstrate to you the problems of the United States in administering and imposing their notions of jurisprudence on the Micronesian people. I know that many other examples exist.

Mr. Speaker and fellow colleagues, it is time for the Congress of Micronesia and the people of the Trust Territory to develop a common course of action to protect our land from further encroachment by alien powers. I strongly suggest that the delegates to the Micronesian Constitutional Convention seriously consider the issue of land. The Constitutional Convention may wish to include in its draft constitutional provisions which would respect the traditional customs regarding land in each district, and make these customary laws, which have been ignored in the past, the supreme authority for land use and disposition in Micronesia. It is imperative that we restore in proper fashion Micronesian control over our most precious heritage.

Thank you, Mr. Speaker.

ANNOUNCEMENTS

Floor Leader Tman: Mr. Speaker, may I request the House to recognize the presence of Senator Pedro Tenorio in the gallery.

Rep. Bigler: Mr. Speaker, I would like to make a suggestion that whatever standing committee is using the Chamber, that they make it free 15 minutes before the House convenes.

Speaker Henry: That is a very good suggestion. I will let the Chairmen know about that? Is there any Chairman who wants to say anything? Representative Moses?

Rep. Moses: Thank you, Mr. Speaker, I will yield the floor to Representative Sasauo Haruo.

Speaker Henry: Do the Chairmen have any announcements to make on the committee meetings?

Rep. Moses: I would like to remind your Committee on Ways and Means that there is a public hearing tomorrow at 2:00 in this Chamber. I would also restate the invitation to any member who is free and interested in House Bill No. 6-52, relating to wharfage and docking fees on vessels using Trust Territory ports, to please attend the hearing.

Rep. Setik: Mr. Speaker, I would like to remind the members of your Committee on Appropriations that there will be a public hearing on Sunday at 1:00 p.m. on the following measures: House Bill No. 6-10, No. 6-82, No. 6-110, and No. 6-111. May I request that instead of Conference Room No. 2, we would like to use this Chamber, if possible.


Floor Leader Tman: I wish to remind again the members that there will be a reception at the Hicom's residence at 6:30 this evening.

If there are no further announcements, Mr. Speaker, I am not being presumptuous, but I wish all of you an enjoyable weekend, and urge the Committee on Ways and Means and Appropriations to work hard over the weekend. Now, Mr. Speaker, I move that the House stand recessed until Monday at 3:00 p.m.

Vice Speaker Silk seconded, and the motion carried by voice vote.

The Speaker declared the House recessed at 4:00 p.m., until 3:00 p.m., Monday, February 3, 1975.

Respectfully submitted,


Asterio R. Takesy, Chief Clerk
House of Representatives