

(CONCON ELECTION IN THE MARSHALLS UPHOLD) 1975  
SAIPAN, APR. 11 (MNS)---A BILL TO DECLARE THE ELECTION OF DELEGATES TO THE MICRONESIAN CONSTITUTIONAL CONVENTION IN THE MARSHALL NULL AND VOID WAS VETOED BY HIGH COMMISSIONER EDWARD E. JOHNSTON THURSDAY (APRIL 10).

IN A LETTER TO SENATE PRESIDENT TOSIWO NAKAYAMA, THE HIGH COMMISSIONER STATED THAT THE "CONGRESS OF MICRONESIA HAS NO POWER TO DECLARE THE ELECTION" IN THE MARSHALLS "NULL AND VOID."

HIGH COMMISSIONER JOHNSTON STATED THE FOLLOWING AS HIS REASONS FOR VETOING THE BILL:

"WE HAVE REVIEWED SEVERAL BILLS OF SIMILAR NATURE WHICH WERE PROPOSED DURING THE FIFTH CONGRESS OF MICRONESIA. OUR POSITION ON THIS LEGISLATION HAS NOT CHANGED. WE DOUBTED THEN, AND WE CONTINUE TO DOUBT, THE POWER OF THE CONGRESS OF MICRONESIA, OR ANY OTHER POPULARLY ELECTED LEGISLATIVE BODY, TO DECLARE NULL AND VOID AN ELECTION WHICH HAS TAKEN PLACE IN ACCORDANCE WITH A VALID LAW AND WHICH HAS NOT BEEN SUCCESSFULLY CONTESTED IN ACCORDANCE WITH APPLICABLE STATUTORY LAW COVERING ELECTIONS." (43TTC, SECTIONS 401 THROUGH 455)

"WE HAVE SEARCHED THE LEGAL LITERATURE AND WE FIND NO REFERENCE TO SUCH A PROCEDURE HAVING BEEN ATTEMPTED OR ACCOMPLISHED. WE DO FIND SUBSTANTIATION FOR OBJECTIONS TO SUCH A PROCEDURE."

"TO DECLARE VOID AN ELECTION, OR A PORTION THEREOF, BECAUSE THE RESULTS ARE CONSIDERED UNSATISFACTORY BY THE VOTERS OR BY A LEGISLATIVE BODY OR BECAUSE OF A POOR TURN OUT OF VOTERS, BUT WHERE NO ELECTION IRREGULARITIES OCCURED, IS SO CONTRARY TO DEMOCRATIC PROCESS AS TO BE BEYOND LEGAL DISCUSSION."

"WE HAVE CONCLUDED, THEREFORE, THAT THE CONGRESS OF MICRONESIA HAS NO POWER TO DECLARE THE ELECTION NULL AND VOID IN THE MARSHALLS. THE ELECTION DID COMPLY WITH THE TRUST TERRITORY CODE AND WITH THE CONDITIONS SPECIFIED IN PUBLIC LAW 5-60 AND THE CONSTITUTION CONVENTION ALONE HAS THE POWER TO PASS ON THE QUALIFICATIONS OF THE ELECTED DELEGATES."

"IF THE LEADERSHIP OF THE MARSHALL OR THE PEOPLE OF THE MARSHALLS DISTRICT HAVE ANY PROBLEM WITH THE ELECTION HELD ON JUNE 4, 1974, AND/OR PUBLIC LAW 5-60 (AS IT RELATES TO THAT ELECTION), THEY NOW HAVE A PERFECTLY LEGITIMATE REMEDY. SUBSECTION (8) OF SECTION 3 OF PUBLIC LAW 5-60 STATES "THE CONVENTION SHALL BE SOLE JUDGE OF ELECTIONS, RETURNS, AND QUALIFICATIONS OF THE DELEGATES."

"IF THE ELECTION WAS IMPROPER, THE REMEDY AT THIS TIME, IS TO APPEAL TO THE CONVENTION."

"PRIOR TO THE ELECTION LAST JUNE, I PERSONALLY URGED ON SEVERAL OCCASIONS THE LEADERSHIP AND THE PEOPLE OF THE MARSHALLS NOT TO PASS UP THE OPPORTUNITY TO PARTICIPATE IN THE FORTHCOMING ELECTION. I CONFERRED AGAIN AS LATE AS LAST WEEK WITH THE SAME INDIVIDUALS AND I CAN AND DO APPRECIATE THEIR VIEWS AND THEIR VERY SINCERE THOUGHTS ON THIS PROBLEM. I DO FEEL, HOWEVER, THAT WE MUST SUPPORT AND APPLY CERTAIN STANDARDS THAT GUARANTEE BOTH LEGAL AND GOOD GOVERNMENT. HICOM JOHNSTON CONCLUDED BY SAYING "I CONTINUE TO HOPE AND PRAY THAT THE PEOPLE OF THE MARSHALLS DISTRICT WILL PARTICIPATE IN THE FORTHCOMING CONSTITUTIONAL CONVENTION TO THE MAXIMUM EXTENT."

1469A

(PUBLIC LANDS BILL SIGNED)

SAIPAN, APR. 11 (MNS)---A BILL "DESIGNATING THE ENTITY TO RECEIVE, HOLD AND ADMINISTER PUBLIC LANDS" IN THE MARIANAS TO BE RETURNED BY THE HIGH COMMISSIONER HAS BEEN SIGNED INTO

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LAW BY DISTRICT ADMINISTRATOR FRANCISCO C. ADA. ADA SIGNED THE BILL WEDNESDAY (APRIL 9).

SECRETARIAL ORDER 2969 ISSUED BY INTERIOR SECRETARY ROGERS C. B. MORTON DECEMBER 26, 1974, RETURNS PUBLIC LANDS TO MICRONESIAN CONTROL AFTER EACH DISTRICT LEGISLATURE ENACT LEGISLATION BASED ON U.S. LAND POLICY.

THE BILL ACKNOWLEDGES THAT THE SECRETARIAL ORDER RESERVES TO THE TRUST TERRITORY GOVERNMENT "UNTIL SEPARATE ADMINISTRATION OR TERMINATION OF THE TRUSTEESHIP" WHICHEVER COMES FIRST, THE "PARAMOUNT POWER OF EMINENT DOMAIN TO TAKE LANDS FOR PUBLIC PURPOSES PURSUANT TO LAW" AND ALSO GIVES THE TT GOVERNMENT "THE RIGHT TO REGULATE ALL ACTIVITIES AFFECTING CONSERVATION, NAVIGATION, OR COMMERCE IN AND TO THE NAVIGABLE WATERS; TIDELANDS, SUBMERGED LANDS AND LAGOONS...", PROVIDED THAT THE TT GOVERNMENT DOES NOT "INTERFERE WITH THE EXERCISE OF ALL PRIOR TRADITIONAL RIGHTS IN AND TO SUCH LANDS."

ACCORDING TO THE BILL, MEMBERS OF THE MARIANAS PUBLIC LAND CORPORATION SHALL BE:

THE MAYORS OF SAIPAN, ROTA AND TINIAN;  
SIXTEEN PERSONS APPOINTED BY THE MARIANAS DISTRICT LEGISLATURE, NO MORE THAN EIGHT OF WHOM SHALL BE MEMBERS OF THE LEGISLATURE AND AT LEAST TWO OF WHOM SHALL BE REPRESENTATIVES OF THE UNITED CAROLINIAN ASSOCIATION;

FIFTEEN PERSONS APPOINTED BY THE MUNICIPAL COUNCIL OF SAIPAN, NO MORE THAN SEVEN OF WHOM SHALL BE MEMBERS OF THE COUNCIL;

NINE PERSONS APPOINTED BY THE MUNICIPAL COUNCIL OF ROTA; NO MORE THAN FOUR OF WHOM SHALL BE MEMBERS OF THE COUNCIL; AND SEVEN PERSON APPOINTED BY THE MUNICIPAL COUNCIL OF TINIAN, NO MORE THAN THREE OF WHOM SHALL BE MEMBERS OF THE COUNCIL.

REVENUES GENERATED FROM THE USE, SALE, DISPOSITION AND ADMINISTRATION OF THE TRUST LANDS SHALL BE DEPOSITED IN THE GENERAL FUND OF THE MARIANA ISLANDS DISTRICT LEGISLATURE, ACCORDING TO THE BILL.

THE LEGISLATURE IS ALSO EMPOWERED TO "ENACT LAWS PROVIDING FOR THE EXERCISE OF THE POWER OF EMINENT DOMAIN, CREATING ADJUDICATORY BODIES FOR SETTLEMENT OF CLAIMS TO TITLE OR RIGHTS IN THE LANDS TRANSFERRED AND ESTABLISHING A PROGRAM FOR HOMESTEADING ON THE LAND TRANSFERRED TO THE DISTRICT LEGAL ENTITY."

(UHERBELAU, CARRERA DISCUSSED CONCOMPLANS)

SAIPAN, APR. 11 (MNS)---INDICATING THAT THE TRUSTEESHIP AGREEMENT CANNOT BE TERMINATED FOR THE MARIANAS PRIOR TO THE REST OF THE OTHER DISTRICTS, VICTOR UHERBELAU, EXECUTIVE DIRECTOR OF THE MICRONESIAN CONSTITUTIONAL CONVENTION, (CONCON), NOTED THIS WEEK ON SAIPAN THAT SEPARATE ADMINISTRATION AND TERMINATION OF THE TRUSTEESHIP ARE TWO DIFFERENT THINGS.

UHERBELAU SAID, "THE PLEBISCITE DOES NOT MEAN TERMINATION OF THE TT AND THE ABILITY OF THE MARIANAS TO PARTICIPATE IN THE REFERENDUM ON THE MICRONESIAN CONSTITUTIONS IS STILL TO BE DECIDED." TERMINATION OF THE TT WILL BE A DECISION OF THE US CONGRESS AND THE UNITED NATIONS SECURITY COUNCIL, HE POINTED OUT. NO ONE CAN TELL IF THE CONSTITUTION WILL BE WRITTEN FOR A FREE ASSOCIATION OR INDEPENDENT POLITICAL STATUS UHERBELAU SAID. THE TT-WIDE REFERENDUM WOULD INDICATE THE DESIRES OF THE MICRONESIAN PEOPLE AND THE REFERENDUM WOULD INFLUENCE THE CONCON, HE ADDED.

THE CONCON EXECUTIVE DIRECTOR INDICATED THAT IF THE DRAFT PALAU CONSTITUTION IS ADOPTED AND PRESENTED TO THE MICRONESIAN CONCON, IT WILL BE *STUDIED* IN APPROPRIATE COMMITTEE BEFORE ANY CONSIDERATION OF THE DOCUMENT AS A WHOLE TAKES PLACE. THE PALAUAN LAWYER NOTED THAT EVEN THOUGH THE DELEGATES FROM THE MARSHALLS HAVE NOT YET BEEN ORGANIZED, THE DELEGATES MAY STILL TAKE THEIR SEATS ON JULY 12 AS FULL DELEGATES.

WHEN ASKED ABOUT A TENTATIVE PLACE FOR THE CONVENTION, UHERBELAU INDICATED THAT THE WHITE SANDS HOTEL ON SAIPAN WAS SELECTED, BUT THAT THE DECISION WAS NOT YET FIRM.

CONCERNING MARIANAS DELEGATION PARTICIPATION IN THE CONCON UHERBELAU SAID THAT THEY ARE PROCEEDING ON THE BASIS OF PROVISIONS OF *PL 5-80* WHICH SET UP THE CONCON TO INCLUDE ALL SIX DISTRICTS.

LARRY CABRERA, SECRETARY TO THE PRE-CONVENTION COMMITTEE AND CHAIRMAN OF THE SUBCOMMITTEE ON PERSONNEL, POINTED OUT THAT MARIANAS DID SELECT THEIR DELEGATION TO PARTICIPATE IN THE CONCON. "THE PLEBISCITE ON THE COMMONWEALTH COVENANT WOULD DICTATE WHETHER OR NOT THE MARIANAS WOULD ACTUALLY PARTICIPATE," CABRERA SAID.

THE SELECTION OF STAFF FOR THE CONSTITUTION CONVENTION WAS MADE ON THE BASIS OF RECOMMENDATION FROM THE PRE-CONVENTION COMMITTEE, CABRERA POINTED OUT.

THE PCC SECRETARY SAID THAT PERSONNEL NEEDS FELL INTO THREE CATEGORIES. THEY ARE: ADMINISTRATION, LEGAL RESEARCH AND DRAFTING AND THE PUBLIC INFORMATION SECTION. DR. NORMAN MELLER WILL WORK AS CONSULTANT AND DIRECTOR OF THE RESEARCH SECTION AND THE DIRECTOR OF THE PUBLIC INFORMATION SECTION HAS BEEN HIRED.

UHERBELAU AND CABRERA WERE INTERVIEWED ON THE TASK FORCE ON EDUCATION FOR SELF-GOVERNMENT PROGRAM "*DIALOGUE FOR MICRONESIA.*"

(CONGRESSMEN MET WITH YAPSESE LEADERS)

YAP, APR. 11 (MNS)---TWO MEMBERS OF THE CONGRESS OF MICRONESIA COMMITTEE ON RESOURCES AND DEVELOPMENT ARRIVED IN YAP ON SUNDAY (APR. 6), TO CONDUCT HEARINGS ON THREE MEASURES *PENDING* IN THE CONGRESS. YAP PUBLIC INFORMATION OFFICER WILFRED GORONGFEL REPORTS.

THE MEASURES ARE THE PRICE CONTROL BILL (SB6-91); THE DEFINING USURY BILL WHICH SETS INTEREST RATES ON LOAN (SB6-57); AND THE MORTGAGE BILL (SB6-32).

CONGRESSMEN JOSE P. MAFNAS AND EDGAR EDWARD MET WITH THE YAP CHAMBER OF COMMERCE AND THE LEADERSHIP OF THE YAP DISTRICT LEGISLATURE AND THE MAGISTRATE COUNCIL, ACCORDING TO GORONGFEL. THE YAP CHAMBER OF COMMERCE INDICATED IT WILL NOT FAVOR THE PRICE CONTROL MEASURE IF THE HIGH COMMISSIONER IS DELEGATED THE POWER TO SET THE 25 TO 35 PER CENT MARK-UP ON FOOD ITEMS, PETROLEUM, AND BUILDING MATERIALS. THEY CONTENDED THAT EACH DISTRICT SHOULD CONTROL ITS OWN PRICES.

BOTH LEADERSHIPS OF THE YAP DISTRICT LEGISLATURE AND THE MAGISTRATE COUNCIL WERE DIVIDED INTO *THREE* GROUPS, GORONGFEL POINTED OUT. THOSE WHO OPPOSE THE PRICE BILL WERE LED BY RULL MAYOR FERNANDO FALEWAATH. CHIEF FRANCISCO LUKTUN HEADS THOSE WHO FAVOR THE BILL. THE OTHER GROUP, COMPRISED MOSTLY OF BUSINESSMEN, OPPOSED THE PRACTICALITY OF THE BILL AND AGREED THAT IT SHOULD BE APPLIED AT THE DISTRICT LEVEL.

CHIEF LUKTUN ARGUED THAT THE PRICES ON FOOD ARE "TOO UNREASONABLE" AND SHOULD BE CONTROLLED IMMEDIATELY. "IF WE DO NOT CONTROL PRICES AT PRESENT THEN WE MIGHT FIND OURSELVES IN A JAM WHERE WE WILL FACE MORE DIFFICULTIES," HE WARNED.

CONCERNING THE USURY BILL (SB 6-57), THE LEADERS AGREED THAT THE PRESENT 1.25 TO 15 PER CENT ANNUAL INTEREST RATE ON LOANS IS FAIR TO THE PEOPLE.

THE YAPSE LEADERS INDICATED THAT THE MORTGAGE BILL (SB 6-32) MUST NOT INCLUDE YAP DISTRICT BECAUSE OF COMPLICATIONS OF LAND OWNERSHIP. A CUSTOM IN YAP PROVIDES THAT NO PIECE OF PROPERTY IS OWNED BY ANYONE WITHOUT THE RIGHT OF OWNERSHIP FROM THE CHIEFS AND OTHER CLOSE RELATIVES.

ACCOMPANYING CONGRESSMEN MAFNAS AND EDWARD WERE STAFF ATTORNEY DANA SMITH AND SECRETARY MS. JOAN ANN BOILEAU. THE GROUP LEFT YAP ON WEDNESDAY, (APRIL 9), FOR SAIPAN.