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MICRONESIA ECONOMIC DEVELOPMENT AND CLAIMS

GOVERNMENT

DOCUMENTS

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HEARING

BEFORE THE

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SUBCOMMITTEE ON

TERRITORIES AND INSULAR AFFAIRS

OF THE

COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

UNITED STATES SENATE

NINETY-SECOND CONGRESS

FIRST SESSION

ON

S. 860

A BILL RELATING TO THE TRUST TERRITORY OF THE
PACIFIC ISLANDS

S.J. Res. 35

TO AUTHORIZE AN *EX GRATIA* CONTRIBUTION TO CERTAIN
INHABITANTS OF THE TRUST TERRITORY OF THE PACIFIC
ISLANDS WHO SUFFERED DAMAGES ARISING OUT OF THE
HOSTILITIES OF THE SECOND WORLD WAR, TO PROVIDE
FOR THE PAYMENT OF NONCOMBAT CLAIMS OCCURRING
PRIOR TO JULY 1, 1951, AND TO ESTABLISH A MICRONESIAN
CLAIMS COMMISSION

MARCH 30, 1971

Printed for the use of the Committee on Interior and Insular Affairs



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MICRONESIA ECONOMIC DEVELOPMENT AND CLAIMS

TUESDAY, MARCH 30, 1971

U.S. SENATE,
SUBCOMMITTEE ON TERRITORIES AND
INSULAR AFFAIRS, OF THE COMMITTEE
ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met pursuant to notice at 10:05 a.m., in room 3110, New Senate Office Building, Senator Quentin N. Burdick presiding.

Present: Senators Burdick, Jordan, Hansen, and Stevens.

Also present: James H. Gamble, professional staff member, and Thomas Nelson, Assistant Minority Counsel.

Senator BURDICK. The purpose of this hearing is to take testimony on two important measures pending before the Subcommittee on Territories. The first of these is S.J. Res. 35, to authorize an *ex gratia* contribution to certain inhabitants of the Trust Territory of the Pacific Islands who suffered damages arising out of the hostilities of the Second World War, to provide for the payment of noncombat claims occurring prior to July 1, 1951, and to establish a Micronesian Claims Commission, introduced by Senators Jackson and Allott, as a result of an Executive Communication from the Department of the Interior.

This resolution is similar to S.J. Res. 211 which was passed by the Senate on October 8, 1970.

The second measure is S. 860, relating to the Trust Territory of the Pacific Islands, a proposal I have sponsored which embraces the claims issue covered by S.J. Res. 35 and several other matters of vital importance to the people of Micronesia.

We have witnesses before us today who will be addressing themselves to both of these pieces of legislation. It is my hope that S. 860 will be forwarded to the full Interior Committee at an early date and thereafter referred to the Senate for favorable action.

This hearing was initially set to accommodate a group of Micronesians who indicated they would be in Washington the latter part of March. I think we should follow the usual procedure of having departmental witnesses in order that the record may be made and then we will hear the individuals from the Trust Territory.

The text of the two bills under consideration, together with departmental reports, will be inserted in the record.

(Text of S. 860 and departmental reports follow:)

(1)

92D CONGRESS
1ST SESSION

S. 860

IN THE SENATE OF THE UNITED STATES

FEBRUARY 18 (legislative day, FEBRUARY 17), 1971

Mr. BURDICK introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

Relating to the Trust Territory of the Pacific Islands.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 TITLE I—ECONOMIC DEVELOPMENT OF TRUST
4 TERRITORY OF THE PACIFIC ISLANDS

5 SEC. 101. For the purpose of promoting economic de-
6 velopment in the Trust Territory of the Pacific Islands, there
7 is authorized to be appropriated to the Secretary of the In-
8 terior, for payment to the government of the Trust Territory
9 of the Pacific Islands as a grant in accordance with the pro-
10 visions of this title, an amount which when added to the
11 development fund established pursuant to section 3 of the Act

1 of August 22, 1964 (78 Stat. 601), as augmented by sub-
2 sequent Federal grants, will create a total fund of \$5,000,000,
3 which shall thereafter be known as the Trust Territory Eco-
4 nomic Development Loan Fund.

5 SEC. 102. The grant authorized by section 101 shall be
6 made only after the government of the Trust Territory of
7 the Pacific Islands has submitted to the Secretary of the
8 Interior a plan for the use of the grant, and the plan has
9 been approved by the Secretary. The plan shall provide
10 among other things for a revolving fund to make loans or to
11 guarantee loans to private enterprise. The term of any loan
12 made pursuant to the plan shall not exceed twenty-five years.
13 Each loan shall bear interest (exclusive of premium charges
14 for insurance and service charges, if any) at a rate per annum
15 that is not less than the average yield on comparable market-
16 able obligations of the United States as of the last day of
17 the month preceding the date of the loan, adjusted to the
18 nearest one-eighth of 1 per centum, which rate shall be
19 determined by the Secretary of the Treasury upon request.
20 Premium charges for the insurance and guarantee of loans
21 shall be established at rates which will be adequate to cover
22 expenses and probable losses related to the loan guarantee
23 program.

24 SEC. 103. No loan or loan guarantee shall be made under

1 this title to any applicant who does not satisfy the territorial
2 administering agency that financing is otherwise unavailable
3 on reasonable terms and conditions. No loan or loan guar-
4 antee shall exceed (1) the amount which can reasonably be
5 expected to be repaid, (2) the minimum amount necessary
6 to accomplish the purposes of this title, or 25 per centum
7 of the funds appropriated pursuant to section 101. No loan
8 guarantee shall guarantee more than 90 per centum of the
9 outstanding amount of any loan, and the reserves maintained
10 to guarantee the loan shall not be less than 25 per centum
11 of the guarantee.

12 SEC. 104. The plan provided for in section 102 shall
13 set forth such fiscal control and fund accounting procedures
14 as may be necessary to assure proper disbursement, repay-
15 ment, and accounting for such funds.

16 SEC. 105. The High Commissioner of the Trust Ter-
17 ritory of the Pacific Islands shall make an annual report to
18 the Secretary of the Interior on the administration of this
19 title.

20 SEC. 106. The Comptroller General of the United
21 States, or any of his duly authorized representatives, shall
22 have access, for the purpose of audit and examination, to
23 any relevant books, documents, papers, or records of the
24 government of the Trust Territory of the Pacific Islands.

1 TITLE II—CONTRIBUTIONS TO CERTAIN INHAB-
2 ITANTS OF THE TRUST TERRITORY OF THE
3 PACIFIC ISLANDS

4 Chapter 1.—EX GRATIA CONTRIBUTIONS

5 SEC. 201. The Congress recognizes and declares that—

6 (1) certain Micronesian inhabitants of the Trust
7 Territory of the Pacific Islands, now administered by
8 the Secretary of the Interior, hereinafter referred to as
9 the "Secretary", pursuant to the Act of June 30, 1954
10 (68 Stat. 330), as amended (48 U.S.C. 1681), suf-
11 fered from the hostilities of the Second World War and
12 the military occupation thereafter;

13 (2) the United States, while not liable for wartime
14 damages suffered by the Micronesians, has responsibil-
15 ity for the welfare of the Micronesian people as the Ad-
16 ministering Authority of the Trust Territory of the
17 Pacific Islands;

18 (3) the Governments of the United States and
19 Japan have agreed to contribute ex gratia the equivalent
20 of \$10,000,000 to the Micronesian inhabitants of the
21 Trust Territory of the Pacific Islands, each Government
22 contributing the equivalent of \$5,000,000, Japan's con-
23 tribution to take the form of products and services; and

24 (4) payment of these ex gratia contributions to cer-
25 tain Micronesian inhabitants of the Trust Territory of the

1 Pacific Islands, and settlement of postwar claims, will
2 meet a longstanding Micronesian grievance and will
3 promote the welfare of the Micronesian people.

4 SEC. 202. (a) There is hereby authorized to be appro-
5 priated and paid into a Micronesian Special Fund the sum of
6 \$5,000,000, which shall be in addition to the appropriations
7 authorized by section 2 of the Act of June 30, 1954, as
8 amended.

9 (b) Funds approximating \$5,000,000 appropriated to
10 the Trust Territory of the Pacific Islands for supplies or
11 capital improvements in accordance with section 2 of the Act
12 of June 30, 1954, as amended, shall be paid into a Micro-
13 nesian Special Fund as the products of Japan and the services
14 of the Japanese people in the amount of one billion eight
15 hundred million yen (currently computed at \$5,000,000)
16 are provided by Japan pursuant to article I of the "Agree-
17 ment between the United States of America and Japan",
18 signed April 18, 1969. These funds, together with the sum
19 appropriated pursuant to subsection (a) of this section, shall
20 constitute the whole of the Micronesian Special Fund.

21 SEC. 203. (a) There is hereby established a Micro-
22 nesian Special Commission, hereinafter referred to as the
23 "Commission", for the purpose of determining the Micro-
24 nesian inhabitants who are entitled to ex gratia contributions
25 from the Micronesian Special Fund. The Commission shall

1 be under the control and direction of the Chairman of the
2 Foreign Claims Settlement Commission. The Commission
3 shall be composed of five members, who shall be appointed,
4 in consultation with the Secretary of the Interior, by the
5 Chairman of the Foreign Claims Settlement Commission,
6 one of whom he shall designate as Chairman. Two members
7 shall be selected from a list of Micronesian citizens nomi-
8 nated by the Congress of Micronesia. Any vacancy that may
9 occur in the membership of the Commission shall be filled
10 in the same manner as in the case of the original appoint-
11 ment. The members of the Commission shall serve at the
12 pleasure of the Chairman of the Foreign Claims Settlement
13 Commission. No Commissioner shall hold other public office
14 or engage in any other employment during the period of his
15 service on the Commission, except as an employee of the
16 Foreign Claims Settlement Commission.

17 (b) The members of the Commission shall receive
18 compensation and allowances as determined by the Chairman
19 of the Foreign Claims Settlement Commission by application
20 of the rules and regulations which apply to officers and
21 employees of the Trust Territory of the Pacific Islands, but
22 in no event shall traveling and other expenses incurred in
23 connection with their duties as members, or a per diem
24 allowance in lieu thereof, exceed that prescribed in accord-
25 ance with the provisions of subchapter 1 of chapter 57 of

1 title 5, United States Code. The term of office of the members
2 of the Commission shall expire at the time fixed in subsection
3 (e) for completing the work of the Commission.

4 (c) The Commission may, subject to the approval of
5 the Chairman of the Foreign Claims Settlement Commis-
6 sion, appoint and fix the compensation and allowances of
7 such officers, attorneys, and employees of the Commission
8 as may be reasonably necessary for its proper functioning,
9 which employees shall be in addition to those who may be
10 assigned by the Chairman of the Foreign Claims Settlement
11 Commission to assist the Commission in carrying out its
12 functions. The compensation and allowances of employees
13 appointed pursuant to this section shall be within the rules
14 and regulations which apply to officers and employees of the
15 Trust Territory of the Pacific Islands, but in no event to
16 exceed the amount of allowances prescribed in subchapter 1
17 of chapter 57 of title 5, United States Code. In addition, the
18 Commission, with the approval of the Chairman of the
19 Foreign Claims Settlement Commission, may make such
20 expenditures as may be reasonably necessary to carry out
21 its proper functioning. Officers and employees of any other
22 department or agency of the Government of the United
23 States or the Government of the Trust Territory of the Pacific
24 Islands may, with the consent of the head of such department
25 or agency, with or without reimbursement, be assigned to

1 assist the Commission in carrying out its functions. The
2 Commission may, with the consent of the head of any other
3 department or agency of the Government of the United
4 States or the Government of the Trust Territory of the
5 Pacific Islands, utilize, with or without reimbursement, the
6 facilities and services of such department or agency in carry-
7 ing out the functions of the Commission.

8 (d) The Commission shall, subject to the approval of
9 the Chairman of the Foreign Claims Settlement Commis-
10 sion, prescribe such rules and regulations as are necessary
11 for carrying out its functions. As expeditiously as possible
12 and, in any event, within three months of its appointment,
13 the Commission shall give public notice in the Trust Ter-
14 ritory of the Pacific Islands of the time when, and the limit
15 of time within which, claims may be filed, which notice shall
16 be given in such manner as the Commission shall prescribe:
17 *Provided*, That the final date for the filing of claims shall not
18 be more than one year after the appointment of the full
19 membership of the Commission. A majority of the member-
20 ship of the Commission shall be necessary to transact busi-
21 ness: *Provided further*, That an affirmative vote of at least
22 three members shall be required for the promulgation of
23 rules and regulations, and for the final adjudication of any
24 claim.

25 (e) The Commission shall complete its work as ex-

1 peditiously as possible and in any event not later than three
2 years after the expiration of the time for filing claims under
3 this title.

4 SEC. 204. (a) The Commission shall have authority to
5 receive, examine, adjudicate, and render final decisions, in
6 accordance with the laws of the Trust Territory of the
7 Pacific Islands and international law, with respect to claims
8 of the Micronesian inhabitants of the Trust Territory of the
9 Pacific Islands who suffered loss of life, physical injury, and
10 property damage directly resulting from the hostilities be-
11 tween the Governments of Japan and the United States
12 between December 7, 1941, and the dates the various
13 islands of Micronesia were secured by United States Armed
14 Forces.

15 (b) A "Micronesian inhabitant of the Trust Territory
16 of the Pacific Islands" is defined for the purposes of this
17 title as a person who—

18 (1) became a citizen of the Trust Territory of the
19 Pacific Islands on July 18, 1947, and who remains a
20 citizen as of the date of filing a claim; or

21 (2) if then living, would have been eligible for
22 citizenship on July 18, 1947; or

23 (3) is the successor, heir, or assign of a person
24 eligible under subsection (1) or (2) and who is a citi-

1 zen of the Trust Territory of the Pacific Islands as of the
2 date of filing a claim.

3 (c) When all claims have been adjudicated, the Com-
4 mission shall certify them to the Secretary for payment from
5 the Micronesian Special Fund as provided in this section,
6 except that as to claims based on death up to \$1,000 shall
7 be certified to the Secretary and paid immediately upon
8 adjudication.

9 (d) No later than six months after its organization, and
10 annually thereafter, the Commission shall make a report,
11 through the Chairman of the Foreign Claims Settlement
12 Commission, to the Committees on Interior and Insular
13 Affairs of the Senate and House of Representatives concern-
14 ing its operations under this title. The Commission shall,
15 upon completing its work, certify to the Chairman of the
16 Foreign Claims Settlement Commission, the Secretary of
17 the Interior, and to the Congress of the United States the
18 following:

19 (1) a list of all claims allowed, in whole or in part,
20 together with the amount of each claim and the amount
21 allowed thereon;

22 (2) a list of all claims disallowed;

23 (3) a copy of the decision rendered in each case.

24 (e) In the event that funds remain in the Micronesian
25 Special Fund after all allowable and adjudicated claims are

1 paid, such remaining funds shall be transferred from the
2 Micronesian Special Fund to the Treasury of the Trust
3 Territory of the Pacific Islands for appropriation by the
4 Congress of Micronesia for the welfare of the people of the
5 Trust Territory of the Pacific Islands. In the event that the
6 allowable and adjudicated claims exceed a total of \$10,000,-
7 000, the Secretary shall make pro rata payments.

8 (f) No payment shall be made on an award of the
9 Commission unless the claimant shall first execute a full
10 release to the United States and Japan in respect to any
11 alleged liability of the United States or Japan, or both,
12 arising before the dates of the securing of the various islands
13 of Micronesia by the United States Armed Forces.

14 SEC. 205. There are authorized to be appropriated such
15 sums as may be necessary for the operation and administra-
16 tive expenses of the Commission and the Foreign Claims Set-
17 tlement Commission under this Act.

18 SEC. 206. In view of the fact that the agreement for the
19 payment of the ex gratia funds authorized by this chapter was
20 negotiated by the Governments of the United States and
21 Japan, and personnel appointed by the Secretary or the Com-
22 mission will be available to assist the people of the Trust
23 Territory of the Pacific Islands in filing all claims, no
24 remuneration on account of services rendered on behalf of any
25 claimant, or any association of claimants, in connection with

1 any claim or claims shall exceed, in total, 1 per centum of the
2 amount paid on such claim or claims, pursuant to the provi-
3 sions of this title. Fees already paid for such services shall be
4 deducted from the amounts authorized by this title. Any
5 agreement to the contrary shall be unlawful and void. Who-
6 ever, in the United States or elsewhere, demands or receives,
7 on account of services so rendered, any remuneration in
8 excess of the maximum permitted by this section shall be
9 guilty of a misdemeanor and, upon conviction thereof, shall
10 be fined not more than \$5,000 or imprisoned not more than
11 twelve months, or both.

12 Chapter 2.—POSTWAR CLAIMS

13 SEC. 207. In order to promote and maintain friendly
14 relations by the settlement of meritorious postwar claims,
15 the Micronesian Special Commission established by section
16 203 is authorized to consider, ascertain, adjust, and deter-
17 mine all claims by Micronesian inhabitants of the trust ter-
18 ritory against the United States or the government of the
19 Trust Territory of the Pacific Islands on account of damage
20 to or loss or destruction of private property, both real and
21 personal, or personal injury or death, including claims for
22 a taking or for use or retention of property where no pay-
23 ments or inadequate payments have been made therefor,
24 when such damage, loss, destruction, or injury was caused
25 by the United States Army, Navy, Marine Corps, or Coast

1 Guard, or individual members thereof, or military personnel
2 or United States Government civilian employees, or em-
3 ployees of the trust territory government acting within the
4 scope of their employment: *Provided*, That no claim shall
5 be considered by the Commission unless it is presented in
6 writing within the time provided in section 203 (d) and
7 the accident or incident out of which the claim arose occurred
8 prior to July 1, 1951, within the islands which now com-
9 prise the Trust Territory of the Pacific Islands and within
10 an area under the control of the United States at the time
11 of the accident or incident: *Provided further*, That any such
12 settlement made by the Commission and any payments
13 made by the Secretary under the authority of this chapter
14 shall be final and conclusive for all purposes, notwithstand-
15 ing any other provision of law to the contrary, and shall not
16 be subject to review.

17 SEC. 208. There are authorized to be appropriated
18 \$20,000,000, which shall be in addition to the appropria-
19 tion authorized by section 2 of the Act of June 30, 1954,
20 as amended, and which shall be used by the Secretary to pay
21 the claims allowed under section 207.

22 SEC. 209. Any funds appropriated for the purposes of
23 this chapter which remain after the settlement of claims
24 under the provisions of this chapter shall be covered into the
25 Treasury of the United States.

1 TITLE III—FREE ENTRY OF CITIZENS OF THE
2 TRUST TERRITORY OF THE PACIFIC ISLANDS

3 SEC. 301. The Act of June 27, 1952 (66 Stat. 163), as
4 amended, is further amended by adding at the end of title II
5 thereof the following new section 293:

6 "SEC. 293. (a) Nothing contained in this title, except
7 for sections 212 (a), (27), (28), and (29), 215, and 241
8 (a) (1), (6), and (7) shall be construed to limit, restrict,
9 deny, or affect the coming into or departure from the United
10 States of a citizen of the Trust Territory of the Pacific Islands
11 who presents a valid identity certificate issued by the High
12 Commissioner of such territory: *Provided*, That nothing con-
13 tained in this section shall be construed to give or to confer
14 upon any such citizen any other privileges, rights, benefits,
15 exemptions, or immunities under this Act, which are not
16 otherwise specifically granted by this Act.

17 "(b) The High Commissioner of the trust territory shall
18 issue an identity permit, upon request, pursuant to such regu-
19 lations as he may prescribe, to any citizen of such territory
20 who resided in the territory on July 18, 1947, including a
21 citizen temporarily absent from the islands on that date, and
22 to any citizen of such territory who was subsequently born
23 or naturalized there, if after that date or after his birth or
24 naturalization he continued to reside in the trust territory or

1 in the United States, its territories or possessions, and has
2 taken no affirmative steps to acquire foreign nationality.

3 “(c) Any person who comes to the United States pur-
4 suant to the provisions of this section shall, upon completion
5 of the residence and physical presence requirements of sec-
6 tion 316 (a) of this Act, be deemed to have been lawfully
7 admitted to the United States for permanent residence as of
8 the date of such coming, for the purpose of petitioning for
9 naturalization.”

10 TITLE IV—TARIFF SCHEDULES RELATING TO
11 THE TRUST TERRITORY OF THE PACIFIC
12 ISLANDS

13 SEC. 401. (a) The general headnotes of the Tariff
14 Schedules of the United States (19 U.S.C. 1202) are
15 amended by adding at the end thereof the following new
16 headnote:

17 “13. TREATMENT OF TRUST TERRITORY OF THE PA-
18 CIFIC ISLANDS AS INSULAR POSSESSION.

19 “(a) Except as provided in paragraphs (b) and (c),
20 the Trust Territory of the Pacific Islands shall, for purposes
21 of these schedules, be treated as an insular possession of
22 the United States.

23 “(b) Paragraph (a) shall not apply with respect to
24 fishery products processed in the Trust Territory of the

1 Pacific Islands from fish or fish products landed in the trust
2 territory under conditions which would preclude such land-
3 ings in ports of the United States under subsection (a) of
4 section 4311 of the Revised Statutes, as amended (46 U.S.C.
5 251). For purposes of the preceding sentence, any vessel
6 sailing under the flag of the trust territory and manned by
7 a crew two-thirds of which are nationals of the United States
8 (as defined in section 101 (a) (22) of the Immigration and
9 Nationality Act, 8 U.S.C. 1101 (a) (22)) or citizens of
10 the trust territory shall not be considered to be a foreign-
11 flag vessel.

12 “(c) If, with respect to any article, the President de-
13 termines that the underlying economic factors affecting the
14 production and trade of the Trust Territory of the Pacific
15 Islands has changed so that the application of paragraph
16 (a) results, or threatens to result, in substantial injury to
17 the competitive trade of any contracting party to the Gen-
18 eral Agreement on Tariffs and Trade, he shall, by procla-
19 mation, suspend, in whole or in part, the application of
20 paragraph (a) with respect to such article for such period
21 or periods as he specifies in such proclamation.

22 “(d) The Secretary of the Treasury is authorized to
23 prescribe such rules and regulations as may be necessary to
24 carry out the purpose of this headnote.”

25 (b) The amendment made by subsection (a) shall apply

1 with respect to articles entered, or withdrawn from ware-
2 house, for consumption after the date of the enactment of
3 this title.

4 TITLE V—CITIZENS OF TRUST TERRITORY OF
5 THE PACIFIC ISLANDS SERVING IN ARMED
6 FORCES

7 SEC. 501. Section 3253 of title 10, United States Code, is
8 amended to read as follows:

9 **“§ 3253. Army: persons not qualified**

10 “In time of peace, no person may be accepted for original
11 enlistment in the Army unless he (1) is a citizen of the
12 United States, (2) has been lawfully admitted to the United
13 States for permanent residence under the applicable provi-
14 sions of chapter 12 of title 8, (3) is a national of the United
15 States, or (4) is a citizen of the Trust Territory of the
16 Pacific Islands and presents a valid identity certificate issued
17 by the High Commissioner of such trust territory.”

18 SEC. 502. Section 8253 of title 10, United States Code, is
19 amended to read as follows:

20 **“§ 8253. Air Force: persons not qualified**

21 “In time of peace, no person may be accepted for origi-
22 nal enlistment in the Air Force unless he (1) is a citizen of
23 the United States, (2) has been lawfully admitted to the
24 United States for permanent residence under the applicable

1 provisions of chapter 12 of title 8, (3) is a national of the
2 United States, or (4) is a citizen of the Trust Territory of
3 the Pacific Islands and presents a valid identity certificate
4 issued by the High Commissioner of such trust territory.”

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 29, 1971.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on S. 860, a bill "Relating to the Trust Territory of the Pacific Islands."

While generally supporting all of the titles of the bill, we will comment and give our recommendation on each title. We also recommend that consideration be given to dividing the bill into its various parts and considering each part separately.

Title I of the bill authorizes a program to promote the economic development of the Trust Territory of the Pacific Islands.

We strongly support the enactment of title I of the bill if the title is amended as recommended in this report.

Section 101 of the bill authorizes the appropriation of an amount of money which when added to the presently existing development loan fund will not exceed a total amount of \$5 million. The appropriation is made to the Secretary of the Interior and is to be paid as a grant to the Government of the Trust Territory of the Pacific Islands for the purposes of this title. The \$5 million fund is named the Trust Territory Economic Development Fund.

Section 102 of the bill provides that prior to the time the funds appropriated by the title are turned over to the Government of the Trust Territory of the Pacific Islands, they are to submit a plan for the use of the funds to the Secretary of the Interior for his approval. This Department intends that any loans made pursuant to this legislation, and the plan we approve will so reflect, will be made only for the development of Micronesian businesses, which would mean that no loan could be made to a business, the majority interest of which was not controlled by a Micronesian citizen. The plan is to provide for a revolving loan fund to make or guarantee loans to private enterprise, among other provisions. The term of any loan made pursuant to the plan is limited to 25 years. Each loan made under the program would require a payment of interest at rates not less than a rate equal to the average yield on outstanding marketable obligations of the United States as of a certain date, figured to the nearest one-eighth of one per centum, which rate shall be determined by the Secretary of the Treasury upon request. The section sets out the basis for establishing premium charges for the insurance and guarantee of loans.

We recommend that section 102 be amended by deleting all of line 13 through line 23 on page 2. We, in agreement with Treasury, feel that this language is inconsistent with a granting of this money to the Trust Territory. However, we will be certain that any plan we approve for the use of this money will contain language assuring an interest rate sufficient to make this a viable program.

Section 103 provides that no loan or loan guarantee shall be made under this Act to any applicant who does not satisfy the agency administering the plan that financing is otherwise not available on reasonable terms. This section also makes clear that the maximum participation in the funds made available, with respect to all loans, shall be limited to that degree of participation, prudent under the circumstances of an individual loan. In no event shall more than 25 percent of the funds actually appropriated be devoted to any single project.

With respect to loan guarantees, the maximum participation in funds made available under section 101 of the Act shall be limited to a guarantee of 90 percent of any loan. It also requires with respect to loan guarantees that the reserve maintained for the guarantee shall not be less than 25 percent of the guarantee.

Section 104 provides that the plan required in section 3 of this Act shall contain such fiscal control and accounting procedures as will assure proper disbursement, repayment, and accounting for such funds.

Section 105 of the bill requires that the High Commissioner of the Trust Territory shall make an annual report to the Secretary of the Interior on the administration of the Act.

Section 106 of the bill authorizes the Comptroller General of the United States to audit and examine the accounts of the Trust Territory agencies administering the loan program.

This Department endorses and urges enactment of title I of S. 860 as a measure designed to provide substantial and necessary support for the Trust Territory's

existing program of economic development. It embodies the purpose and concept envisioned by the enactment of Section 3 of Public Law 88-487, approved August 22, 1964.

Section 3 of Public Law 88-487 granted approximately \$369,000, which represented the balance in an existing revolving fund, for loans to private trading companies in the Trust Territory, to the government of the Trust Territory "for use as a development fund within the Trust Territory of the Pacific Islands." This fund has been augmented by appropriations until it has reached a current capitalization in excess of \$1,000,000. The effect of the bill would be to increase the fund to \$5,000,000 and to provide useful guidelines for basic lending policies. We interpret the provisions of this bill as being broad enough to include loans to qualified American entrepreneurs, as well as to Micronesian entrepreneurs who alone participate in the existing Economic Development Loan Fund.

The historic American economic development policy in the territory has been to encourage Micronesians to establish commercial and industrial enterprises. Upon the liquidation of the Island Trading Company, a government operation, the assets of that operation were made available to assist in the creation of locally owned trading companies. Since that time, in the early 1950's, there has also been a substantial development of cooperatives and credit unions and the number and diversity of Micronesian economic enterprises has increased. The trading company fund was, under Public Law 88-487, incorporated into the Economic Development Loan Fund.

Activity of the fund since 1963 is reflected in the following table:

	Direct loans		Guaranteed loans		Total
	Number	Amount	Number	Amount	
Fiscal year 1964.....	12	\$74, 800	3	\$100, 000	\$174, 800
Fiscal year 1965.....	22	108, 225	11	50, 000	158, 225
Fiscal year 1966.....	17	147, 100	15	127, 600	274, 700
Fiscal year 1967.....	19	194, 300	10	285, 700	480, 000
Fiscal year 1968.....	8	75, 227	11	311, 500	386, 727
Fiscal year 1969.....	9	120, 100	5	96, 500	216, 600
Fiscal year 1970.....	27	646, 495	10	649, 812	1, 296, 307
Fiscal year 1971 (to January 31).....	21	230, 200	4	191, 500	421, 700
Total.....	135	1, 596, 447	69	1, 812, 612	3, 409, 059

As of January 31, 1971 there were 74 pending loans in the district aggregating close to \$3 million.

District	Number of loans	Amount
Marianas.....	35	\$1, 916, 281
Marshall's.....	27	474, 000
Palau.....	3	55, 000
Ponape.....	2	60, 000
Truk.....	3	108, 788
Yap.....	4	150, 000
Total.....	74	2, 764, 069

Impact of the vigorous lending policy begun by the Trust Territory Government during the latter part of fiscal year 1969 which resulted in depletion of Economic Development Loan Fund funds by the end of fiscal year 1970 is shown in Chart 1, which is attached to this report.

While pursuing a dynamic lending policy, the Government of the Trust Territory, at the same time, took direct action to collect delinquent direct loans. This action reduced the percentage of delinquent loans from 57% to 29% in January 1971. We have attached Chart 2 which shows this action.

Development of Micronesia today is dependent on the initiative and assistance of the United States in aiding Micronesian entrepreneurs to obtain adequate capital for investment. If economic development is limited to its present rate of growth, generated by local resources, the total investment will be so limited that it will leave the great majority of people with few employment opportunities, a shortage of goods and services and continued dependence upon the United States.

Some development has already been achieved through the use of the Economic Development Loan Fund. Over the last 7 years Economic Development Loan Fund funds in the amount of \$1.3 million have generated \$3.4 million in loans—\$1.6 direct and \$1.8 guaranteed. Between 1972 and 1978, if additional funds become available to bring the Economic Development Loan Fund up to \$5 million capitalization, it is estimated that these funds could generate an additional \$5.8 million in direct and \$7 million in guaranteed loans.

Chart 3 which is attached to this report shows investment to date in the various sectors of the economy and projected distribution of capital investment by sector in 1978. The chart projects a general shift away from consumer type loans to sectors (marine resources, agriculture and manufacturing) which are involved in production. The shift is a result of a change in policy of the Government of the Trust Territory urged by the Congress of Micronesia and begun early in fiscal year 1971 to move away from studies, pilot projects and experimentation toward the actual production stage of economic development.

Areas which are projected to receive the most impact from the new funds are agriculture, construction, marine resources, manufacturing and tourism.

Almost \$2 million will be injected into agricultural projects which will increase the productivity of the Trust Territory. These will probably include poultry and livestock enterprises and other agricultural businesses.

Present day commercial agriculture is located within or on the periphery of district centers and is somewhat responsive to the needs of these urban areas. With the exception of Micronesia Development's livestock ranch on Tinian, the sector is characterized by small production units, family operated, with low levels of investment.

An additional \$2 million is expected to be expended in construction for the purchase of construction materials, equipment, building of warehouses for materials.

Loans for manufacturing and processing enterprises are expected to be about \$1 million. With the exception of boatbuilding, handicrafts and one beverage processor, manufacturing and processing activities today are almost non-existent.

Additional funds generated by the Economic Development Loan Fund will hopefully be used in such businesses as ceramics, charcoal, handicrafts, shoes, island attire, bottling plants, coconut products and food processing.

Marine resources will receive about 14 percent of the new capital. Major emphasis will encourage the use of these funds to provide means for increasing the productivity of the inshore and offshore fisheries—to purchase small boats and engines, for fish receiving and handling facilities, for maintenance operations and the like.

The \$2 million which is projected for tourism enterprises will have the most immediate impact on the economy, stimulating many kinds of profitable activities—including expansion of local markets for agricultural and marine products, shells, handicrafts; lodging, entertainment and recreational services.

The wholesale/retail trade, services and transportation sectors are projected to need additional funds to meet the increased demands in other sectors.

Twenty-six hundred or more new jobs should be created by the influx of capital. These jobs are broken down by sector and occupation in Table A, which is attached to this report. It is estimated that 2,000 to 2,200 of the newly employed will need some sort of training. See Table B which is attached.

The largest number of the new jobs created will be in semiskilled, unskilled, seasonal and miscellaneous categories. This means that many underemployed and unemployed Micronesians will be immediately drawn out of the Trust Territory's idle labor pool into productive employment and there should be less dependence on employment within the government sector.

Title II of the bill provides for contributions to certain inhabitants of the Trust Territory of the Pacific Islands.

We strongly support the purpose of this title of the bill, but recommend that the language of the proposed joint resolution submitted by this Department to the Congress for its consideration on January 26, 1971, be substituted for that of title II of the bill.

The title is broken into two chapters. The first chapter contains language necessary to implement an Executive Agreement of April 18, 1969, between the Governments of Japan and the United States entered into pursuant to the Treaty of Peace with Japan, which provides for the compensation of inhabitants of the Trust Territory of the Pacific Islands who suffered damages during the Second World War. A copy of the Agreement is enclosed. The Agreement essentially provides

that the two Governments will make equal, *ex gratia* contributions for the welfare of the inhabitants of Micronesia, such contributions to have a total value equivalent to \$10 million.

The contribution by Japan will take the form of products and services having a value of 1.8 billion yen which, at present conversion rates, is computed at \$5 million. The contribution of the United States, subject to the appropriation of funds by the Congress, is to take the form of \$5 million in cash.

The Agreement between the Governments of Japan and the United States is responsive to the fact that, after 25 years, an innocent people whose islands were fought over by two Great Powers remain uncompensated for wartime suffering, while they have seen their kin in Guam and their neighbors in Asia benefit from grants of the United States and reparations of Japan. The Treaty of Peace with Japan provides that claims of the inhabitants of Micronesia against Japan, and claims of Japan and its nationals against the Administering Authority of Micronesia, shall be the subject of special arrangements. In negotiating those arrangements, the United States has pressed the claims of the Micronesians, while Japan has pressed the claims of its nationals—some 100,000 Japanese—for property left by them when they were evacuated to Japan after the War. The Agreement treats all Japanese claims against the Administering Authority as fully and finally settled, and makes no payment on them. It commits both Governments, subject to the appropriation of funds, to a joint *ex gratia* grant to the Micronesians which, without any suggestion of liability on the part of either Government, should meet a Micronesian grievance which has gone unmet too long. Thus, when implemented, the Agreement will dispose of a long-standing irritant in relations between Japan and the United States, and do justice to the Micronesians.

That Agreement represents the successful conclusion of protracted and difficult negotiations pursuant to Article 4(a) of the Treaty of Peace with Japan concerning the disposition of property of Japan and of its nationals in the Trust Territory, and their claims, including debts, against the Administering Authority of the Trust Territory and the residents thereof, and the disposition in Japan of the property of the Administering Authority and residents of the Trust Territory, and of their claims, including debts, against Japan and its nationals.

Chapter 1 of Title II establishes a five-member Micronesian Claims Commission which shall receive, examine, adjudicate, and render final decisions with respect to claims of Micronesian inhabitants of the Trust Territory resulting from the hostilities of the Governments of the United States and Japan during World War II. The Commission will also be responsible for determining the validity of the claims that have arisen as a result of damages arising since the securing of the Islands of Micronesia but prior to July 1, 1951. The joint resolution will establish also a Micronesian Claims Fund, the whole of which Fund will be \$10 million, and authorize the appropriations of \$5 million to be paid into this Fund by the United States as its share of the Fund.

Chapter 2 of Title II sets out the purpose of the chapter as promoting and maintaining friendly relations with the citizens of Micronesia, and authorizes the Micronesian Claims Commission to consider, ascertain, adjust, determine, and make payments, where accepted by the claimant in full satisfaction of final settlement of all the claims of Micronesian inhabitants against the United States arising as a result of damage to or loss or destruction of private property, both real and personal, or for personal injury or death, of the inhabitants of the Trust Territory of the Pacific Islands as a result of acts by members of the United States Armed Services, employees of the United States Government including employees of the Trust Territory, who were acting in their official capacities. We oppose the inclusion of claims for death and personal injury in the post-secure claims. Our findings are that there are few, if any, such claims, and such claims, if any, can be handled under other procedures. The claims to be considered by the Micronesian Claims Commission must be presented in writing within one year after the effective date of the Act. Only those claims that arose prior to July 1, 1951, will be considered by the Commission.

Chapter 2 of Title II authorizes the appropriation of \$20 million for use by the Secretary of the Interior for the purpose of making payments on claims adjudicated by the Micronesian Claims Commission. It also provides that any funds appropriated for the purposes of Title II which remain unexpended after settlement of all claims provided for under Title II shall be returned to the Treasury of the United States.

We consider the settlement of these Micronesian claims, which will result in the final resolution of a difficult matter which has been of substantial concern to the people of Micronesia, this Nation, Japan, and the United Nations, as a vital first

step in the resolution of the status question of the Trust Territory of the Pacific Islands.

Title III of S. 860 amends the Immigration and Nationality Act to permit free entry of citizens of the Trust Territory of the Pacific Islands into the United States.

We strongly support the purposes of Title III.

Title III of S. 860 adds a new section, section 293, to the Immigration and Nationality Act, as amended (66 Stat. 163) which will permit citizens of the Trust Territory of the Pacific Islands to enter the United States freely, without regard to the quota and visa provisions of the Immigration and Nationality Act—which are now applicable to them—and subject only to those sections of that Act which are enumerated in the bill. The enumerated sections provide for the exclusion and removal of subversives.

The title does not extend to the citizens of the Trust Territory of the Pacific Islands the privilege of counting residency in the Trust Territory toward the residency requirements for naturalization, as in the case with non-citizen nationals coming to the United States from "outlying possessions" as that term is defined in the Immigration and Nationality Act. The title does provide, however, that any person permitted to enter the United States pursuant to its provisions, and subsequently residing in the United States, will be considered to have been lawfully admitted for permanent residence for the purpose of petitioning for naturalization. The title specifically provides that nothing contained in the new section added to the Immigration and Nationality Act shall be construed to give or to confer upon citizens of the Trust Territory of the Pacific Islands any other privileges, rights, benefits, exemptions, or immunities under the Immigration and Nationality Act which are not otherwise specifically granted by the provisions of the Act.

Title III of S. 860 addresses itself to a matter of genuine urgency in connection with the administration of the Trust Territory of the Pacific Islands, and the discharge of the Federal responsibility, a responsibility that has been delegated to this Department, in that area. As the report will point out, we have had a genuine concern about the lack of free entry into the United States by citizens of the Trust Territory, a problem this title solves.

For nearly twenty years efforts in the Trust Territory have been directed internally and have been prompted by the necessity for equipping these relatively unsophisticated people for fruitful participation in the society of nations. However, because of the state of development which existed in the Trust Territory following World War II, it was necessary to regulate both the entry of persons into the Trust Territory and the departure from the area of its citizens. Up until mid-1963, even the entry of United States citizens into the Territory was restricted.

These restrictions no longer exist because of the demonstrable progress in development made by the Trust Territory. While that progress, by many standards, was not as great as might have been wished for, it was in the best interest of the people of the Trust Territory to open the door to the Trust Territory and admit a new stimulus to its development in the form of capital, investments, tourism, and trade.

The obligations imposed upon and accepted by the United States under the Trusteeship Agreement are numerous but are generally directed toward two goals. The first is the social, economic and political development of the residents of the Trust Territory. The second, through the achievement of the first, is to equip the people of the Trust Territory to exercise an educated choice as to their future and that of the Trust Territory, and to let them make that choice. It is incumbent upon us to do all that we can to provide the basis for a judicious use of this freedom to choose.

It is our purpose, further, to attract American investment to provide the commerce and the facilities which the citizens of the Trust Territory cannot provide for themselves because of a lack of capital, but which is essential if the standard of living is to be raised. Extensive training in various skills will be a prerequisite to their participation in this endeavor. This training will in many instances need to be acquired in the United States, either as an industrial trainee program sponsored by an American company engaged in an enterprise in the Trust Territory, or as general training not related to specific operations in the Trust Territory. This would be difficult to accomplish as long as the provisions of the Immigration and Nationality Act are applicable to Micronesians.

The accelerated development program in the Trust Territory places great emphasis on education. Primary and secondary educational needs can be met in the Trust Territory by the institution of a proper program, but for some time, the need for higher education will have to be met by making educational facilities outside the Trust Territory readily available and easily accessible. Title III

would facilitate this. It would remove the requirement for obtaining a student visa and the attendant restrictions presently applicable to Trust Territory students, thus permitting any Trust Territory student to attend the school of his choice, if he is otherwise qualified, with a minimum of difficulty. It would also permit students lacking adequate funds greater freedom in seeking gainful employment for the purpose of financing their education.

There exists, yet, a further reason for the enactment of legislation of this type. We are dealing with a geographic area composed wholly of islands and therefore, an area with a precisely limited land base. Even though the total population of the Trust Territory is not great in terms of numbers, being hardly more in the aggregate than the population of a small mainland city, many areas in the Trust Territory are already experiencing severe overcrowding. At the same time, the people of the Trust Territory are becoming increasingly aware of the benefits of modern conveniences, educational and medical facilities and gainful employment. Many are no longer content, and we do not believe that they should be, to live in remote areas where only primitive conditions exist. The district centers and those other areas which today offer the chance to achieve a higher and more modern standard of living can only support a given number of persons before circumstances begin to work against the standard of living in the area and cause it to decline in many respects. The Government of the Trust Territory recognizes its responsibility to provide or to assist in providing the physical things essential to an appropriate standard of living, but is limited in its ability to provide these things in as short a time as would be required to alleviate the problem of population pressure in the areas referred to.

For all of these reasons the enactment of this type of legislation is important. Further, since we, as the administering Nation, have opened the Trust Territory to Americans, in the interest of comity we should likewise open the United States to the citizens of the Trust Territory. We do not believe that this will create problems of real magnitude. As a practical matter, by reason of education, financial status, and social customs, it is not likely that any great number of these persons would come to the United States except as short-term visitors or students. However, it is most desirable that the young people, the intellectual and social leaders, and those who will play a major role in making the final determination as to the status of the Trust Territory should be able to enter the United States freely if they so desire.

Title IV of S. 860 amends the general headnotes of the Tariff Schedules of the United States to treat the Trust Territory of the Pacific Islands as an insular possession of the United States for purposes of the United States Tariff Schedules.

Title IV provides for the treatment of the Trust Territory of the Pacific Islands as an insular possession of the United States for the purposes of the United States Tariff Schedules except with respect to fishery products processed in the Trust Territory from fish or fish products landed in the Trust Territory by foreign-flag vessels. However, Title IV states that any vessel sailing under the flag of the Trust Territory and manned by a crew two-thirds of which are nationals of the United States or citizens of the Trust Territory shall not be considered to be a foreign-flag vessel.

The other circumstance under which this treatment is not applicable pursuant to Title IV is with respect to any article which the President determines that the underlying economic factors affecting the production and trade of the Trust Territory of the Pacific Islands has changed so as to threaten or result in substantial injury to the competitive trade of any contracting party to the General Agreement on Tariffs and Trade.

The historic American development policy in the Trust Territory has been to encourage Micronesians to establish commercial and industrial enterprises. Some such enterprises have been established but there is as yet little large-scale industrial activity. Nonetheless, great potential exists for the upgrading of the Micronesian economy, foremost among which is the development of tourist-related enterprises, marine resource processing and marketing facilities, and handicraft and copra industry development.

Appropriate trade preference for the Trust Territory of the Pacific Islands could make an important contribution in developing the economy of the area. The Administration has not yet determined whether the approach provided for in Title IV or some other approach adequately recognizes all of the facts and circumstances involved. It is recommended that action on this title be deferred pending development of an Administration position which will be furnished to the Committee shortly.

Title V of S. 860 allows citizens of the Trust Territory of the Pacific Islands to serve in the armed services.

While supporting the purposes of Title V, we defer to the Department of State with reference to whether the provision conflicts with any international agreement. We also recommend that the title be amended as recommended herein to make it conform to the provisions of the title.

Title V amends sections 3253 and 8263 to make those persons who are nationals of the United States and who are citizens of the Trust Territory of the Pacific Islands acceptable for enlistment in the Army and Air Force of the United States.

Since the title covers not only citizens of the Trust Territory, but also nationals of the United States, we recommend that the title of Title V be amended by inserting the words "NATIONALS AND" on line 4, page 17 immediately before the word "CITIZENS".

Under existing law, enlistment in the Army and in the Air Force in peace time is limited to persons who are citizens of the United States, or who are aliens who have been lawfully admitted to the United States for permanent residence. Enlistment in the Navy (including the Marine Corps) is not restricted in this manner (see 10 U.S.C. 5532). Similarly, enlistment in the Coast Guard is not restricted (see 14 U.S.C. 351). If enacted, this bill would extend the privilege of voluntary enlistment in the Army and in the Air Force to nationals of the United States and to citizens of the Trust Territory of the Pacific Islands.

"Nationals of the United States" is a phrase describing the American Samoans who have not acquired United States citizenship. A national is defined as one who, although not a citizen, owes permanent allegiance to the United States. American Samoans are nationals of the United States at birth. The American Samoans have since World War II demonstrated their loyalty to the United States and their desire to serve in the Armed Forces of the United States. At the time of World War II, American Samoa was under the administration of the Navy and the territory for all practical purposes only a naval station. That situation had maintained since 1900. Over the years a number of Samoans had joined the Navy and with the advent of World War II, a substantial number joined the Marine Corps. A wholly Samoan Marine Corps unit was formed in American Samoa and while the unit did not leave Samoa to fight in the Pacific, it did undertake to augment the regular Marine defense of the territory at a time when it seemed reasonable to believe that the Japanese might attack in the area. Since World War II, a substantial number of young Samoans have entered the Navy and Marine Corps as well as the Coast Guard. Given the opportunity, we believe that a number of young Samoans would enlist in the Army and Air Force. We are aware of no reason why this should not be permitted. Under the circumstances, we know of no valid reason why citizenship should be made a requirement in this connection. Assuming the applicants for enlistment are otherwise qualified, we believe that the privilege of enlistment should extend to nationals as well as to citizens.

"Citizens of the Trust Territory of the Pacific Islands" is a phrase used to describe the approximately 90,000 Micronesians who reside in Caroline, Marshall and Mariana Islands in the Western Pacific, which islands collectively make up the Trust Territory of the Pacific Islands. The Trust Territory is administered by the United States pursuant to a United Nations Trusteeship Agreement. While the United States has full jurisdiction over the area, the United States did not acquire sovereignty under the Trusteeship Agreement and so the area is a foreign area and the citizens of the Trust Territory are aliens. Because of this fact, this legislation is necessary if these people are to be allowed to serve in the Armed Forces.

A formal request to allow the citizens of the Trust Territory of the Pacific Islands to serve in the Armed Forces of the United States was made by the Eighteenth Saipan Legislature in its Resolution No. 18-3-66 of January 28, 1966.

There is a possibility that enactment of that portion of Title V that would allow citizens of the Trust Territory to enlist in the Armed Services of the United States might be in conflict with an international agreement to which the United States is a party, specifically, the Trusteeship Agreement pursuant to which the United States administers the Trust Territory. In this connection, we defer to the Department of State since it is clearly the responsibility of the Department of State to interpret and construe the provisions of an international agreement, such as the Trusteeship Agreement.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

HARRISON LOESCH,
Secretary of the Interior.

Enclosures:

CHART - I

Economic Development Loan Fund Activity
Showing Direct and Guaranteed Loans
By Fiscal Year 1964-1971

MILLIONS
OF DOLLARS

2.0

 DIRECT LOAN (Cumulative Total \$1,596,447.)
 GUARANTEED LOANS (Cumulative Total \$1,812,612.)
 TOTAL \$3,409,059

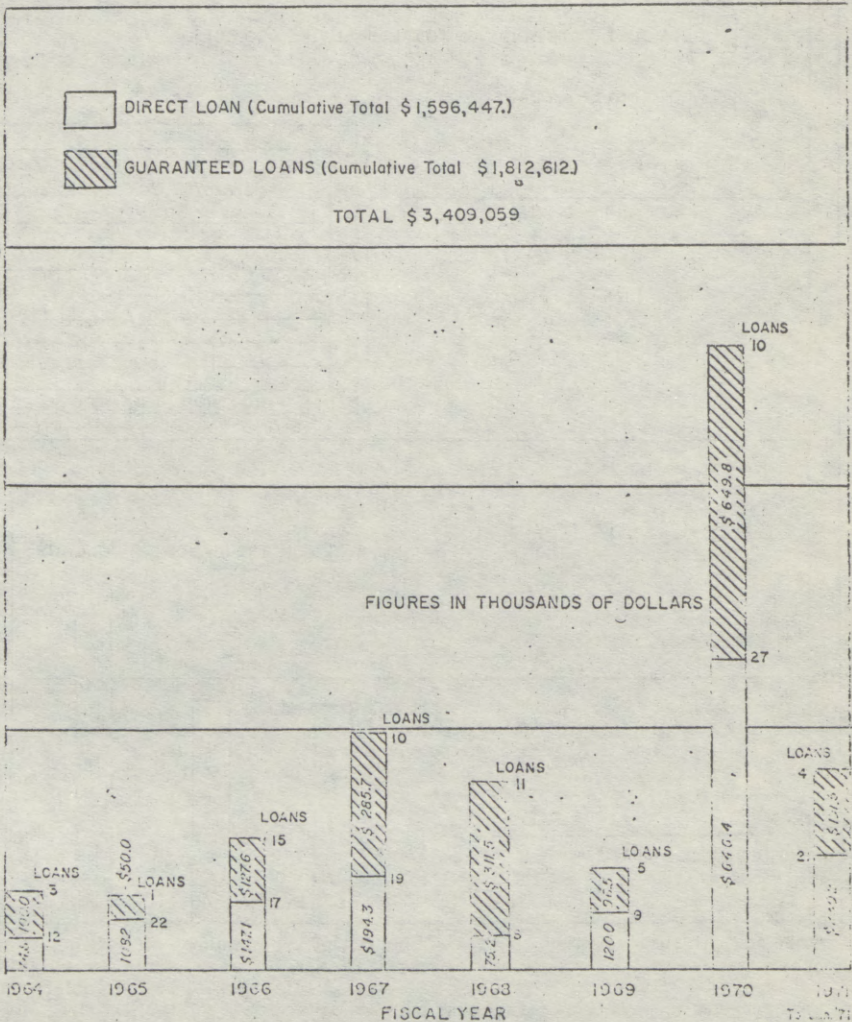
1.5

1.0

FIGURES IN THOUSANDS OF DOLLARS

0.5

0

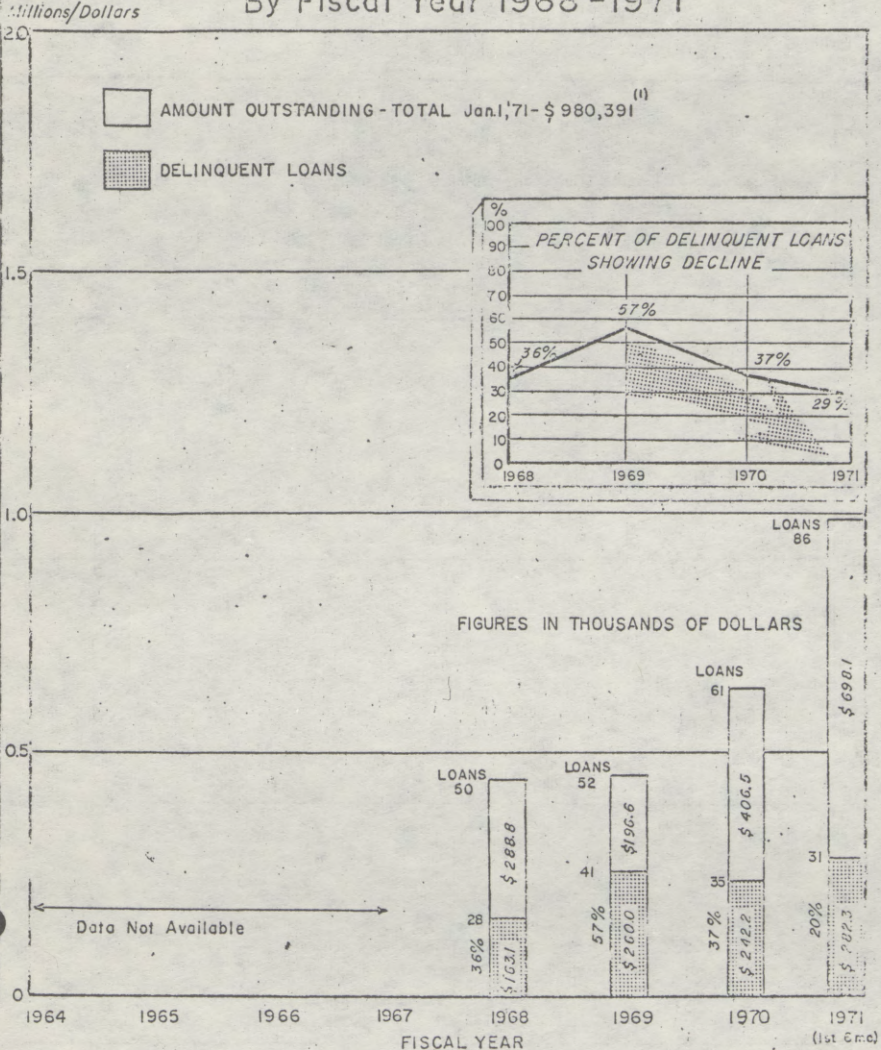


Source: Economic Development Division

TOTAL 71
Funds Disbursed

CHART - 2

Economic Development Loan Fund Activity Showing Total Amount Of Outstanding And Delinquency⁽¹⁾ By Fiscal Year 1968 - 1971

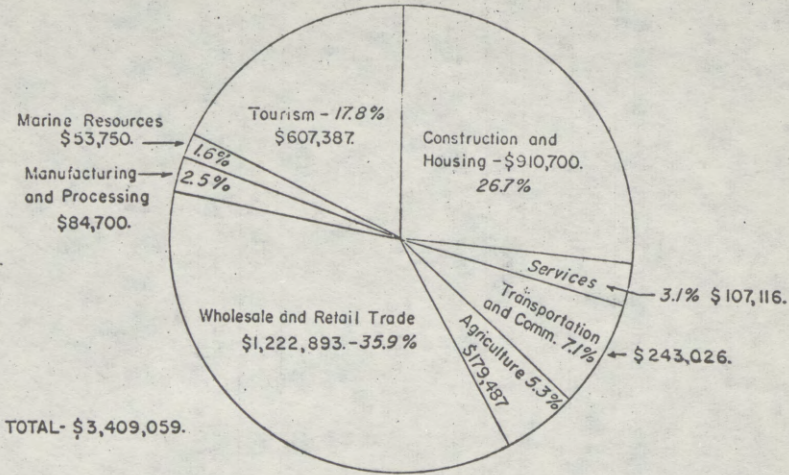
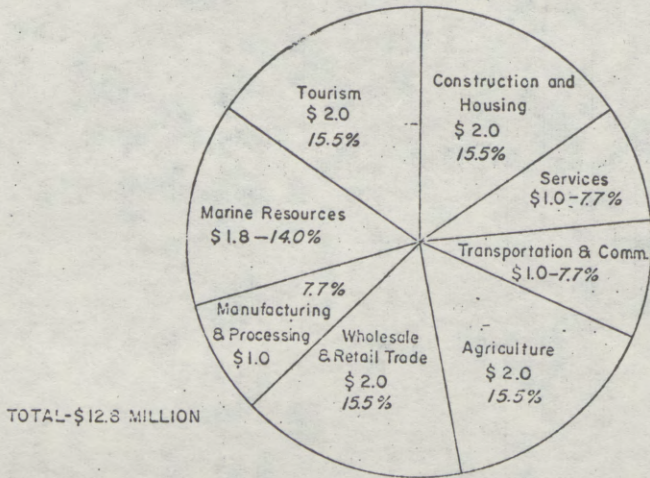


(1) INCLUDES PRIN. & INTEREST OF DIRECT LOANS ONLY

SOURCE: ECONOMIC DEVELOPMENT DIVISION

CHART - 3

Present Capital Investment Generated By EDLF

Projected Capital Investment Generated By EDLF-1978
(MILLIONS)

Source: Economic Development Division - Mar 71

TABLE A.—ESTIMATED EMPLOYMENT BY SECTOR AND OCCUPATION PROJECTED TO 1978 RESULTING FROM ACTIVITIES GENERATED BY THE ECONOMIC DEVELOPMENT LOAN FUND (EDLF)

Line and sector	Total employment	1		2		3		4		5		6		7		8		9		10		11		12		13	
		Professional and technical		Administrative		Clerical		Skilled		Semiskilled		Other															
		Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number
1—Construction.....	400	4.64	18	9.85	40	4.56	18	40.95	164	20.00	80	20	80	20.00	80	20	80	20.00	80	20	80	20.00	80	20	80	20.00	80
2—Agriculture.....	250	1.29	3	.55	1	.72	2	17.44	44	20.00	50	60	50	20.00	50	60	50	20.00	50	60	50	20.00	50	60	50	20.00	50
3—Marine resources.....	400	1.00	4	2.00	8	2.00	8	15.00	60	20.00	80	60	80	20.00	80	60	80	20.00	80	60	80	20.00	80	60	80	20.00	80
4—Manufacturing and processing.....	500	7.73	39	5.18	26	12.17	60	24.92	125	20.00	100	30	100	20.00	100	30	100	20.00	100	30	100	20.00	100	30	100	20.00	100
5—Retail and wholesale trade.....	200	2.22	4	18.97	38	20.06	40	2.26	5	26.49	53	30	53	26.49	53	30	53	26.49	53	30	53	26.49	53	30	53	26.49	53
6—Services.....	250	30.52	77	6.06	15	13.05	45	15.37	38	10.00	25	20	25	10.00	25	20	25	10.00	25	20	25	10.00	25	20	25	10.00	25
7—Tourism.....	400	2.22	9	18.97	76	20.06	80	2.26	9	26.49	106	30	106	26.49	106	30	106	26.49	106	30	106	26.49	106	30	106	26.49	106
8—Transportation and communications.....	200	4.41	9	8.31	17	25.23	50	22.05	44	20.00	40	20	40	20.00	40	20	40	20.00	40	20	40	20.00	40	20	40	20.00	40
9— Total.....	2,600	-----	163	-----	221	-----	303	-----	489	-----	534	-----	534	-----	534	-----	534	-----	534	-----	534	-----	534	-----	534	-----	534

Note: Distribution of employment by occupation the same as for the United States as reported in "The Value of Occupation-Industry Data for forecasting Purposes," International Institute for Labour Studies, reprinted from the International Labour Review, vol. 95, No. 4, April 1967. Other percentages are judgmental estimates by Stanford Research Institute and Economic Development Division.

TABLE B.—CUMULATIVE MANPOWER AND TRAINING NEEDS AS A RESULT OF
EDLF GENERATED ACTIVITIES PROJECTED TO 1978

Sector	Manpower requirements	Training requirements
Construction.....	400	350
Services.....	250	200
Transportation/communications.....	200	170
Agriculture.....	250	200
Wholesale/retail trade.....	200	170
Manufacturing and processing.....	500	400
Marine resources.....	400	350
Tourism.....	400	350
Total.....	2,600	2,190

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., April 21, 1971.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: This is in response to your request for the views of this Department on S. 860, a bill, "Relating to the Trust Territory of the Pacific Islands."

The Department of Commerce defers to other interested agencies with respect to titles I, II, III, and V. Title I would create a development loan fund for the trust territory; title II concerns contributions to certain inhabitants of the trust territory; title III permits the free entry of citizens of the trust territory to the United States; and title V concerns service in the U.S. Armed Forces by citizens of the trust territory. As to title IV, the Department has serious reservations about extending certain duty-free privileges (i.e., general headnote 3(a) of the Tariff Schedules) now applicable to the insular possessions (Virgin Islands, Guam, and American Samoa) to the Trust Territory of the Pacific Islands. The Department, however, would not object to enactment of S. 860 if title IV were amended to include safeguards against the development of trade that is disruptive to domestic industry.

In recent years, several problems have been brought to our attention regarding operations in the insular possessions which amount to exploitation of a tariff loophole. Essentially foreign-made products, such as watches and watch movements, showerproofed wool fabrics, and buttons undergo token processing in the insular possessions in order to obtain duty-free access to the United States market under general headnote 3(a) of the Tariff Schedules. Each of these practices required separate legislation to close the loophole that had attracted processors to the insular possessions and caused serious import competition to producers on the U.S. mainland. In the case of watches, the Congress enacted P.L. 89-805 (80 Stat. 1521, 1522) which imposed a quota limiting the amount of watches which could enter the United States duty-free from the insular possessions in any year. In the case of buttons, the U.S. Congress enacted P.L. 89-806 (80 Stat. 1523) which excluded buttons from the duty-free privilege. In the case of shower-proofed fabrics, the Government of the Virgin Islands enacted a production-tax quota which limited the quantity that could be shipped to the United States.

In order to provide administrative means for dealing more expeditiously with any similar problems that may arise from the duty-free privilege under general headnote 3(a) of the Tariff Schedules of the United States, this Department recommends that paragraph (e) be added to the new general headnote proposed in section 401 of the bill as follows:

"(e) Any duty-free treatment proclaimed pursuant to paragraph (a) shall, for purposes of Title III (tariff adjustment and other adjustment assistance) of the Trade Expansion Act of 1962 (19 USC secs. 1901 to 1991), be treated as a concession granted under a trade agreement."

We understand that, as presently worded, Title IV of S. 860 by itself would not extend duty-free treatment for watches and watch movements from the trust territory. Buttons also would be excluded from the duty-free privilege. However, wool fabrics previously involved in tariff evasions in the insular possessions and other textiles would be accorded free entry from the trust territory provided the criteria of general headnote 3(a) are satisfied. In view of the sensitive nature of

import competition to domestic producers of textiles, the Department of Commerce believes that it would be most desirable to avoid possible aggravation of the problem by creating a means by which foreign-made textiles, with a minimum of processing in Micronesia, could avoid the tariff or other import restrictions. To prevent such practices, the Department proposes that the paragraph now designated as 13(d) in Title IV of S. 860 be redesignated as paragraph 13(e) and that a new paragraph 13(d) be added as follows:

"(d) Paragraph (a) shall not apply with respect to textile articles classified under schedule 3 of the Tariff Schedules of the United States, except: (1) those articles classified under items 300.10 through 300.50, 304.04, 304.10, 304.12, 304.14, 304.20, 304.22, 304.44, 306.00 through 307.40, 308.10, 309.60 through 309.75, 360.05 through 360.15, 361.44, and 390.10 through 390.60, inclusive, of such Schedules; and (2) articles cut, sewn, and otherwise fabricated by hand in cottages of the cottage industry and certified to be native handicraft items by a local Government official in the Trust Territory."

Finally, proposed general headnote 13(c) should be amended to conform to the language of our waiver in the General Agreement on Tariffs and Trade with regard to tariff treatment of the Trust Territory. Rather than *require* the President to suspend the duty-free privilege in whole or in part, this provision should merely *authorize* him to do so. Thus, the provision should be amended to read:

"(c) If, with respect to any article, the President determines that the underlying economic factors affecting the production and trade of the Trust Territory of the Pacific Islands has changed so that the application of paragraph (a) results, or threatens to result, in substantial injury to the competitive trade of any contracting party to the General Agreement on Tariffs and Trade, he *may*, by proclamation, suspend, in whole or in part, the application of paragraph (a) with respect to such article for such period or periods as he specifies in such proclamation."

In order to conform the amendments recommended by the Department to Title IV, paragraph (a) of the new general headnote 13 would have to be amended to read as follows:

"(a) Except as provided for in paragraphs (b), (c), (d) and (e), the Trust Territory of the Pacific Islands shall, for the purposes of these schedules, be treated as an insular possession of the United States."

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

WILLIAM N. LETSON,
Acting General Counsel.

FOREIGN CLAIMS SETTLEMENT COMMISSION,
OF THE UNITED STATES,
Washington, D.C., March 29, 1971.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reference to your request for the views of the Foreign Claims Settlement Commission on S. 860, 92d Congress, a bill "Relating to the Trust Territory of the Pacific Islands."

This omnibus bill relates to several matters pertaining to the Trust Territory of the Pacific Islands under which the Foreign Claims Settlement Commission would have no jurisdiction or control. Accordingly, the Commission would have no comments concerning the proposals under Titles I, III, IV and V of the bill involving respectively, economic development, free entry of citizens of the Trust Territory into the United States, tariff schedules, and citizens of the Trust Territory serving in the United States Army and Air Force.

However, the Commission would have jurisdiction concerning the settlement of certain claims arising in the Trust Territory of the Pacific Islands under Title II of the bill.

Title II of the bill, S. 860, is similar in many respects to S.J. Res. 211 in the 91st Congress as passed by the Senate on October 8, 1970. Basically, Chapter I of Title II of the bill contains the recommendations of the Department of Interior to the 91st Congress, to authorize an ex gratia contribution to certain inhabitants of the Trust Territory of the Pacific Islands who suffered damages as a result of World War II and to establish a Micronesian claims commission for this purpose. Chapter II, Title II of the bill, S. 860, concerning noncombat claims arising prior

to July 1, 1951, is similar to the amendment by the Senate to the original proposal of the Department of Interior under S.J. Res. 211.

Under Chapter I, Title II of S. 860, a five-member "Micronesian Special Commission" is established for the purpose of determining the Micronesian inhabitants who are entitled to ex gratia payments or contributions from the Micronesian Special Fund, which will consist of an appropriated sum of \$5 million plus an additional \$5 million as a contribution from Japan under Article I of the "Agreement between the United States of America and Japan" signed April 18, 1969.

The new Commission will have the authority, under Chapter I of Title II of the bill, to receive, examine, adjudicate, and render final decisions, in accordance with the laws of the Trust Territory of the Pacific Islands and international law, with respect to claims of the Micronesian inhabitants of the Trust Territory who suffered loss of life, physical injury, and property damage directly resulting from the hostilities between the Governments of Japan and the United States between December 7, 1941, and the dates the various islands of Micronesia were secured by United States Armed Forces. The sum of \$10 million, as indicated above, is authorized for the payment of these claims under Chapter II, Title II of the bill.

The new Commission is also authorized to consider, ascertain, adjust and determine all claims by Micronesian inhabitants of the Trust Territory against the United States or the government of the Trust Territory of the Pacific Islands on account of damage to or loss or destruction of private real and personal property or for personal injury or death, including claims for a taking or for use or retention of property where no payments or inadequate payments have been made therefor, when such damage, loss, destruction, or injury was caused by the United States Armed Forces or individual members thereof, or military personnel or civilian employees of the United States Government or of the Trust Territory government acting within the scope of their employment. A sum of \$20 million is authorized to be appropriated for the payment of allowed claims under this chapter.

The Micronesian Special Commission will be under the control and direction of the Chairman of the Foreign Claims Settlement Commission. Under this authority the Chairman is directed to appoint, in consultation with the Secretary of Interior, the five members of the new commission, two of which are to be selected from a list of Micronesian citizens nominated by the Congress of Micronesia, and to designate a Chairman. The Commission, subject to the approval of the Chairman of the Foreign Claims Settlement Commission may appoint and fix the compensation and allowance of such officers, attorneys and employees as may be reasonably necessary for its proper functioning, which employees shall be in addition to those who may be assigned by the Chairman of the Foreign Claims Settlement Commission to assist the Commission in carrying out its functions.

The new commission, subject to the approval of the Chairman of the Foreign Claims Settlement Commission, is authorized to prescribe such rules and regulations as are necessary for carrying out its functions.

A one-year time limitation for the filing of both the wartime and postwar claims under Chapters I and II of Title II of the bill is established and the Commission is required to complete its work as expeditiously as possible and in any event no later than three years after the expiration of the time for filing claims.

When all wartime claims under Chapter I, Title II of the bill have been adjudicated, the Commission is directed to certify its awards to the Secretary of Interior for payment out of the Micronesian Special Fund, except that claims based on death up to \$1,000 are to be certified for immediate payment upon adjudication. A full release to the United States and Japan in respect to the liability of either or both is a prerequisite to the making of a payment to a wartime claimant.

Funds remaining out of the \$10 million, if not used, are to be transferred to the Treasury of the Trust Territory of the Pacific Islands for appropriation by the Congress of Micronesia for the welfare of the people of the territory. In the event that the allowable and adjudicated claims exceed a total of \$10 million, pro rata payments are directed to be made.

The Commission is required, in addition to preparing annual reports on its operations, to certify to the Chairman of the Foreign Claims Settlement Commission, the Secretary of Interior, and to the Congress of the United States, a list of all claims allowed and the amounts, a list of all claims denied, and a copy of the decision rendered in each case upon completion of its work.

The Foreign Claims Settlement Commission and its predecessors have had over 20 years of experience in the claims field. It was created under Reorganization Plan No. 1 of 1954 for the purpose of adjudicating claims of the nature covered under the executive agreement between the United States and Japan entered into

on April 18, 1969, and possesses the background, organization, and trained personnel to administer such program most efficiently and economically.

The organization of the Commission came into being basically for the reason that various claims programs of a national character were being processed by a number of government agencies, including claims arising out of World War II by the predecessor War Claims Commission under the War Claims Act of 1948.

As a result of these scattered claims programs being administered by a number of Federal agencies, and in view of the existing statutes, namely, the War Claims Act of 1948 and the International Claims Settlement Act of 1949, which originally authorized the former War Claims Commission and the International Claims Commission, under the jurisdiction of the Department of State, to determine claims of nationals of the United States against foreign governments, including those under executive claims agreements, it became obvious that there was a definite need for a separate and independent national claims commission within the framework of the executive branch of the Federal Government.

On July 1, 1954, the effective date of Reorganization Plan No. 1 of 1954, the Foreign Claims Settlement Commission became the national claims commission of the United States. In this capacity it has acquired a vast amount of experience in the adjudication of claims under the War Claims Act of 1948, the International Claims Settlement Act of 1949, and other statutes and international executive agreements.

The executive agreement between the United States and Japan dated April 18, 1969, is similar to the other executive agreements which have been heretofore executed between the United States and other foreign countries providing for the settlement of claims of nationals of the United States. Even though the beneficiaries under the 1969 agreement with Japan are inhabitants of the Trust Territory of the Pacific Islands rather than nationals of the United States, the types of claims to be settled appear similar in the most part to those which have been and are now being adjudicated by the Foreign Claims Settlement Commission.

The Commission is confident that it can successfully supervise and direct the administration of a satellite commission in the Trust Territory of the Pacific Islands in the processing of claims under the proposed Title II of the bill, S. 860.

The Commission has no detailed information as to the number and amounts of claims involved except for those statistics contained in the hearing transcript in regard to S.J. Res. 211 and other related resolutions which were considered by your Committee in the 91st Congress. However, the claims are similar to the category of claims which the Commission has handled previously.

Although the substance of Title II of S. 860 is essentially the same as S.J. Res. 211, which was passed by the Senate in the 91st Congress, the Commission, nevertheless, recommends that the language as contained in S.J. Res. 35 be substituted for Title II of the bill S. 860, and that the legislation be enacted.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely yours,

LYLE S. GARLOCK,
Chairman.

DEPARTMENT OF STATE,
Washington, D.C., March 30, 1971.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate.

DEAR MR. CHAIRMAN: Thank you for your letter of February 24, 1971, in which you requested the views of the Department of State on S. 860, "a bill relating to the Trust Territory of the Pacific Islands." Before commenting specifically on the various titles of S. 860, the Department would observe in general that it supports Titles I and III of the bill, but does not favor enactment of Title V, has reservations on the inclusion of Title II in a multi-faceted bill of this sort, and asks for deferral of action on Title IV. The Department's views on the various titles of S. 860 follow:

TITLE I

Title I, "Economic development of the Trust Territory of the Pacific Islands," would, if enacted into law, authorize an additional appropriation to the Trust Territory Economic Development Loan Fund to create a total fund of \$5 million.

Although the Department of State defers to the Department of The Interior for detailed comments as to the specific terms of the title, such as the amount of the additional appropriation authorized and the terms of granting loans, we

fully endorse the goal of expanding the Fund and would approve enactment of Title I.

From a foreign policy standpoint, expansion of the Fund would not only help fulfill our obligations as the Trust Territory Administering Power, but would help erase long-standing and acknowledged weaknesses in our efforts to foster the private sector of the economy which have been the subject of international attention. In this regard, the 1970 session of the UN Trusteeship Council attached importance to the Fund and welcomed the statement of The United States Special Representative, High Commissioner Johnston, that an attempt was being made to increase the Fund to \$5 million.

TITLE II

Title II, "Contributions to certain inhabitants of the Trust Territory of the Pacific Islands," consists of two chapters, the first of which would authorize an *ex gratia* contribution to certain inhabitants of the Trust Territory who suffered damages during the Second World War, and establish a Micronesian Special Commission to adjudicate these claims. The Department fully endorsed and testified on behalf of similar separate legislation at the 91st Congress. This legislation was and is still necessary to implement the Executive Agreement of April 18, 1969 between the Government of Japan and the United States Government. At that time Assistant Secretary De Palma pointed out the longstanding interest of the United Nations in doing justice to the Micronesian people by satisfying their legitimate claims which had been pending for far too long. These views are even more valid now with the passage of one more year and increased Micronesian dissatisfaction and United Nations impatience over the long delay.

Chapter 2 deals with noncombat claims arising after the securing of the various islands by the Armed Forces of the United States and prior to July 1, 1951. These claims, commonly referred to as "post-secure" claims, do not involve a foreign power but the United Nations has shown considerable if more recent, interest in seeing this category of claims adjudicated and paid. The Department, therefore has an interest in the intent of Chapter 2 to provide for prompt payment of all valid "post-secure" claims.

The Department of State was somewhat troubled by the proposal submitted in the 91st Congress to deal with both categories of claims in one piece of legislation. We expressed the view then that, while both categories deserved urgent settlement and there was a certain rationale in combining both categories of claims into one bill, we considered it more important that the settlement of war claims not be delayed.

While implementation of the 1969 Agreement is still of paramount importance, we now believe, on balance, that it is advisable to seek joint action on both categories of claims. However, the coupling of Title II with other unrelated proposals dealing with Micronesia does raise concerns similar to those which were expressed last year. Apart from the merits of the various titles of S. 860, we believe that settlement of Micronesian claims is even more important now than it was a year ago. We therefore believe that early enactment of the separate proposal, S.J.R. 35, as suggested in the Department of Interior letter of January 28, 1971, is preferable to the inclusion of Title II in S. 860.

TITLE III

Title III, "Free entry of citizens of the Trust Territory of the Pacific Islands," would, if enacted into law, permit citizens of the Trust Territory to enter the United States without visas either as non-immigrants or as permanent residents.

Under the present law, Micronesians entering the United States as non-immigrants are exempt from visa requirements. However, those desiring to become permanent residents of the United States must meet quantitative and qualitative restrictions and requirements that are applicable to other aliens born in the Eastern Hemisphere. Title III would exempt Micronesians from all except certain serious qualitative restrictions. The Department is in sympathy with these objectives.

TITLE IV

Title IV, "Tariff schedules relating to the Trust Territory of the Pacific Islands," would, if enacted into law, amend the tariff schedules of the United States to accord to the Trust Territory the same tariff treatment provided for the insular possessions of the United States.

From a foreign policy standpoint, tariff preferences for Micronesian goods entering the United States would help fulfill our obligations as Administering

Authority to foster the Trust Territory's economic development. In 1970, at its 37th session, the United Nations Trusteeship Council took note of the statement of the United States Special Representative that legislation to eliminate the tariff barrier on Micronesian goods imported into the United States had been introduced in the U.S. Congress and hoped that these tariff barriers would soon be removed.

The title would establish new U.S. tariff preferences beyond those already extended to the Trust Territory of the Pacific Islands for copra and coconut oil (Tariff Schedules of the United States, items 175.11, 175.12, 176.05, 176.08, 176.09, 176.10 and 176.12). We believe that appropriate trade preferences are justifiable because of the special responsibility the United States has for the Trust Territory and for the welfare of its inhabitants. We hope that improved access to the U.S. market will lead to increased sales of Trust Territory products, new investment, and new employment opportunities, and thus help bring about a higher standard of living for Trust Territory inhabitants. However, the Administration has not yet determined its position as to appropriate trade preferences for the Trust Territory of the Pacific Islands. The Department would therefore urge that the Committee defer action on this Title pending development of such a position.

Provision for trade preferences would not be inconsistent with our international obligations in the trade field, inasmuch as the United States already has obtained a waiver in the GATT to permit the establishment of preferential treatment for imports into the United States from the Trust Territory of the Pacific Islands (see Basic Instruments and Selected Documents, GATT, Volume II, page 9). We note in this connection, that the language of Title IV authorizes the withdrawal, under certain circumstances, of preferential treatment for articles the export of which threatens to cause substantial injury to the competitive trade of GATT member nations.

We note that Title IV excludes from the benefit of the preference fishery products processed from fish or fish products landed from foreign-flag vessels. This provision would not deprive foreign fishermen of any present commercial opportunities in the Trust Territory because there is as yet no fish canning facility in the Territory. Nor would the proposed legislation adversely affect opportunities for foreign fishermen to dispose of their tuna catch to fish-freezing factories (one exists on Palau) for freezing and subsequent export to the United States since tuna is admitted into the United States duty-free.

TITLE V

Title V, "Citizens of the Trust Territory of the Pacific Islands serving in Armed Forces," would amend Title 10 of the United States Code to provide that nationals of the United States and citizens of the Trust Territory of the Pacific Islands may be accepted for original enlistment in the Army and Air Force in time of peace. The Department of State perceives no objection to those provisions of the title which would enable nationals of the United States to be accepted for enlistment in the Army and Air Force. However, the question of enlistment of citizens of the Trust Territory of the Pacific Islands requires special attention.

As you know, the United States administers the Trust Territory under the terms of a Trusteeship Agreement with the United Nations Security Council and in accordance with the United Nations Charter. The question of the use of volunteer forces from the Trust Territory invites attention to Article 84 of the United Nations Charter, which reads:

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defense and the maintenance of law and order within the trust territory.

Article 5 of the Trusteeship Agreement is also pertinent. It states:

In discharging its obligations under Article 76(a) and Article 84, of the Charter, the Administering Authority shall ensure that the trust territory shall play its part, in accordance with the Charter of the United Nations, in the maintenance of international peace and security. To this end, the administering authority shall be entitled:

"1. to establish naval, military, and air bases and to erect fortifications in the trust territory;

"2. to station and employ armed forces in the territory; and

"3. to make use of volunteer forces facilities and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for the local defense and the maintenance of law and order within the trust territory."

Thus, the United Nations Charter and the Trusteeship Agreement with the Security Council provide for the use of volunteer forces from the Trust Territory only for purposes of local defense, the maintenance of law and order within the Trust Territory, and in carrying out certain obligations in the maintenance of international peace and security undertaken towards the Security Council by the United States.

The enlistment of the Trust Territory citizens in the armed forces of the United States, provided for in Title V, is not limited to the purposes stated in Article 84 of the United Nations Charter and Article 5 of the Trusteeship Agreement. Without establishing a special regime for Trust Territory volunteers, we do not see how such enlistments could be so limited. Accordingly, in view of the pertinent provisions of the Charter and Trusteeship Agreement, the Department does not favor enactment of Title V.

In summary, the Department supports the aims of S. 860 except for that portion of Title V dealing with Trust Territory. We would, however, wish that action on Title IV be deferred. Finally, we would not wish to see any of the other objectives of the bill delayed as the result of being combined in such an extensive legislative package. Our concerns in this regard are particularly strong with reference to Title II, the objectives and importance of which we have described above.

The Department has been advised by the Office of Management and Budget that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., March 30, 1971.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on S.J. Res. 35 and S. 860, relating to the Trust Territory of the Pacific Islands.

Only Titles I and IV of S. 860 are of interest to the Department.

Title I of S. 860 would authorize an appropriation to be paid to the Government of the Trust Territory of the Pacific Islands to augment the Trust Territory Economic Development Loan Fund, which would operate as a revolving fund for loan and loan guarantees to private enterprise. Loans would have maximum maturities of 25 years and bear interest at a rate not less than a rate determined by the Secretary of the Treasury equal to the average yield on comparable marketable obligations of the United States as of the last day of the month preceding the date of the loan.

The interest rate formula contained in Title I is not in accord with the interest rate formula prescribed by Office of Management and Budget Circular No. A-70 for Federal credit programs. The formula in the bill is efficient in that it would require the Treasury to make a special computation each time a rate is requested for this one program; it could lead to erratic fluctuations in the lending rate since it would be based on market yields on one day each month rather than on an average over the month; and it would provide no discretion for the Secretary of the Treasury to reject unrepresentative yields in making the interest rate determination.

We understand, however, that the Department of the Interior in testimony before the Subcommittee on Territories and Insular Affairs has recommended that section 102 be amended to delete lines 13 through 23 on page 2. We would have no objection to Title I, if so amended.

Title IV of S. 860 would amend the Tariff Schedules of the United States to provide that the Trust Territory of the Pacific Islands be treated as an insular possession of the United States for the purposes of the Tariff Schedules. Under General Headnote 3 of the Tariff Schedules, articles which are the growth or produce of an insular possession of the United States and which do not contain more than 50 percent of value of foreign materials may be admitted free of duty into the United States. Title IV would except from this privilege any fishery product processed in the Trust Territory from fish or fish products landed in the Trust Territory under conditions which would preclude such landings in the ports of the United States under section 4311 of the Revised Statutes, as amended (46 U.S.C. 251). It would authorize the President to suspend the duty-free privilege whenever he determines that the duty-free entry is causing or threatening to cause substantial injury to the competitive trade of any contracting party to GATT.

The Department would have no comment to make on Title IV at this time.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

SAMUEL R. PIERCE,
General Counsel.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., March 26, 1971.

HON. HENRY M. JACKSON,
*Chairman, Committee on Interior and Insular Affairs,
U.S. Senate.*

DEAR MR. CHAIRMAN: Reference is made to your letters of February 24 and March 9, 1971, concerning S. 860 relating to the Trust Territory of the Pacific Islands.

We have no special information as to the advantages or disadvantages of this measure and since it involves matters of policy for determination by the Congress we offer no comments with respect to its merits.

We note that section 102 provides for a plan to be submitted by the government of the Trust Territory which plan, among other things, shall provide for a revolving fund.

Section 104 would require that the plan provided in section 102 shall "set forth such fiscal control and fund accounting procedures as may be necessary." We suggest deleting the word "fund." It is not necessary for cross-reference purposes and it could be misconstrued as referring to a method of maintaining accounts.

Also, we note that Title V of the bill proposes to amend sections 3253 and 8253 of title 10, United States Code, to read as stated therein. It is believed that only paragraphs (c) of those sections should be amended.

Sincerely yours,

ROBERT F. KELLER,
Assistant Comptroller General of the United States.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., March 30, 1971.

HON. HENRY M. JACKSON,
*Chairman, Committee on Interior and Insular Affairs, U.S. Senate, New Senate
Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request of February 24, 1971, for the views of the Office of Management and Budget on S. 860, a bill "Relating to the Trust Territory of the Pacific Islands."

The Office of Management and Budget supports the objectives of Titles I, II, III, and V subject to certain amendments as suggested in the reports on S. 860 by the Department of the Interior and the Department of State. We also concur in the recommendations by the Departments of Interior and State that action on Title IV be deferred pending the development of an Administration position on appropriate trade preferences action.

Subject to the above, the Office of Management and Budget would have no objection to enactment of this legislation.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., March 29, 1971.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: This is in response to your request for the views of the Department of Justice on S. 860, a bill "Relating to the Trust Territory of the Pacific Islands" and on S.J. Res. 35, a joint resolution to be entitled "Micronesian Claims Act of 1971."

S. 860 contains five titles concerning unrelated subjects of interest to the inhabitants of the Trust Territory of the Pacific Islands:

Title I would authorize the appropriation to the Secretary of Interior of money for payment to the Trust Territory of the Pacific Islands as a grant to create a \$5 million fund to be called the Trust Territory Economic Development Loan Fund. The fund is to be used, among other things, to make or guarantee loans to private enterprise when reasonable financing is otherwise unavailable.

Title II would implement an Executive Agreement concluded between the United States and Japan designed to provide for a program of *ex gratia* contributions for damages suffered by certain Micronesian inhabitants of the Trust Territory during the hostilities of World War II. The program would be administered by a Micronesian Special Commission under the control and direction of the Foreign Claims Settlement Commission. The contributions would be paid from a fund to which the United States would pay \$5,000,000 and Japan would contribute another \$5,000,000 in products and services. Chapter 2 of this title would authorize the Commissioner to hear and determine postwar claims of Micronesians of the Trust Territory for damages for personal injury or death or property damage caused by American military or civilian employees acting in the scope of their employment prior to July 1, 1951.

Title III would amend the Immigration and Nationality Act (66 Stat. 163) to permit, with certain exceptions, the free entry into the United States of citizens of the Trust Territory who present a valid identity certificate issued by the High Commissioner of the Territory. The requirements for such a certificate are set forth in the bill.

Title IV would add a new headnote 13 to the Tariff Schedules of the United States (19 U.S.C. 1202) providing that, with certain exceptions, the Trust Territory of the Pacific Islands shall, for purposes of the schedules, be treated as an insular possession of the United States.

Title V would amend 10 U.S.C. 3253 and 8253 to permit the original enlistment in the Army and Air Force of nationals of the United States and citizens of the Trust Territory who present a valid identity certificate issued by the High Commissioner.

S.J. Res. 35 provides for an *ex gratia* contribution program similar to that authorized in Title II of S. 860.

Whether this legislation should be enacted involves questions as to which the Department of Justice defers to those agencies more directly concerned with this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD G. KLEINDIENST,
Deputy Attorney General.

92^D CONGRESS
1ST SESSION

S. J. RES. 35

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10 (legislative day, JANUARY 26), 1971

MR. JACKSON (for himself and Mr. ALLOTT) (by request) introduced the following joint resolution; which was read twice and referred to the Committee on Interior and Insular Affairs

JOINT RESOLUTION

To authorize an ex gratia contribution to certain inhabitants of the Trust Territory of the Pacific Islands who suffered damages arising out of the hostilities of the Second World War, to provide for the payment of noncombat claims occurring prior to July 1, 1951, and to establish a Micronesian Claims Commission.

Whereas certain Micronesian inhabitants of the Trust Territory of the Pacific Islands, formerly under League of Nations mandate to Japan, suffered from the hostilities of the Second World War;

Whereas the United States, while not liable for wartime damages suffered by the Micronesians, has responsibility for the welfare of the Micronesian people as the administering authority of the Trust Territory of the Pacific Islands;

Whereas the Governments of Japan and the United States entered into an agreement on April 18, 1969, to contribute ex gratia the equivalent of \$10,000,000 to the Micronesian inhabitants of the Trust Territory of the Pacific Islands in view of the suffering caused by the hostilities of the Second World War, each Government contributing the equivalent of \$5,000,000, Japan's contribution to take the form of products and services;

Whereas payment of these ex gratia contributions to certain Micronesian inhabitants of the Trust Territory of the Pacific Islands will meet a long-standing Micronesian grievance and will promote the welfare of the Micronesian people;

Whereas certain Micronesian inhabitants of the Trust Territory of the Pacific Islands claim to have suffered damage to or loss or destruction of property, personal injury, or death caused by military and civilian employees of the United States Government and arising out of accidents or incidents between the dates of the securing of the various islands of Micronesia by the United States Armed Forces and July 1, 1951, and within an area under the control of the United States at the time of the accident or incident;

Whereas the United States is desirous of making an equitable settlement of these claims by way of a monetary contribution:
Therefore be it

- 1 *Resolved by the Senate and House of Representatives*
- 2 *of the United States of America in Congress assembled,*
- 3 That this resolution may be cited as the "Micronesian Claims
- 4 Act of 1971".

TITLE I

SECTION 1. (a) It is the purpose of this title that, with respect to war claims, the United States should make an ex gratia contribution of \$5,000,000 matching an equivalent contribution of the Government of Japan, to Micronesian inhabitants of the Trust Territory of the Pacific Islands who are determined by the Micronesian Claims Commission to be meritorious claimants, in particular amounts to be awarded by the Micronesian Claims Commission, and that the Secretary of the Interior, hereinafter referred to as the "Secretary", or his designee, shall pay to said Micronesian claimants as soon as possible following his receipt of the final report of the Micronesian Claims Commission on the claims allowed, such amounts as are finally certified pursuant to section 4 hereof;

(b) A "Micronesian inhabitant of the Trust Territory of the Pacific Islands" is defined for the purposes of this joint resolution as a person who:

(1) became a citizen of the Trust Territory of the Pacific Islands on July 18, 1947, and who remains a citizen as of the date of filing a claim; or

(2) if then living, would have been eligible for citizenship on July 18, 1947; or

1 (3) is the successor, heir, or assign of a person eligi-
2 ble under subsection (1) or (2) and who is a citizen of
3 the Trust Territory of the Pacific Islands as of the date
4 of filing a claim.

5 SEC. 2. (a) There is hereby authorized to be appropri-
6 ated to the Trust Territory of the Pacific Islands \$5,000,000,
7 in addition to the normal budgetary expenditures for the
8 Trust Territory of the Pacific Islands and in addition to the
9 appropriations authorized by section 2 of the Act of June 30,
10 1954, as amended, to be paid into a Micronesian Claims
11 Fund. The Secretary is hereby authorized to create and man-
12 age said Micronesian Claims Fund.

13 (b) Funds approximating \$5,000,000 appropriated to
14 the Trust Territory of the Pacific Islands for supplies or cap-
15 ital improvements in accordance with the Act of June 30,
16 1954, as amended, shall be paid into a Micronesian Claims
17 fund as the products of Japan and the services of the
18 Japanese people in the amount of 1,800,000,000 yen (cur-
19 rently computed at \$5,000,000) are provided by Japan pur-
20 suant to article I of the "Agreement between the United
21 States of America and Japan", signed April 18, 1969. These
22 funds together with the sum authorized to be appropriated by
23 subsection (a) of this section shall constitute the whole of
24 the Micronesian Claims Fund.

25 SEC. 3. (a) There is hereby established a Micronesian

1 Claims Commission (hereinafter referred to as the "Com-
2 mission"), such Commission to be under the control and di-
3 rection of the Chairman of the Foreign Claims Settlement
4 Commission. The Commission shall be composed of five
5 members, who shall be appointed, in consultation with the
6 Secretary, by the Chairman of the Foreign Claims Settle-
7 ment Commission, one of whom he shall designate as Chair-
8 man. Two members shall be selected from a list of Micro-
9 nesian citizens nominated by the Congress of Micronesia.
10 Any vacancy that may occur in the membership of the Com-
11 mission shall be filled in the same manner as in the case of
12 the original appointment. The members of the Commission
13 shall serve at the pleasure of the Chairman of the Foreign
14 Claims Settlement Commission. No Commissioner shall hold
15 other public office or engage in any other employment dur-
16 ing the period of his service on the Commission, except as
17 an employee of the Foreign Claims Settlement Commission.

18 (b) The members of the Commission shall receive com-
19 pensation and allowances as determined by the Chairman
20 of the Foreign Claims Settlement Commission by application
21 of the rules and regulations which apply to officers and em-
22 ployees of the Trust Territory of the Pacific Islands, but in
23 no event shall traveling and other expenses incurred in con-
24 nection with their duties as members, or a per diem allow-
25 ance in lieu thereof, exceed that prescribed in accordance

1 with the provisions of subchapter 1 of chapter 57 of title 5,
2 United States Code. The term of office of the members of
3 the Commission shall expire at the time fixed in subsection
4 (e) for winding up the affairs of the Commission.

5 (c) The Commission may, subject to the approval of
6 the Chairman of the Foreign Claims Settlement Commission,
7 appoint and fix the compensation and allowances of such
8 officers, attorneys, and employees of the Commission as may
9 be reasonably necessary for its proper functioning, which
10 employees shall be in addition to those who may be assigned
11 by the Chairman of the Foreign Claims Settlement Commis-
12 sion to assist the Commission in carrying out its functions.
13 The compensation and allowances of employees appointed
14 pursuant to this section shall be within the rules and regu-
15 lations which apply to officers and employees of the Trust
16 Territory of the Pacific Islands, but in no event to exceed
17 the amount of allowances prescribed in subchapter 1 of chap-
18 ter 57 of title 5, United States Code. In addition, the Com-
19 mission, with the approval of the Chairman of the Foreign
20 Claims Settlement Commission, may make such expendi-
21 tures as may be reasonably necessary to carry out its proper
22 functioning. Officers and employees of any other department
23 or agency of the Government of the United States or the
24 Government of the Trust Territory of the Pacific Islands
25 may, with the consent of the head of such department or

1 agency, with or without reimbursement, be assigned to assist
2 the Commission in carrying out its functions. The Commis-
3 sion may, with the consent of the head of any other depart-
4 ment or agency of the Government of the United States or
5 the Government of the Trust Territory of the Pacific Islands,
6 utilize, with or without reimbursement, the facilities and serv-
7 ices of such department or agency in carrying out the func-
8 tions of the Commission.

9 (d) The Commission shall, subject to the approval of the
10 Chairman of the Foreign Claims Settlement Commission, pre-
11 scribe such rules and regulations as are necessary for carrying
12 out its functions. As expeditiously as possible and, in any
13 event, within three months of its appointment, the Commis-
14 sion shall give public notice in the Trust Territory of the
15 Pacific Islands of the time when, and the limit of time within
16 which, claims may be filed, which notice shall be given in
17 such manner as the Commission shall prescribe: *Provided,*
18 That the final date for the filing of claims shall not be more
19 than one year after the appointment of the full membership of
20 the Commission. A majority of the membership of the Com-
21 mission shall be necessary to transact business: *Provided,*
22 *however,* That an affirmative vote of at least three members
23 shall be required for the promulgation of rules and regula-
24 tions, and for the final adjudication of any claim.

25 (e) The Commission shall wind up its affairs as expedi-

1 tiously as possible and in any event not later than three years
2 after the expiration of the time for filing claims under this
3 Act.

4 SEC. 4. (a) The Commission shall have authority to re-
5 ceive, examine, adjudicate, and render final decisions, in
6 accordance with the laws of the Trust Territory of the Pa-
7 cific Islands and international law, with respect to (i) claims
8 of the Micronesian inhabitants of the Trust Territory of
9 the Pacific Islands who suffered loss of life, physical injury,
10 and property damage directly resulting from the hostilities
11 between the Governments of Japan and the United States
12 between December 7, 1941, and the dates of the securing
13 of the various islands of Micronesia by United States Armed
14 Forces and (ii) those claims arising as postwar claims be-
15 tween the dates of the securing of the various islands of Mi-
16 cronesia by United States Armed Forces and July 1, 1951.
17 When all claims have been adjudicated, the Commission shall
18 certify them to the Secretary for payment. The claims covered
19 by title I of this Act shall be paid from the Micronesian
20 Claims Fund, except that as to claims based on death, up to
21 \$1,000 shall be paid immediately upon adjudication, and the
22 claims covered by title II of this Act shall be paid by the
23 Secretary from the funds appropriated for such purpose.

24 (b) No later than six months after its organization, and
25 annually thereafter, the Commission shall make a report,

1 through the Chairman of the Foreign Claims Settlement
2 Commission, to the Congress of the United States concerning
3 its operations under this Act. The Commission shall, upon
4 winding up its work, certify to the Chairman of the Foreign
5 Claims Settlement Commission, the Secretary, and to the
6 Congress of the United States the following:

7 (1) a list of all claims allowed, in whole or in part,
8 together with the amount of each claim and, the amount
9 awarded thereon;

10 (2) a list of all claims disallowed;

11 (3) a copy of the decision rendered in each case.

12 (c) In the event that funds remain in the Micronesian
13 Claims Fund after all allowable and adjudicated claims are
14 paid, such remaining funds shall be transferred from the
15 Micronesian Claims Fund to the treasury of the Trust Ter-
16 ritory of the Pacific Islands for appropriation by the Con-
17 gress of Micronesia for the welfare of the people of the Trust
18 Territory of the Pacific Islands. In the event that the allow-
19 able and adjudicated claims covered by title I of the Act ex-
20 ceed a total of \$10,000,000, the Secretary shall make pro
21 rata payments.

22 (d) No payment shall be made on an award of the Com-
23 mission unless the claimant shall first execute a full release
24 to the United States and Japan in respect to any alleged
25 liability of the United States or Japan, or both, arising be-

1 fore the dates of the securing of the various islands of Micro-
2 nesia by the United States Armed Forces.

3 SEC. 5. There is authorized to be appropriated such sums
4 as may be necessary for the operation and administrative ex-
5 penses of the Foreign Claims Settlement Commission, to the
6 extent needed to cover activity connected with this Act, and
7 of the Commission in order to carry out the purposes of this
8 Act.

9 SEC. 6. The Agreement for the payment of the Micro-
10 nesian claims covered by title I of this Act having been
11 reached by negotiators of the Governments of the United
12 States and Japan, and since personnel to be appointed by
13 the Secretary or the Commission will be available to assist
14 the people of the Trust Territory of the Pacific Islands inso-
15 far as may be necessary in filing all claims covered by either
16 title I or title II of this Act, no remuneration on account of
17 services rendered on behalf of any claimant, or any associa-
18 tion of claimants, in connection with any claim or claims
19 covered by either title I or title II shall exceed, in total, 1
20 per centum of the amount paid on such claim or claims,
21 pursuant to the provisions of this Act. Fees already paid for
22 such services shall be deducted from the amounts authorized
23 by this Act. Any agreement to the contrary shall be unlawful
24 and void. Whoever, in the United States or elsewhere,
25 demands or receives, on account of services so rendered, any

1 remuneration in excess of the maximum permitted by this
2 section shall be guilty of a misdemeanor and, upon conviction
3 thereof, shall be fined not more than \$5,000 or imprisoned
4 not more than twelve months, or both.

5 TITLE II

6 SECTION 1. For the purpose of promoting and maintain-
7 ing friendly relations by the final settlement of meritorious
8 postwar claims, the Micronesian Claims Commission is, pur-
9 suant to authority granted in section 4 (a) of title I, author-
10 ized to consider, ascertain, adjust, determine, and make pay-
11 ments, where accepted by the claimant in full satisfaction and
12 in final settlement, of all claims by Micronesian inhabitants
13 against the United States or the Government of the Trust
14 Territory of the Pacific Islands on account of damage to or
15 loss or destruction of private property both real and personal,
16 of Micronesian inhabitants of the former Japanese mandated
17 islands, now the Trust Territory of the Pacific Islands admin-
18 istered by the United States under a trusteeship agreement
19 with the United Nations, including claims for a taking or for
20 use or retention of such property where no payments or in-
21 adequate payments have been made for such taking, use, or
22 retention when such damage, loss, or destruction was caused
23 by the United States Army, Navy, Marine Corps, or Coast
24 Guard, or individual members thereof, including military per-
25 sonnel and United States Government civilian employees,

1 and including employees of the trust territory government
2 acting within the scope of their employment: *Provided, That*
3 only those claims shall be considered by the Commission
4 which are presented in writing as provided for in section
5 3 (d) of title I of this Act and the accident or incident out of
6 which the claim arose occurred prior to July 1, 1951, within
7 the islands which now comprise the Trust Territory of the
8 Pacific Islands and within an area under the control of the
9 United States at the time of the accident or incident: *Pro-*
10 *vided further, That* any such settlements made by such Com-
11 mission and any such payments made by the Secretary under
12 the authority of this title shall be final and conclusive for all
13 purposes notwithstanding any other provision of law to the
14 contrary and not subject to review.

15 SEC. 2. There is hereby authorized to be appropriated,
16 the amount of \$20,000,000, in addition to the normal budget-
17 ary expenditures for the Trust Territory of the Pacific Islands
18 and in addition to the appropriation authorized by section 2
19 of the Act of June 30, 1954, as amended, to be expended by
20 the Secretary for the purposes of making payments to the
21 extent authorized by this title of this Act.

22 SEC. 3. Any funds appropriated for the purposes of this
23 title which remain after the settlement of claims under the
24 provisions of this title shall be covered into the Treasury of
25 the United States.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., January 26, 1971.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a proposed joint resolution "To authorize an *ex gratia* contribution to certain inhabitants of the Trust Territory of the Pacific Islands who suffered damages arising out of the hostilities of the Second World War, to provide for the payment of noncombat claims occurring prior to July 1, 1951, and to establish a Micronesian Claims Commission."

We recommend that this joint resolution be referred to the appropriate committee for its consideration and strongly urge its prompt enactment.

The proposed resolution has two titles. The first title contains language necessary to implement an Executive Agreement of April 18, 1969, between the Governments of Japan and the United States entered into pursuant to the Treaty of Peace with Japan, which provides for the compensation of inhabitants of the Trust Territory of the Pacific Islands who suffered damages during the Second World War. A copy of the Agreement is enclosed. The Agreement essentially provides that the two Governments will make equal, *ex gratia* contributions for the welfare of the inhabitants of Micronesia, such contributions to have a total value equivalent to \$10 million.

The contribution by Japan will take the form of products and services having a value of 1.8 billion yen which, at present conversion rates, is computed at \$5 million. The contribution of the United States, subject to the appropriation of funds by the Congress, is to take the form of \$5 million in cash.

The Agreement between the Governments of Japan and the United States is responsive to the fact that, after 25 years, an innocent people whose islands were fought over by two Great Powers remain uncompensated for wartime suffering, while they have seen their kin in Guam and their neighbors in Asia benefit from grants of the United States and reparations of Japan. The Treaty of Peace with Japan provides that claims of the inhabitants of Micronesia against Japan, and claims of Japan and its nationals against the Administering Authority of Micronesia, shall be the subject of special arrangements. In negotiating those arrangements, the United States has pressed the claims of the Micronesians, while Japan has pressed the claims of its nationals—some 100,000 Japanese—for property left by them when they were returned to Japan after the War. The Agreement treats all Japanese claims against the Administering Authority as fully and finally settled, and makes no payment on them. It commits both Governments, subject to the appropriation of funds, to a joint, *ex gratia* grant to the Micronesians which, without any suggestion of liability on the part of either Government, should meet a Micronesian grievance which has gone unmet too long. Thus, when implemented, the Agreement will dispose of a long-standing irritant in relations between Japan and the United States, and do justice to the Micronesians.

That Agreement represents the successful conclusion of protracted and difficult negotiations pursuant to Article 4(a) of the Treaty of Peace with Japan concerning the disposition of property of Japan and of its nationals in the Trust Territory, and their claims, including debts, against the Administering Authority of the Trust Territory and the residents thereof, and the disposition in Japan of the property of the Administering Authority and residents of the Trust Territory, and of their claims, including debts, against Japan and its nationals.

This joint resolution, if enacted, will establish a five-member Micronesian Claims Commission which shall receive, examine, adjudicate, and render final decisions with respect to claims of Micronesian inhabitants of the Trust Territory resulting from the hostilities of the Governments of the United States and Japan during World War II. The Commission will also be responsible for determining the validity of the claims that have arisen as a result of damages arising since the securing of the Islands of Micronesia but prior to July 1, 1951. The joint resolution will establish also a Micronesian Claims Fund, the whole of which Fund will be \$10 million, and authorize the appropriation of \$5 million to be paid into this Fund by the United States as its share of the Fund.

More specifically, section 1 of title I of the joint resolution, following the introductory paragraphs summarizing the foregoing, expresses agreement that the United States shall make an *ex gratia* contribution of \$5 million, matching the equivalent contribution of Japan, and that the Secretary of the Interior shall pay such meritorious claims as are adjudicated by the Micronesian Claims Commission.

Section 1 also defines the term "Micronesian inhabitant of the Trust Territory of the Pacific Islands" as a person who:

- (1) became a citizen of the Trust Territory on July 18, 1947, and who remains a citizen as of the date of filing a claim; or
- (2) if then living would have been eligible for citizenship on July 18, 1947; or
- (3) is the successor, heir, or assign of a person eligible under (1) or (2) above, and who is a citizen of the Trust Territory as of the date of filing a claim.

This definition, while requiring citizenship, does not require residency in the Trust Territory as a prerequisite to filing a claim.

Section 2 of title I authorizes the appropriation to the Trust Territory of \$5 million to be paid into a "Micronesian Claims Fund." That sum is to be in addition to the appropriations authorized by section 2 of the Act of June 30, 1954, as amended, for the civil administration of the Trust Territory and, as such, shall not be included in the computation of funds appropriated and subject to the limitation on appropriations contained in section 2 of the Act of June 30, 1954, as amended. The Secretary of the Interior is authorized to create and manage the Micronesian Claims Fund.

Section 2 of title I provides further that as the products of Japan and the services of the Japanese people, having an aggregate value of 1.8 billion yen, are made available to the Government of the Trust Territory, the cash equivalent of such products and services to the extent of approximately \$5 million shall be transferred by the Secretary of the Interior from the funds regularly appropriated to the Trust Territory for supplies or capital improvements to the Micronesian Claims Fund. These funds so transferred, together with the funds authorized to be appropriated, shall constitute the whole of the Micronesian Claims Fund.

Section 3 of title I establishes a Micronesian Claims Commission to be composed of five members, such Commission to be under the control and direction of the Chairman of the Foreign Claims Settlement Commission. The five members shall be appointed, in consultation with the Secretary of the Interior, by the Chairman of the Foreign Claims Settlement Commission, who shall designate one member as chairman. Two of the members shall be selected from a list of Micronesian citizens nominated by the Congress of Micronesia. The other three members will be selected from the staff of the Foreign Claims Settlement Commission.

Subsections (b) and (c) of section 3 provide for the fixing of compensation and allowances of the members and for the appointment, compensation, and allowances of such staff personnel as the Commission may reasonably require for its proper functioning. We visualize the pay of the Commissioners as not exceeding the equivalent of a GS-15 in the General Salary Schedule.

Subsection (d) of section 3 authorizes the promulgation by the Commission with the approval of the Chairman of the Foreign Claims Settlement Commission, of necessary rules and regulations and provides that the final date of filing claims shall not be more than one year after the appointment of the Commission.

Subsection (e) requires that the Commission shall proceed as expeditiously as possible and shall wind up its affairs no later than three years after the expiration of the time for filing claims.

Section 4 of title I provides that the Commission shall have authority to receive and adjudicate, in accordance with the laws of the Trust Territory and international law, (1) claims of the Micronesian inhabitants of the Trust Territory who suffered loss of life, physical injury, and loss of or damage to personal property directly resulting from the hostilities between the Governments of Japan and the United States between December 7, 1941, and the dates of the securing of the various islands of Micronesia by the Armed Forces of the United States, and (2) those claims arising as post war claims between the dates of the securing of the islands of Micronesia and July 1, 1951.

Subsection (b) of section 4, title I, requires that six months after its organization, and annually thereafter, the Commission shall report through the Chairman of the Foreign Claims Settlement Commission to the Congress concerning its operations, and that upon completion of its work it shall certify to the Chairman of the Foreign Claims Settlement Commission, the Secretary of the Interior, and the Congress a list of all claims allowed, in whole or in part, together with the amount of each claim and the amount awarded thereon; a list of all claims disallowed; and a copy of the decision rendered in each case.

Subsection (c) of section 4, title I, provides that in the event funds remain in the claim fund after all adjudicated claims are paid, such balance shall be paid into the treasury of the Trust Territory of the Pacific Islands for appropriation by the Congress of Micronesia for the welfare of the people of the Trust Territory. In the event that amounts payable on adjudicated claims exceed the total of \$10 million,

the Secretary of the Interior shall determine the necessary proration and make payments in accordance therewith.

Subsection (d) of section 4, title I, requires that a full release to the United States and Japan in respect to the liability of either or both shall be a prerequisite to the making of a payment to a claimant.

Section 5 of title I authorizes the appropriation of such sums as may be necessary for the operation and administrative expenditures of the Foreign Claims Settlement Commission and the Micronesian Claims Commission.

Section 6 of title I provides free assistance in the filing of claims authorized by this resolution and imposes a limitation upon attorney's fees in connection with payments made under the provisions of title I and title II of the resolution.

Section 1 of title II sets out the purpose of the title as promoting and maintaining friendly relations with the citizens of Micronesia, and authorizes the Micronesian Claims Commission to consider, ascertain, adjust, determine, and make payments, where accepted by the claimant in full satisfaction of final settlement of all the claims of Micronesian inhabitants against the United States arising as a result of damage to or loss or destruction of private property, both real and personal, of the inhabitants of the Trust Territory of the Pacific Islands as a result of acts by members of the United States Armed Services, employees of the United States Government including employees of the Trust Territory, who were acting in their official capacities. The claims to be considered by the Micronesian Claims Commission must be presented in writing within one year after the effective date of the Act. Only those claims that arose prior to July 1, 1951, will be considered by the Commission.

Section 1 of title II further provides that any settlements made by the Commission and any payments made by the Secretary of the Interior as a result of those settlements shall be final and conclusive and not subject to review.

Section 2 of title II authorizes the appropriation of \$20 million for use by the Secretary of the Interior for the purpose of making payments on claims adjudicated by the Micronesian Claims Commission. This \$20 million appropriation will be included in the appropriations made for the Department of the Interior.

Section 3 of title II provides that any funds appropriated for the purposes of title II which remain unexpended after settlement of all claims provided for under title II shall be returned to the Treasury of the United States.

As we have indicated, the enactment of this joint resolution, the subsequent appropriation of the funds authorized thereby, and the performance by the Micronesian Claims Commission of the functions vested in it by this resolution, will result in the final resolution of a difficult matter which has been of substantial concern to the people of Micronesia, the United States, Japan, and the United Nations for almost 25 years. We believe that this joint resolution provides a fair and wholly justified settlement.

In connection with title I claims, the sum of \$10 million to be provided as an *ex gratia* contribution in compensation for the losses experienced by the Micronesians as a result of the war is, in our view, sufficient to satisfy the war claims which we anticipate will be considered by the Commission. It is likely that the settlement in connection with the death claims will draw most heavily upon the Fund. Since, even though it represents a most difficult task, the claims will need to be adjudicated in terms of the values of the early 1940's, we have noted the record of claim settlements made in Guam for occurrences paralleling those which give rise to the claims to be adjudicated in the Trust Territory. While such earlier settlements are not seen as binding precedents, the record indicates that the amount typically claimed for a death was \$5,000, or less, with the amounts awarded ranging between \$1,000 and \$4,000, the former being the more frequent award and the latter being untypically high. Based upon our consideration of this matter and having regard to the lapse of time and the effects of inflation, we do not foresee individual death claim settlements in connection with the Trust Territory claims as exceeding \$5,000. It is expected that approximately 1,500 claims arising out of the death of individuals as a result of the war will be the subject of claims presented to the Commission.

In connection with title II claims, residents and former residents of the Trust Territory who believed that they had valid claims against the United States Government for use or loss of property after the date of the securing of the various islands of the Trust Territory of the Pacific Islands during World War II were recently asked by the government of the Trust Territory of the Pacific Islands to file their claims with the district administrator of the district of the Trust Territory of the Pacific Islands where they reside or send them to the Attorney General of the Trust Territory. Persons who had previously filed claims were told not to refile.

This was done in order to provide this Department with information as to the number of claims that might be outstanding as a result of the acts of the United States Government in the Trust Territory of the Pacific Islands between the time of the securing of the islands that make up the Trust Territory of the Pacific Islands at the end of World War II and July 1, 1951, together with the total dollar value of such claims. It was determined from this survey that there were approximately 1,232 claims outstanding with an estimated dollar value of \$18,436,902.00. We believe that the amount authorized by the bill will cover the value of the claims we know about, including any increase in value, as well as any claims of which we are not now aware.

The claims arising between the end of the war-time activity in the islands and July 1, 1951, are for damages to property, both personal and real. Most of the property claims are small.

In line with the resolution, in order to promote and maintain friendly relations with the people of the Trust Territory of the Pacific Islands, we are willing to have the Micronesian Claims Commission consider and settle the claims that have merit so that the amount of the claims can be paid to the claimant by the Secretary of the Interior. We firmly believe that the \$20 million authorized by the bill is more than adequate to make payments as settlement of these claims even though there is some question as to the United States legal liability.

The Office of Management and Budget advises that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely yours,

FRED J. RUSSELL,
Under Secretary of the Interior.

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND JAPAN CONCERNING THE TRUST TERRITORY OF THE PACIFIC ISLANDS

THE UNITED STATES OF AMERICA AND JAPAN,

Desirous of expressing their common sympathy for the suffering caused by the hostilities of the Second World War to the inhabitants of the Pacific Islands formerly under League of Nations Mandate to Japan, and now administered by the United States of America under the United Nations Trusteeship System as the Trust Territory of the Pacific Islands,

Desirous of making an *ex gratia* contribution to the welfare of the inhabitants of the Trust Territory,

Desirous of concluding a special arrangement, as envisaged in Article 4(a) of the Treaty of Peace with Japan, concerning the disposition of property of Japan and of its nationals in the Trust Territory and their claims, including debts, against the Administering Authority of the Trust Territory and the residents thereof, and the disposition in Japan of property of the Administering Authority and residents of the Trust Territory, and of their claims, including debts, against Japan and its nationals,

Have agreed as follows:

ARTICLE I

1. Japan will make available in grants to the United States of America, in its capacity as Administering Authority of the Trust Territory, one billion and eight hundred million yen (¥1,800,000,000), currently computed at five million United States dollars (\$5,000,000), for the purchase in Japan, by the Administering Authority of the products of Japan and the services of the Japanese people, to be used for the welfare of the inhabitants of the Trust Territory.

2. The provision of these products and services shall, unless otherwise agreed upon by the Government of the United States of America and the Government of Japan, be made over a period of three years from the date on which the Japanese budget for the fiscal year 1970 is approved by the Diet, or the date of the appropriation of funds by the Congress of the United States of America under Article II of this Agreement, whichever date is later. The provision of products and services by Japan shall, subject to detailed arrangements to be concluded pursuant to paragraph 3 of this Article, be made in a reasonably even manner during the period.

3. The Government of the United States of America, as Administering Authority and the Government of Japan shall conclude detailed arrangements for the implementation of this Article.

ARTICLE II

The Government of the United States of America shall, subject to the appropriation of funds by the Congress of the United States, establish a fund in the amount of five million United States dollars (\$5,000,000), aside from its normal budgetary expenditures for the Trust Territory, to be used for the welfare of the inhabitants of the Trust Territory.

ARTICLE III

The United States of America, as Administering Authority, and Japan agree that all questions encompassed by Article 4(a) of the Treaty of Peace with Japan concerning the disposition of property of Japan and its nationals in the Trust Territory, and their claims, including debts, against the Administering Authority and the residents of the Trust Territory, and the disposition in Japan of property of the Administering Authority and the residents of the Trust Territory, and their claims, including debts, against Japan and its nationals, are fully and finally settled.

ARTICLE IV

This agreement shall enter into force on the date of receipt by the Government of the United States of America of a note from the Government of Japan stating that Japan has approved the Agreement in accordance with its legal procedures.

In witness whereof, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done at Tokyo, this eighteenth day of April, 1969, in duplicate in the English and Japanese languages, both being equally authentic.

For the United States of America:

DAVID L. OSBORN, Esq.,
Chargé d'Affaires ad interim of the United States of America, Tokyo.

For Japan:

KIICHI AICHI,
Minister for Foreign Affairs of Japan.

Senator BURDICK. Our first witness will be the Honorable Harrison Loesch, Assistant Secretary of the Interior.

Welcome to the Committee Mr. Loesch.

STATEMENT OF THE HON. HARRISON LOESCH, ASSISTANT SECRETARY, PUBLIC LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY PETER T. COLEMAN, DEPUTY HIGH COMMISSIONER, TRUST TERRITORY OF THE PACIFIC ISLANDS

Mr. LOESCH. I have a rather lengthy statement which I will ask to be placed in the record and I will highlight for the committee.

Senator BURDICK. Without objection, it may be received in toto.

Mr. LOESCH. I am, of course, appearing before the committee to testify regarding both of the proposals you have mentioned, S. 860 and S.J. Res. 35.

We wholeheartedly endorse each of these proposals. But we do believe that some consideration should be given to dividing S. 860 into various parts so that each proposal can be considered separately. This might expedite the passage of the individual sections, and would avoid the possibility of the entire bill being delayed due to objections to a particular proposal. But, of course, that is in your good judgment.

Title I of S. 860 authorizes to be appropriated to the Secretary of the Interior, to be paid to the Government of the Trust Territory, an amount not to exceed \$5 million for the Trust Territory Development Fund. This follows the bill of last year, and is historically preceded by the enactment of Section 3 of Public Law 88-487 of

1964 which commenced a small revolving loan fund for use as a development fund within the Trust Territory of the Pacific Islands.

That fund since 1964 has been augmented by appropriations and it has reached a current capitalization somewhat more than \$1 million.

We foresee opportunities, with the kind of funds we request, that the bill provides for, for development in fishing, construction, wholesale and retail trading services, activities associated with tourism and travel, air, and sea transportation.

The people of the Trust Territory themselves are interested in developing their economy and we believe our obligations to them and to ourselves argue strongly in favor of an assistance program of this kind.

Title II, which is almost identical to S.J. Res. 35, as well as S. 211 which passed the Senate last year, is strongly supported by the Department. This title is divided into two chapters which deal with war and postwar claims.

Chapter 1 establishes a five-member Micronesian Claims Commission to adjudicate the claims of Micronesian inhabitants of the Trust Territory resulting from hostilities between the governments of the United States and Japan during World War II.

I am sure the members of this committee share with me the belief that recompense to these non-participants or their descendants has been long overdue.

An agreement was first necessary to be had with Japan, and we finally got that agreement on April 18, 1969. Representatives of the Department of State can furnish the background of the agreement for you.

That agreement would provide a fund of \$10 million, with adequate machinery to dispense that money expeditiously and equitably. The \$10 million consists of an ex gratia contribution by Japan of goods and services having a value of \$5 million at present rates, while the United States would contribute a similar amount of money by appropriation.

The cash equivalent of such products and services provided by the Japanese Government would be transferred to the Micronesian Claims Fund by the High Commissioner from the funds regularly appropriated by the Trust Territory for supplies or capital development.

As mentioned above, title II provides for the creation of a Micronesian Claims Commission which would be under the control and direction of the Chairman of the Foreign Claims Settlement Commission. The Micronesian Claims Commission would be organized with five members, including two citizens of Micronesia chosen from a list submitted by the Congress of Micronesia.

Procedurally, the Commission would be expected to adjudicate the claims within three years after the closing date for the filing of claims; and the closing date would be not more than one year after appointment of the commission.

We, as the record before this committee of last year shows, feel reasonably confident that the total dollar amount of the claims, when finally adjudicated, will not exceed the \$10 million to be provided under the proposed legislation. But we have as a precaution provided in the bill—the bill provides that no money would be paid out, except up to \$1,000 for death claims, until all the claims have been adjudicated.

Chapter 2 of this title of the bill authorizes the appropriation of \$20 million for use by the Secretary of the Interior for the purpose of making payments on claims adjudicated by the Claims Commission, which would be noncombat claims arising after the islands were secured by the U.S. forces and prior to July 1, 1951.

There has been a substantial amount of investigation of the propriety of post-secure claims—what the uncompensated damage in this area would be—and we are satisfied that a very substantial amount of such claims do exist.

The trust territory government, as a part of its investigation, conducted a campaign which permitted the people of the trust territory to file post-secure damage claims; and while we cannot be positive that we got all of them, of course, the final tabulation of the claims filed showed a total of 1,232 claims, with a total of \$18 million plus dollars. We think the passage of chapter 2 of title II would finally compensate the Micronesian people for just claims arising out of damages suffered as a result of the post-secure period after World War II.

Title III of S. 860 adds a new section, section 293, to the Immigration and Naturalization Act to permit citizens of the Trust Territory of the Pacific Islands to enter the United States freely, without regard to the quota and visa provisions of the Immigration and Naturalization Act which are now applicable to them.

The Department strongly supports this proposal. We do not believe it will result in any huge number of Micronesians coming to the United States. There aren't that many Micronesians in the first place and a great many of them will not desire to come. But the students, the leadership, and any others who desire to come should be free to do so, in our opinion.

It might be observed that as the administering Nation we have opened the trust territory to Americans and in the interest of comity we believe we should likewise open the United States to trust territory citizens.

We also believe that title IV of the proposed legislation is of great significance for the economic future of the trust territory. It basically provides for the treatment of the Trust Territory of the Pacific Islands as an insular possession of the United States for the purpose of the U.S. tariff schedules, except with respect to fishery products processed in the Trust Territory from fish or fish products landed there by foreign-flag vessels. But it contains provisions that if ships sail under the flag of the trust territory and are manned by a crew of two-thirds Micronesians or U.S. citizens, they would not be considered foreign-flag vessels.

The title will also give the President authority to delete articles when he determines that the inclusion of the articles may cause substantial injury to the competitive trade of any contracting party to the General Agreement on Tariffs and Trade.

We believe that appropriate trade preference for the Trust Territory of the Pacific Islands would make an important contribution toward developing the economy of that area.

However, the administration has not yet determined whether the approach provided in title IV or some other approach adequately recognizes all of the facts and circumstances involved. We therefore

recommend that action on title IV be deferred pending a prompt development of an Administration position on this subject.

Title V, which is the last title of S. 860, if enacted would allow citizens of the Trust Territory of the Pacific Islands to enlist in the U.S. Army and Air Force. It would also provide the same privilege for U.S. nationals of American Samoa. Currently, citizens of the trust territory and U.S. nationals of American Samoa can enlist in the Navy and Marine Corps, and it seems rather inconsistent that they cannot enlist in the Army and Air Force.

With regard to citizens of the trust territory, we defer to the Department of State with reference to whether the provision for enlistment would be in conflict with any international agreement. A formal request to allow the citizens of the trust territory to enlist was passed by the Saipan Legislature in 1966.

We do believe that service in the armed forces, besides offering nationals of American Samoa an opportunity to serve the U.S. Government, would also provide these individuals with an opportunity to receive valuable technical training which should be of service to themselves and American Samoa when their enlistments are completed.

Mr. Chairman, Mr. Peter Coleman, Deputy High Commissioner of the trust territory, is here to testify.

That completes the highlighting of my statement.

Senator BURDICK. Thank you, Mr. Loesch.

To give a brief summary to your testimony, there seems to be no question at all in your mind about titles I, II, III, and V?

Mr. LOESCH. That is absolutely correct.

Senator BURDICK. They are sound proposals. But you would like some time, and the administration would like some time, on title IV?

Mr. LOESCH. Yes, sir.

Senator BURDICK. And that is what you meant when you said it might be the better part of wisdom to treat some of these titles separately?

Mr. LOESCH. I think it primarily is on account of title IV, Mr. Chairman.

Senator BURDICK. There should not be any objection to the titles other than IV?

Mr. LOESCH. Not from the administration standpoint, Mr. Chairman, although I would again defer to the Department of State on foreign affairs aspects of title V.

Senator BURDICK. Senator Jordan?

Senator JORDAN. Mr. Secretary, I was trying to pinpoint your specific objections to title IV. Maybe you could help me, Mr. Secretary?

Mr. LOESCH. On page 10, Senator Jordan, we do not have an objection to it made in the statement. We simply say that the administration has not yet come to a position on it. And consequently would like a little more time. The departments are not all in accord on whether this is the proper way to go or not.

Senator JORDAN. I have no more questions.

Senator BURDICK. We will probably get some testimony on title IV. Thank you very much.

Mr. LOESCH. Thank you, Mr. Chairman.

(Secretary Loesch's prepared statement follows:)

STATEMENT OF HARRISON LOESCH, ASSISTANT SECRETARY OF THE INTERIOR,
PUBLIC LAND MANAGEMENT

Mr. Chairman and Members of the Committee, I appreciate the opportunity to appear before this committee and testify regarding S. 860 and S.J. Res. 35. S. 860, in addition to incorporating a proposal similar to S.J. Res. 35, includes four other proposals for the Trust Territory of the Pacific Islands. These bills direct themselves to matters which have been before the Congress in the past and which are worthy of your favorable consideration.

While we wholeheartedly endorse each of these proposals, we do believe that some consideration should be given to dividing S. 860 into various parts so each proposal may be considered separately. We believe this might expedite the passage of the individual sections, and would avoid the possibility of the entire bill being delayed due to objections to a particular proposal.

Title I of S. 860 authorizes to be appropriated to the Secretary of the Interior, to be paid to the Government of the Trust Territory, an amount not to exceed \$5 million for the Trust Territory Development Fund. We endorse this Title, for we believe that it provides substantial and necessary support for the Trust Territory existing program of economic development. It embodies the concept envisioned in the enactment of Section 3 of Public Law 88-487 approved August 22, 1964. This law granted approximately \$369,000, which represented the balance in an existing revolving fund, for loans to private trading companies in the Trust Territory, to the Government of the Trust Territory "for use as a development fund within the Trust Territory of the Pacific Islands." This fund has been augmented by appropriations until it has reached a current capitalization in excess of \$1,000,000.

The effect of the bill would be to increase the fund to \$5 million and to provide useful guidelines for basic lending policies. We interpret the provisions of this bill as being broad enough to include loans to qualified American entrepreneurs, as well as to Micronesian entrepreneurs who alone participate in the existing Economic Development Loan Fund.

The augmentation of the Trust Territory Economic Development Loan Fund contemplated by S. 860 will make it possible to provide the capital funds which are so urgently needed if true wide-spread economic development is to take place in the territory.

We foresee opportunities for development in fishing, construction, wholesale and retail trading services, and in activities associated with tourism and travel, and air and sea transportation. The people of the Trust Territory themselves are interested in a developing economy. We believe that our obligations to them and to ourselves argue strongly in favor of an assistance program of the kind proposed by S. 860.

We strongly support the purpose of Title II of S. 860 which is almost identical to S.J. Res. 35, as well as to S. 211, which passed the Senate last year. This Title is divided into two chapters of war claims. Chapter 1 establishes a five-member Micronesian Claims Commission to adjudicate claims of Micronesian inhabitants of the Trust Territory resulting from hostilities between the Governments of the United States and Japan during World War II.

This struggle, which took place during World War II in Micronesia, unfortunately engulfed not only the land, but took the lives of many innocent people who inhabited that land. I am sure members of this committee share with me the belief that recompense to these non-participants, or their descendants, has been long overdue. But agreement between great nations inevitably seems to require extended and protracted negotiations, and the final agreement between this nation and Japan followed that pattern. Representatives of the Department of State, who will testify today, can furnish the background of the agreement successfully concluded with Japan on April 18, 1969.

This agreement would provide a fund of \$10 million and adequate machinery to dispense that money expeditiously and equitably. The \$10 million consists of an ex gratia contribution wherein Japan will provide products and services having a value of 1.8 billion Yen, which has an estimated value at present conversion rates of \$5 million, while the United States would, under the terms of this resolution, contribute a similar amount of money by appropriation. We might note that the cash equivalent of such products and services, provided by the Japanese Government to the extent of the \$5 million, shall be transferred to the Micronesian Claims Fund by the High Commissioner from the funds regularly appropriated by the Trust Territory for supplies or capital improvements.

The \$5 million appropriated by the United States would be in addition to the appropriations authorized by Section 2 of the Act of June 30, 1954, as amended, for the civil administration of the Trust Territory, and as such, shall not be in-

cluded in the computation of funds appropriated and subject to the limitation on appropriations contained in Section 2 of the Act of June 30, 1954, as amended.

As mentioned above, Title II provides for the creation of a Micronesian Claims Commission, which would be under the control and direction of the Chairman of the Foreign Claims Settlement Commission. That Commission, with its long and varied experience in claims settlement operations, should insure that the adjudication process will proceed swiftly. When the Micronesian Claims Commission is organized, its five members will include two citizens of Micronesia, chosen from a list submitted by the Congress of Micronesia, who will provide the unique knowledge and understanding essential to a mutually satisfactory adjudication of the claims. Thus we have blended in the proposed Commission a combination of adjudicators, of high professional capability and long experience, with knowledgeable leaders of Micronesia.

Procedurally, the Commission would be expected to adjudicate the claims within three years after the closing date for the filing of claims. The closing date for filing claims is fixed to be not more than one year after the appointment of the Commission. Thus we would expect all claims to be adjudicated within four years after the appointment of the Commission.

While we feel reasonably confident that the total dollar amount of the claims when finally adjudicated will not exceed the \$10 million to be provided under the proposed legislation, we have as a precaution provided that no money shall be paid out with the exception of up to \$1,000 for death claims, until all claims have been adjudicated. In the unlikely event that the \$10 million falls short of the total required to satisfy all claims adjudicated by the Commission, the proposed legislation then provides that the \$10 million then be prorated among the claimants. On the other hand, should any funds remain in the Micronesian Claims Fund after all allowable claims have been paid, such funds would then be transferred for appropriation by the Congress of Micronesia for the welfare of the Micronesian people.

Chapter 2 of Title II authorizes the appropriation of \$20 million for use by the Secretary of the Interior for the purpose of making payments on claims adjudicated by the Micronesian Claims Commission. These claims would be noncombat claims which arose after the Islands were secured by the United States forces prior to July 1, 1951.

The matter of post secure claims and their settlement caused the Secretary of the Interior, in the fall of 1966, to appoint a three-man fact-finding team to investigate the existence of claims against the United States for post secure World War II associated damage throughout the Trust Territory. After traveling throughout the Trust Territory from September 29 through November 4, 1966, during which time the team publicized and asked for the completion of claim forms, the team reported that a large number of uncompensated post secure World War II damage claims against the United States, which may have a substantial degree of validity, do exist in the Trust Territory of the Pacific Islands.

In its report, the team recommended that the Trust Territory Government set up a "Claims Office" to refine the data accumulated by the team; that this would require the accumulation of additional information, as well as the interpretation and clarification of existing data.

Subsequently, the Trust Territory Government conducted a campaign which permitted the people of the Trust Territory to file post secure war damage claims. The final tabulation of the claims filed showed a total of 1,232 claims, with a dollar amount of \$18,436,902. Many of the claims contained statements of losses without regard to whether the losses occurred before or after the date of secure of the island where the claims arose.

Therefore, we believe the passage of Chapter 2 of Title II would finally compensate the Micronesian people for just claims arising out of damages suffered as a result of World War II and the post secure period. We, therefore, urge prompt passage of this legislation.

Title III of S. 860 adds a new section—Section 293—to the Immigration and Nationality Act, to permit citizens of the Trust Territory of the Pacific Islands to enter the United States freely, without regard to the quota and visa provisions of the Immigration and Nationality Act, which are now applicable to them.

This Title does not extend to the citizens of the Trust Territory of the Pacific Islands the privilege of counting residency in the Trust Territory toward the residency requirements for naturalization, as in the case with non-citizen nationals coming to the United States from "outlying possessions," as that term is defined in the Immigration and Nationality Act.

Title III does provide, however, that any person permitted to enter the United State pursuant to its provisions, and subsequently residing in the United States,

will be considered to have been lawfully admitted for permanent residence for the purpose of petitioning for naturalization.

The Title addresses itself to a matter of genuine urgency in connection with the administration of the Trust Territory of the Pacific Islands, and the discharge of the Federal responsibility, a responsibility that has been delegated to this Department, in that area. We have had a genuine concern about the lack of free entry into the United States by citizens of the Trust Territory—a problem this Title attempts to solve.

We believe that a free exchange of citizens between the Trust Territory and the United States would allow the citizens of the Trust Territory to avail themselves of the many educational opportunities available, both in the vocational field and the various other fields of higher education.

Title III would remove the requirement for obtaining a student visa and the attendant restrictions presently applicable to Trust Territory students, thus permitting any Trust Territory student to attend the school of his choice, if he is otherwise qualified, with a minimum of difficulty. It would also permit students lacking adequate funds greater freedom in seeking gainful employment for the purpose of financing their education.

Further, since we, as the administering nation, have opened the Trust Territory to Americans, in the interest of comity we should likewise open the United States to the citizens of the Trust Territory. We do not believe that this will create problems of real magnitude.

As a practical matter, by reason of education, financial status, and social customs, it is not likely that any great number of these persons would come to the United States except as short-term visitors or students.

However, we feel it is most desirable that the young people, the intellectual and social leaders, and those who will play a major role in making the final determination as to the status of the Trust Territory, should be able to enter the United States freely, if they so desire.

We also believe that Title IV of the proposed legislation is of great significance for the economic future of the Trust Territory. This Title provides for the treatment of the Trust Territory of the Pacific Islands as an insular possession of the United States for the purposes of the United States Tariff Schedules, except with respect to fishery products processed in the Trust Territory from fish or fish products landed there by foreign-flag vessels.

However, a vessel sailing under the flag of the Trust Territory and manned by a crew, two-thirds of which are nationals of the United States or citizens of the Trust Territory, would not be considered a foreign-flag vessel.

The Title also gives the President the authority to delete articles when he determines the inclusion of the article may cause substantial injury to the competitive trade of any contracting party to the General Agreement on Tariffs and Trade.

We believe that appropriate trade preference for the Trust Territory of the Pacific Islands could make an important contribution in developing the economy of that area; however, the Administration has not yet determined whether the approach provided in Title IV or some other approach adequately recognizes all of the facts and circumstances involved. We, therefore, recommend that action on Title IV be deferred pending a prompt development of an Administration position on this subject.

Title V of S. 860, if enacted, would allow citizens of the Trust Territory of the Pacific Islands to enlist in the Army and Air Force. It would also provide the same privilege for Nationals of American Samoa. Currently, citizens of the Trust Territory and Nationals of American Samoa can enlist in the Navy and Marine Corps.

Therefore, we believe it is only reasonable to allow Nationals of American Samoa to exercise their freedom of choice and enlist in the United States Army or Air Force.

With regard to citizens of the Trust Territory, we defer to the Department of State with reference to whether the provision for enlistment would be in conflict with any international agreement. A formal request to allow the citizens of the Trust Territory to enlist was passed by the Saipan Legislature in 1966.

We believe that service in the Armed Forces, besides offering Nationals of American Samoa an opportunity to serve the United States Government, would also provide these individuals an opportunity to receive valuable technical training, which should be of service to themselves and American Samoa when their enlistments are completed.

Again, may I urge that you give prompt attention to the provisions of this legislation. Mr. Peter T. Coleman, Deputy High Commissioner of the Trust Territory, is here to testify in behalf of the provisions of this legislation.

Senator BURDICK. Peter Coleman, Deputy High Commissioner. It is good to see you again, Mr. Coleman.

**STATEMENT OF PETER T. COLEMAN, DEPUTY HIGH COMMISSIONER
OF THE TRUST TERRITORY OF THE PACIFIC ISLANDS**

Mr. COLEMAN. It is nice to see you again, Senator.

Senator BURDICK. Proceed.

Mr. COLEMAN. Mr. Chairman and members of the committee, I am most appreciative of this privilege to speak in support of S. 860 and S.J. Res. 35. I would also like to associate myself with the statement by Assistant Secretary Loesch that we strongly endorse the five proposals in S. 860 and express our hope that some consideration be given to dividing this bill into various parts so that an objection to one of the proposals would not endanger the passage of the other proposals.

Title I of this bill authorizes an appropriation of an amount not to exceed \$5 million for the purpose of promoting economic development in the Trust Territory of the Pacific Islands.

As you are aware, the U.S. Government has committed itself to guiding the Trust Territory of the Pacific Islands toward a goal of self-sustaining economic growth. At the same time, the Congress of Micronesia has elected for the fastest possible development with maximum Micronesian participation. The increase in this fund, therefore, will give the Micronesians much needed means with which they can participate.

Title II of this bill refers to contributions to certain inhabitants of the Trust Territory of the Pacific Islands. These contributions are divided into two parts—one as *ex gratia* contributions, and the other as for post-war claims.

The committee is well aware of the long-standing problems of the claims by the citizens of Micronesia, who suffered damages and losses related to World War II. It has been most unfortunate in our stewardship of these islands of the trust territory that a people whose islands and homes, through no fault of their own, became the battle areas and thus devastated by war, have waited hopefully and patiently for some 25 years for some settlement of their claims. They saw neighboring Guam, a U.S. territory, recover rapidly, in comparison, from World War II, with their claims handled expeditiously. They watched Okinawa also have its claims settled.

We, therefore, respectfully urge this committee to give favorable consideration to title II of this bill, but recommend the substitution of the language of S.J. Res. 35 for that of title II of the bill.

Title III will permit citizens of the trust territory to freely enter the United States without being subjected to the restrictions now required of citizens of foreign nations. Since there is no accredited college in the trust territory, passage of this title will be of significant assistance to students of the trust territory who seek higher education in nearby Guam, or Hawaii, or any State on the mainland. Of particular help, also, will it be to those students who wish to work their way through college. As it is today, only those students with scholarships from various sources in the trust territory—and these scholarship opportunities are extremely limited—are able to enter the United States for educational purposes with some feeling of security.

This title will also give some mobility to the citizens of Micronesia who may wish to seek employment opportunities in nearby Guam or even in Hawaii.

We urge, therefore, passage of this title.

Title IV is very important for the development of the economy of these islands with very limited natural resources. It is doubtful if Micronesia will ever develop large manufacturing industries. However, it has already started its cottage-type handicraft industry, and duty-free entry of its products into Guam and Hawaii will quickly expand this source of income for the Micronesians.

Passage of this title, therefore, will immediately give some trading advantage to this island area. However, as indicated by Secretary Loesch, the administration has not yet determined if this is the best approach in developing the economy of the trust territory.

Title V would provide the citizens of the trust territory an opportunity to voluntarily enlist in the Army and Air Force.

Several citizens of the trust territory have joined the armed services, and some have already served with distinction in Vietnam. We recognize that there might be a conflict of this provision with an international agreement. However, I must point out that many youths in the Marianas district have indicated a strong interest in joining the armed services if given the opportunity.

Therefore, we urge passage of this title.

Thank you, Mr. Chairman.

Senator BURDICK. I notice with interest that—we should not put all these titles together—that you are in support of each one of them as good pieces of legislation?

Mr. COLEMAN. Yes, sir.

Senator BURDICK. We have had these in various parts before. And we think an omnibus bill like this might have a better chance of passing. And as far as you are concerned, you are in support of each one of the five titles?

Mr. COLEMAN. That is right, sir.

Senator BURDICK. You do not have any misgivings about title V, do you?

Mr. COLEMAN. Personally, no.

Senator BURDICK. Senator Jordan?

Senator JORDAN. I was trying to detect the difference between your testimony and that of the Secretary. You suggested that Senate Joint Resolution 35 be substituted for title II of the bill. What are the essential differences between title II and Senate Joint Resolution 35?

Mr. COLEMAN. The wording in Senate Joint Resolution 35 seems to be clearer, although the wording in S. 860 is substantially the same.

Senator JORDAN. You would not insist on that, then, if the wording is substantially the same?

Mr. COLEMAN. No, sir; I would not.

Senator JORDAN. But you believe that title IV is essential to the economy of the trust territory?

Mr. COLEMAN. Personally; yes, sir.

Senator JORDAN. That is your opinion. What does that do for you? Title IV provides that the islands be treated as an insular possession for the purposes of tariff schedules. That would let you market your products.

Mr. COLEMAN. Yes, sir. Right now there is no product of the trust territory that can enter the U.S. duty free. And we find ourselves in heavy competition with the places such as the Philippines and Taiwan that are exporting their products, particularly the handicraft products, to the United States. And a duty-free entry of our products would certainly give us at least an equal advantage.

Senator JORDAN. Do you have a fisheries industry there now?

Mr. COLEMAN. Not yet, sir. We have no fisheries industry at the present time.

Senator BURDICK. A little bit in Palau?

Mr. COLEMAN. A little bit in Palau. There is no canning, however, Mr. Chairman.

Senator JORDAN. No exports?

Mr. COLEMAN. There is an export of fish caught in the Palau area, but kept in Palau and then shipped by bigger refrigerated vessels to American Samoa.

Senator JORDAN. How about this provision that a vessel sailing under the flag of the trust territory, manned by a crew two-thirds of which are nationals of the United States or citizens of the trust territory, would not be considered a foreign-flag vessel? Do you have competent men that could man the fishing fleet up to two-thirds of the crew?

Mr. COLEMAN. We have competent fishermen. But at the present time we do not think that we have the capability yet to man the ships up to two-thirds of the crew. There has been a fisherman training program in Palau. And that is still going on. And in time we should be able, I will say in the next 3 to 5 years, we should be able to have ships two-thirds manned by Micronesian fishermen.

Senator JORDAN. I do not have any more questions at this time.

Senator BURDICK. I believe at the present time the Okinawans are the pros in the fishing industry, are they not?

Mr. COLEMAN. Yes, sir.

Senator BURDICK. In other words, this will allow you to build up the force of crew so that eventually the Micronesians could man them all?

Mr. COLEMAN. That is right.

Senator BURDICK. Senator Hansen?

Senator HANSEN. I have no questions, Mr. Chairman.

Senator BURDICK. Thank you, Mr. Coleman.

Mr. COLEMAN. Thank you.

Senator BURDICK. Mr. Martin F. Herz, Deputy Assistant Secretary of State for International Organization Affairs.

I believe you will be joined by Mr. Stephen Schwebel, special representative for Micronesian claims.

**STATEMENT OF MARTIN F. HERZ, DEPUTY ASSISTANT SECRETARY
OF STATE FOR INTERNATIONAL ORGANIZATION AFFAIRS, AC-
COMPANIED BY STEPHEN M. SCHWEBEL, SPECIAL REPRESENTA-
TIVE FOR MICRONESIAN CLAIMS**

Mr. HERZ. Thank you, Mr. Chairman.

I appreciate the opportunity to appear before this committee to express the warm support of the Department of State for the adoption

of the proposed joint resolution Senate Joint Resolution 35, the terms of which are also incorporated in title II of the omnibus bill, S. 860.

The primary objective of this joint resolution is to do justice; to satisfy legitimate claims of the Micronesian people—both war claims and those arising in the immediate postwar years—which have been pending far too long. At the same time, it should be made clear that the United States has not been remiss in failing to live up to a legal obligation as far as wartime claims are concerned.

The matter is complicated, and we think the resolution of it is sensible and conforms with our obligation to promote the welfare of the Micronesians who are under our care; and it is a fact that the absence of a settlement of these claims has worked a great hardship on them. I hope that I may be permitted to leave to my colleagues, Assistant Secretary of the Interior Harrison Loesch, whom we have just heard, and the Department of State's special representative for Micronesian claims, Mr. Stephen M. Schwebel, discussion of the terms of the agreement with Japan relating to war claims, of the importance of the settlement of these claims to Micronesia and the Micronesians, and of the precise benefits that they will enjoy.

I should like to say a few words about why the resolution of this issue, and in particular the implementation of the agreement with Japan through adoption of title I of the joint resolution, is important to U.S. interests in the United Nations.

Over the years, beginning in the early fifties, U.N. visiting missions to the Trust Territory of the Pacific Islands have heard the complaints by Micronesians that their claims for wartime damages had not been met. The Micronesians had seen their kin in Guam promptly and adequately compensated by the United States after the war for damages sustained in the intensive fighting in Guam between Japanese and American forces.

The Micronesians had heard of reparations agreements entered into by Japan with Indonesia, Korea, and other States of Asia. They themselves had received nothing for war claims, though it might have been argued that their claims were specially strong given their trusteeship status.

These persistent Micronesian complaints receive a sympathetic hearing in the United Nations. Repeatedly, visiting missions and the U.N. Trusteeship Council express the hope that the administering authority would soon reach an agreement with Japan for settlement of Micronesian war claims. For example, the Council in its 1967 report on the TTPI included the following in its conclusions with recommendations:

The Council . . . urges the Administering Authority to continue to make every effort to settle these claims with the least possible delay and expresses the hope that a definite settlement will be reached by its next session.

The Council even suggested that the United States and Japan use the good office of the Secretary-General in reaching agreement.

In view of such repeated expressions by the United Nations as well as other considerations, the United States, beginning in 1961, assured the United Nations that it recognized there was force to Micronesian war claims and that it would use its best efforts to reach agreement with Japan for their settlement.

The attempt to do so was carried forth with special intensity from the spring of 1966 through the winter of 1968-69. Finally, in April

1969, Japan and the United States signed the agreement whose text is before you.

The reaction of United Nations organs to the conclusion of the claims agreement with Japan has been gratifying. At its meeting in June 1969, the Trusteeship Council "recalling its previous recommendations on the important question of the settlement of Micronesian claims for compensation of war damage during the Second World War, (noted) with satisfaction the signature of the agreement" between the United States and Japan and expressed "the hope that the measures necessary for implementation will now be quickly completed and payments rapidly made."

The Representative of China, in his general debate statement, expressed views which were at least generally shared by most other members of the Council as follows:

My Delegation wishes . . . to express its satisfaction over the signing of an agreement, on April 18, 1969, between the United States and Japan. The Agreement has paved the way for final settlement of the question of Micronesian war claims, which the Council has been concerned about for so many years. The two nations have pledged to provide \$10 million for the payment of claims arising from wartime suffering. Considering the population of the Territory, we would think this is no small sum. We believe that it will not only redress the grievances of the people who suffered from the war, but also create an impact in favor of increased economic activity in the Territory.

A year later, at its 1970 session, a degree of impatience had again returned to the Trusteeship Council attitude toward the claims issue. The U.S. representative pointed out that legislation to create a Micronesian War Claims Commission which would receive, adjudicate and authorize payment of the war claims was pending before the U.S. Congress. The British representative in his general debate statement, however, expressed a view prevalent in the Council when he said:

This year we find that the Visiting Mission (sent by the Council to Micronesia in February-March 1970) has expressed its concern at what it has described as inordinate delays in settling the problem. It suggests in its report that these delays have led to what are now unrealistic expectations on the part of the claimants as a result of the passing of the years and indeed decades since the last war, and thus, in fact, have made a solution more difficult. My delegation echoes the hope of the Visiting Mission that in the interest of good government and popular confidence in government procedures, the necessary legislation for the settlement of both of these categories of claims will be passed and will be implemented as a matter of priority.

The Council explicitly supported this view when, in its conclusions and recommendations, it concurred in the visiting mission position and expressed "the hope that the legislation now before the U.S. Congress will meet with early approval and the Commission to be established thereby will complete its work as soon as possible."

The Council is not scheduled to meet for its 1971 session until the end of May. However, in the absence of positive action on S.J. Res. 35, or alternatively on S. 860 including its title II, I think we can assume that the Council's reaction will be both disappointed and, in all probability, sharply critical.

Senator JORDAN. At this point, Mr. Herz, are you satisfied with the language in title II?

Mr. HERZ. Yes, sir.

Senator JORDAN. Thank you.

Mr. HERZ. I have concentrated on the issue of the war claims both because of the Department of State's responsibility for negotiating

the agreement with Japan, but also because of the Trusteeship Council focus on the matter. The Council has, however, taken a similar, though more recent, interest in the matter of the so-called post-secure claims. In 1967 the Council's conclusions and recommendations included the following observation:

The Council, noting the Visiting Mission's comments on unpaid claims against the United States, is glad to be informed by the Special Representative that a team appointed by the Secretary of the Interior had traveled throughout the Trust Territory in 1966 to conduct an investigation of unpaid post-secure Second World War damage claims against the United States, and that as a followup to the investigation a claims office is being established in the office of the Attorney General to refine and evaluate the existing claims data. The Council expresses the hope that efforts will soon be made to adjudicate or determine the merit of these claims in order to reach an early solution to the problem.

These concerns were reiterated in 1968 and 1969. In 1970 the Council in its conclusions and recommendations, noting the existence of legislation before the U.S. Congress to deal with this issue as well, again expressed the hope that a definite solution be quickly achieved.

I believe that it is clear that, if the Congress adopts the proposed joint resolution and appropriates the funds envisaged by the resolution, United Nations approval will be warm. Micronesian war claims, which have gone unsettled too long, will be close to resolution.

In the absence of favorable congressional action, we believe that any early and realistic prospect for meeting Micronesian war claims will vanish. In that event, intensification of Micronesian complaints, and a revival of United Nations concern, would seem to be inevitable. Neither would be in the interests of the United States.

Aside from the United Nations aspect, there is another foreign relations aspect of this legislation and that concerns our relations with Japan. As Mr. Schwebel will discuss in detail, it took rather arduous negotiations to persuade the Government of Japan to the terms of the agreement. The Government of Japan on its part has gone ahead and has—not without difficulty—obtained ratification of the agreement by its Diet. The Japanese appropriations are in three tranches. The first third was appropriated for the Japanese fiscal year which began April 1, 1970. The Japanese Government has sought approval of the second tranche in the new fiscal year about to begin. However, under the terms of the agreement, neither the appropriation they obtained last year, nor the second third can be spent without the corresponding appropriations by the United States.

Under these circumstances, the Japanese Government has also expressed its concern about the status of the agreement.

Allow me also to make an observation as to the Department of State's view of the relative merits of S.J. Res. 35 versus the inclusion of similar provisions in the omnibus bill S. 860. Last year, the Department of State, in its written observations on S.J. Res. 211 before the 91st Congress, noted its concern with the proposal to deal with both categories of claims in one piece of legislation.

We expressed our appreciation of the logic of seeking joint settlement of both varieties of claims, but we stressed our concern that settlement of the war claims not be delayed by making it part of broader legislation.

We now believe, on balance, that it is advisable to seek joint action on both categories of claims, as envisaged in S.J. Res. 35. But the coupling of this provision with other unrelated proposals dealing with

Micronesia does raise concerns similar to those which we expressed last year.

Quite apart from the merits of the various titles of S. 860 (and the Department of State is submitting written observations on all of them), we believe it is even more important now than it was a year ago that immediate provision be made for settlement of Micronesian claims.

We therefore, believe the enactment of the more limited Senate Joint Resolution 35, as suggested by the Department of the Interior in its letter of January 26, 1971, is preferable to the inclusion of title II in the omnibus bill.

I should make it clear that the paramount reason for adoption of the joint resolution or title II of S. 860 is not to satisfy the United Nations or Government of Japan; rather, it is to do justice to the Micronesians. Assistant Secretary Loesch has already addressed this point, and Mr. Schwebel will speak to the terms of the agreement and why the administration believes that its implementation will do justice and promote both the interests of the Micronesians and of the United States in Micronesia.

While I believe that the Department's written report on S. 860 provides a complete exposition of our views, I would like to comment briefly on three of the other titles of the bill which are of direct concern to the Department of State.

First, with reference to title III, the Department of State is in sympathy with the provisions of this title and believes that the controls retained are entirely sufficient to protect the interests of the United States.

Second, with reference to title IV, the Department asks the committee to defer action on this proposal.

In general we support appropriate trade preferences for Micronesia. We believe they are justifiable because of the special responsibility the United States has for the territory and for the welfare of the inhabitants. The trusteeship council has noted that legislation to provide such preferences had been introduced and expressed the hope these tariff barriers would soon be removed.

We hope that improved access to the U.S. market will lead to increased sales of trust territory products, new investment, and new employment opportunities, and thus help bring about a higher standard of living for trust territory citizens. However, until the administration has had the opportunity to determine its position on appropriate trade preferences for Micronesia, we would urge that action on the specific proposal in title IV be deferred.

Now I wish to refer to title V.

Title V, "Citizens of the Trust Territory of the Pacific Islands serving in the Armed Forces," would amend title 10 of the U.S. Code to provide that nationals of the United States and citizens of the Trust Territory of the Pacific Islands may be accepted for original enlistment in the Army and Air Force in time of peace. The Department of State perceives no objection to those provisions of the title which would enable U.S. nationals to be accepted for enlistment in the Army and Air Force. However, the question of enlistment of citizens of the Trust Territory of the Pacific Islands requires special attention.

The United States administers the trust territory under the terms of a trusteeship agreement with the United Nations Security Council. Article 5 of the trusteeship agreement and article 84 of the U.N. Charter establish the scope of activities in which the United States as administering authority may employ Micronesian volunteer forces.

According to that agreement and to the charter, volunteer forces from the trust territory may be employed only for purposes of local defense, for the maintenance of law and order within the trust territory, and for carrying out certain obligations undertaken by the United States towards the Security Council in the maintenance of international peace and security.

Enlistment of trust territory citizens in the Armed Forces of the United States, provided for in title V, is not limited to the scope of activities previously described, to which the United States agreed in the charter and the trusteeship agreement. Without establishing a special military regime for Trust volunteers we do not see how such enlistments could be limited to the scope of our agreements. Accordingly, in view of the pertinent provisions of the charter and trusteeship agreement, the Department does not favor enactment of title V.

That concludes my statement, Mr. Chairman.

Thank you.

Senator BURDICK. Thank you very much.

In regard to that last point, how do you justify the enlistment in the Navy and the Marine Corps?

Mr. HERZ. Senator, that is a good question. And I must say that I am not prepared to answer it at this time. Certainly no legislation has been involved in the matter in which the Department of State would have been called upon to testify. However, it seems that if the committee will agree not to include title V, this inconsistency would have to be cleared up.

Senator BURDICK. I think you have raised a point for the committee to consider, I really do. But it does seem very inconsistent.

Mr. HERZ. That is correct, sir.

Senator BURDICK. We will give you the benefit of the doubt and let you clear it up, I hope, soon.

But as to the first three titles, you have no objection, is that correct?

Mr. HERZ. That is correct, sir.

Senator BURDICK. And you think that with regard to the claims commission and the claims settlement, time is of the essence in that regard for the various reasons that you have given?

Mr. HERZ. Yes, sir; that this is a matter of considerable concern in our foreign relations.

Senator BURDICK. And it would enhance our foreign relations if we got speedy action on this?

Mr. HERZ. It would indeed.

Senator BURDICK. And I can understand the impatience out there too.

Senator Jordan?

Senator JORDAN. For the record, tell us, who are the members of the council to which you referred. What is the Council, and who are the members of it?

Mr. HERZ. In relation to title V I referred to the Security Council of the United Nations. The United States as administering power has an agreement to administer the trusteeship territory. And that

agreement is concluded with the Security Council of the United Nations.

Now, the membership of the Security Council changes from year to year. There are of course five permanent members of the Security Council.

Senator JORDAN. I know what you mean when you are talking about the Security Council of the United Nations. But it was not so identified in part of the statement.

Mr. HERZ. I think at another point I may have referred to the Trusteeship Council and a degree of confusion may have entered into it.

Senator JORDAN. Tell me about the Trusteeship Council. That is the one I wanted to find out about.

Mr. HERZ. The Trusteeship Council—possibly, sir, I might defer to my colleague, Mr. Schwebel, who may have more detailed information on this point.

Senator JORDAN. All right, Mr. Schwebel.

Mr. SCHWEBEL. Thank you, Senator.

The Trusteeship Council is composed of state members of the U.N. and an equal number of states in the administering trust territories. The number of states administering trust territories has declined, as they have been disposed of one way or another. My impression is that there are just two trust territories left, those of Australia and the United States—Australia in New Guinea, and the trust territory here. And the problem of the legitimate composition of the Trustee Council, because of the drop in the numbers of administering authorities, has been a complicated one. I am not informed of the precise detail, but if I refer you to the Assistant Legal Advisor of the U.S. Affairs, who is here, he might have that detail. If not, we can certainly place it in the record, sir.

Senator JORDAN. If someone will volunteer it, as long as I am on the subject, I would like to find someone who can answer it.

Mr. HERZ. Senator, the answer is that the present composition of the Security Trusteeship is the permanent members of the Security Council, plus the administering powers. The United States is one of the administering powers. It does not need to be separately represented. The other one is Australia. So there are six members at the present time.

Senator JORDAN. What is the population of the trust territory? Can you tell me?

Mr. HERZ. Approximately one hundred thousand.

Senator JORDAN. Secretary Loesch had a figure of some \$18½ million, more or less, as being the total amount of the claims that had been calculated or audited to date. Is that a figure with which the State Department would agree, Mr. Secretary?

Mr. HERZ. May I pass this question to Mr. Schwebel, who has worked in more detail on the claims.

Mr. SCHWEBEL. Thank you, Senator.

Yes, the Department of State is in agreement that the amount of \$20 million, which is sought to be appropriated, promises to be fully sufficient to meet the claims that are known of in respect to postwar claims which, as Secretary Loesch indicated, appear to total \$18½ million. And our understanding is that it believes that in that total there may well be duplicatory items, persons claiming for the

same property. So it may well be that the amount that would be awarded, once claims are examined by the Commission, would be less than \$18½ million, and certainly less than \$20 million.

Senator JORDAN. Is there a deadline or a closing date beyond which further claims will not be admitted?

Mr. SCHWEBEL. Yes, sir. The legislation does provide for a deadline for the filing of claims. And that is after the Commission becomes operative. And it is to become operative within 3 months of the enactment of the legislation.

Senator JORDAN. Thank you.

Senator BURDICK. According to the trusteeship agreement, it is your contention that there is some question of whether the trust territory inhabitants can be employed beyond local defense?

Mr. HERZ. That is correct, sir.

Senator BURDICK. If that is the case, then we are inconsistent when we have membership in the Navy and the Marine Corps?

Mr. HERZ. I believe that this is a question that would have to be pursued. I am only prepared to testify on the legislation before you. And our view is, if I may just correct what I said before, it is not only local defense. There are specifications in the trusteeship agreement. And we believe that the service of Micronesians would have to be confined to those things that are specified in the agreement. They go beyond actually local defense. There are certain things in the agreement which refer to obligations toward the security council. So that conceivably some other activities might be involved.

Senator BURDICK. But they do not go as far as title V would permit?

Mr. HERZ. They do not go as far as title V would permit, that is right, sir.

Senator BURDICK. We thank you for your testimony, Mr. Herz. And we thank you for bringing this question before us. I was unaware of it.

(Subsequent to the hearing the following explanatory information was received.)

DEPARTMENT OF STATE,
Washington, D.C., April 6, 1971.

HON. QUENTIN N. BURDICK,
Chairman, Subcommittee on Territorial and Insular Affairs, Committee on Interior and Insular Affairs, U.S. Senate

DEAR MR. CHAIRMAN: We are returning herewith the copy of the transcript of the Hearings held March 30, 1971 before the Subcommittee on Territorial and Insular Affairs, to consider S.J. Res. 35 and S. 860, which contains the testimony of Mr. Martin F. Herz and Mr. Stephen M. Schwebel, the Department's witnesses.

In addition to the minor corrections noted in the transcript there are two additional points raised during the hearing on which we would like to comment for the record. First, following the testimony by the State Department Representative, Mr. Herz, on the proposed Title V, concerning enlistment of Micronesians in the Army and Air Force, the question was asked as to how the Department would explain the apparent discrepancy between the opposition of the Administration to the enlistment of Micronesians in the Army and the Air Force as provided in Title V and the present practice of permitting Micronesians to enlist in the Navy and Marines. Mr. Herz acknowledged this was a matter of concern on which we would seek clarification for transmittal to the Committee.

In answer to that inquiry, we wish to note that enlistment of Micronesians in the Navy or Marines is permitted under Navy administrative regulations only after the enlistee has left the Trust Territory, appeared at a recruiting station in the United States or its territories and produced a U.S. Permanent Residence Permit (INS Form 151). To obtain this Permit it is necessary for the applicant

to have had an immigrant visa or to have gone through formal adjustment of status in the event he was in the United States under any other status. Application for the Permanent Residence Permit or Immigrant Visa is often the first step toward the acquisition of U.S. citizenship.

The enlistment envisaged in Title V of S. 860, on the other hand, is significantly broader than that now permitted by the Navy and Marines. This distinction is critical in terms of the compatibility of such enlistments with our trusteeship obligations. The Administration adheres to the view that Title V as it stands would violate our international obligations under the Trusteeship Agreement and the UN Charter.

Second, Deputy Assistant Secretary of Defense Doolin noted that under Title III all controls over admissibility to the United States would pass from the Departments of State and Justice to the High Commissioner. He suggested that the Department of State might wish to comment further on his observation (pages 60-61 of the transcript) that further controls beyond those envisaged in Title III of S. 860 might be necessary to protect the national interest in specific cases.

In view of Mr. Doolin's suggestion, we have re-examined Title III, the controls retained therein, and our position in favor of that Title. The Department believes that there has been a misunderstanding of the importance of the provision of Title III for issuance of identity permits by the High Commissioner of the Trust Territory to potential beneficiaries of proposed Section 293(a). The issuance of such permits would serve to identify the bearer as an alien entitled to apply for admission into the U.S. pursuant to proposed section 293(a), but would signify nothing with respect to his admissibility. The admissibility of the bearer of such a permit, under those provisions which would continue to be applicable to such aliens, would be determined by an immigration officer.

The Department further believes that the continued applicability to such aliens of Sections 212(a), (27), (28), and (29), Section 215 and Sections 241(a), (1), (6), and (7) as contained in Title III provides an adequate safeguard of this country's national interest. These sections of law relate to the imposition of travel control restrictions on both citizens and aliens in time of war or national emergency, to the exclusion of aliens determined to be in the "subversive classes" and to the deportation of aliens in the U.S. who engage, after admission, in activities which would bring them within the "subversive classes" or who are found to have been in those classes as of the time of their admission.

The Department wishes to point out that, in its present form, this proposed bill does not provide that the potential beneficiaries acquire the status of aliens lawfully admitted for permanent residence until after they have fulfilled the residence and physical presence requirements of Section 316(a) for eligibility for naturalization.

The Department hopes that the above information will be of assistance to the Committee in its consideration of S. 860.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

Senator BURDICK. Mr. Schwebel, do you have a statement separately?

Mr. SCHWEBEL. Yes, sir.

Senator BURDICK. You may proceed.

Mr. SCHWEBEL. Mr. Chairman and members of the committee, I appreciate the privilege of testifying before you on the agreement between the United States and Japan of April 18, 1969, on Micronesian claims, and in support of the resolutions to, among other things, authorize an *ex gratia* contribution to certain inhabitants of the Trust Territory of the Pacific Islands who suffered damages during the second world war, and to establish a Micronesian claim commission.

I would like to speak, first, to the background of the agreement with Japan; second, to the terms of that agreement; third, to the advantages of the agreement; fourth, to criticisms which have been made of it; and fifth, to the matter of any alternatives to the agreement.

THE BACKGROUND OF THE AGREEMENT

The agreement is an executive agreement concluded pursuant to authority found in the treaty of peace with Japan. Article 4(a) of the treaty provides, with respect to Micronesia, Korea, Formosa, and certain other territories relinquished by Japan, that:

* * * The disposition of property to Japan and of its nationals (in those territories) and their claims * * * against the authorities presently administering such areas and the residents * * * thereof, and the disposition in Japan of property of such authorities and residents against Japan and its nationals, shall be the subject of special arrangements between Japan and such authorities.

The agreement of April 18, 1969 between Japan and the United States is such a special arrangement.

The authors of the treaty of peace thus apparently anticipated a mutual settlement of claims: claims by the administering authority and the residents of the Trust Territory of the Pacific Islands against Japan, and claims of Japan and its nationals against the administering authority and the residents of the trust territory.

The subsequent negotiations between Japan and the United States have taken place in the context of article 4(a) of the treaty. That article has had an impact on the results. So, of course, have the facts: the facts of Micronesian claims and of Japanese claims. Permit me to say a few words about them.

As the committee well knows, the Marshall Islands, the Marianas and the Carolines were the scene of extensive and intensive fighting in the course of the Second World War. Japan had fortified the islands in violation of its obligations under the League of Nations Mandate, and it had used the bases it built in the launching and prosecution of an aggressive war. It thereby brought down on the heads of the Micronesians and resident Japanese alike the weight of American air, naval and military power.

The islands were progressively secured or isolated by American action, often, as in Saipan, with a very grave loss of life. In the course of the fighting over their islands by two great powers, the innocent people of Micronesia suffered considerably. It is estimated that about 1,500 persons, of a total Micronesian population of some 40,000 were killed, or died as a direct result of the war; that others were injured, and property losses of the Micronesians, proportionate to the modest holdings of the Micronesian inhabitants, were consequential.

Now since Japan was obliged by the Terms of the League mandate to promote to the utmost the well being of the Micronesians, and since it was debarred from fortifying the islands by the terms of the mandate, and since its violation of the mandate's terms in that regard and its use of the islands for warfare led to grave injury to the well being of the Micronesians, it has been the view of the United States that Japan's liability to the Micronesians for war damages is clear. For some years, therefore, the United States sought to persuade the Government of Japan to consider and meet Micronesian war claims.

The Japanese have seen things differently. They recall that it was they who brought the benefits of modern civilization to Micronesia. Under their rule, and for the first time, towns and roads and schools and hospitals were built; agricultural stations were established; sugar, phosphates, and fishing industries were developed.

To be sure, the remarkable development of the islands in almost 30 years of Japanese rule may be said to have been principally for the benefit of Japan, and for the more than 100,000 Japanese settlers who settled in the islands—a number which more than twice exceeded the total Micronesian population at that time. But many benefits were shared by the Micronesians. In the Japanese view, the Micronesians, though not citizens of Japan, benefited by the rule of the Japanese Empire; and if, in the course of a war in which many Japanese suffered, Micronesians suffered as well, the Japanese saw no pressing reason to compensate them.

To this day, the Government of Japan admits no legal liability for the payment of Micronesian war claims; and, of course, the United States has none.

Moreover—to continue for a moment more this description of the Japanese outlook—the Government of Japan over the years took the view that, in the light of the provisions of article 4(a) of the treaty of peace, if there was to be a settlement of Micronesian claims against Japan, there must at the same time be a settlement of Japanese claims against Micronesia.

After the war, the United States repatriated some 100,000 Japanese to Japan. They left behind them houses and land—some land that they had purchased, more land that they had leased. They left behind other personal property. Japanese companies left behind various assets, especially in land. The Government of Japan maintained that, under international law, the United States, even though acting as administering authority of the trust territory, could not take Japanese property, though for the benefit of the Micronesians, without payment of compensation.

It recognized that a great deal of Japanese property had been destroyed during the war, but maintained that much survived and that, indeed, the value of it was much greater than any reasonable estimate of Micronesian claims. Far from being disposed to pay Micronesian claims, the most the Government of Japan was prepared to admit was a mutual waiver of claims, and thus payment of none.

In view of these very different perspectives of the United States and Japan, the difficulty in reaching agreement between them has been great. In fact, intermittent negotiations begun not long after the treaty of peace came into force in 1952 were at an impasse as late as 1966.

At that juncture, the Departments of State and Interior decided that, if the impasse were to be vaulted a fresh approach was required. In consultation with the High Commissioner of the trust territory, and after seeking the views of a number of members of this and other committees, negotiations were reopened in June 1966.

The United States then proposed essentially two things: first, in respect of Japanese claims, the United States would join with Japan in a careful examination of the facts and the law, which, we made clear, in our view would dispose of Japanese claims without payments; second, rather than Japan paying all the Micronesian claims—some of which were leveled by Micronesians not against Japan but against the United States—the United States would join with Japan in sharing their settlement.

Neither party would expressly or impliedly admit a legal liability to pay Micronesian claims; their contributions would be *ex gratia*.

Two great powers which had fought over an innocent people would thus join in an *ex gratia* settlement which had been too long deferred.

It took almost 3 years of demanding negotiations to bring the United States and Japan to an agreement on these terms. In the process, the Government of Japan, in return for recognizing that Japanese claims were disposed of and in return for its contribution to the settlement of Micronesian claims, won certain concessions. Without those concessions, there would have been no agreement.

Permit me now to turn to the terms of that agreement, including the concessions to the Japanese viewpoint which it contains.

THE TERMS OF THE AGREEMENT

The agreement provides, first, that Japan will make available 1,800,000,000 yen, which are currently computed as equivalent to \$5 million. That yen will be employed for the purchase of the goods and services of the Japanese people, and used for the welfare of the inhabitants of the trust territory, that is, as the preambular paragraphs of the agreement make clear, to make an *ex gratia* contribution to the Micronesians in compensation for the suffering they endured in the Second World War.

The resolutions before you provide for the payment of \$5 million equivalent to those goods and services into a Micronesian claims fund where that sum will be mingled with \$5 million contributed by the United States.

Now this provision for payment of the Japanese contribution in kind rather than cash is troublesome, and was strongly resisted by the Department of State. But the Government of Japan required it, because all of the reparations agreements it has made with Asian countries provide for payment in kind rather than cash.

Payments are still to be made on some of those agreements, The Japanese Government was wedded to the view that its relations with recipients of reparations might be complicated if it were to pay cash in this case rather than kind.

The second principal provision of the agreement is that, subject to the appropriation of funds by the Congress of the United States, the U.S. Government will establish a fund of \$5 million, which, like Japanese contribution, will be used for the welfare of the inhabitants of the trust territory. The preambular provisions of the agreement again make clear the *ex gratia* nature of the American contribution to meeting claims flowing from Micronesian suffering in the Second World War.

Article III of the agreement provides that all questions encompassed by article 4 (a) of the Treaty of Peace with Japan concerning Micronesian claims against Japan and Japanese claims against the administering authority and residents of the trust territory are fully and finally settled.

That is to say, Japan treats its claims against the administering authority for Japanese property which the United States took without compensation for the benefit of the Micronesians as disposed of; and the administering authority correspondingly, and in the light of the Japanese material contribution just described, treats Micronesian claims against Japan as disposed of.

The body of the agreement which has been summarized is accompanied by exchanges of notes. The first substantially repeats the foregoing mutual waiver of claims, and states that the United States, as administering authority intends to make provision for payment, in whatever form, manner, and extent it considers appropriate, not in excess of \$10 million, of claims of individual Micronesian inhabitants.

The second states that Japanese vessels and their crews will be welcome to call upon the ports of Truk and Palau for the purposes of purchase of supplies and rest and recreation of their crews. Such access "shall be subject to requirements of the administering authority"—requirements which "shall take into appropriate account needs of non-Japanese vessels as well as the capacity of the ports and their developmental possibilities."

Senator STEVENS. I notice that the agreement deals with fishing vessels, and you do not so limit it here in your statement. Have you determined that it should be expanded beyond fishing vessels?

Mr. SCHWEBEL. No, Senator. The agreement concerns the access of fishing vessels.

Senator STEVENS. There is no intention to broaden it to cover all Japanese vessels?

Mr. SCHWEBEL. No, sir.

It further states that Japan and its nationals shall be accorded the opportunity to salvage and freely dispose of ships sunk in territorial waters of the trust territory which were of Japanese nationality at the time of sinking. It states that the administering authority is prepared to enter into detailed discussions to this end with the Government of Japan.

It may be asked: Why are these provisions included? The answer largely is that the Japanese Government pointed out that, in all its reparations agreements, it had been permitted to reopen normal commercial relations with the territory concerned. It invited the United States, as administering authority, to accord it comparable commercial entry to the trust territory. That the United States was not prepared to do. But after careful consideration, and full consultation among the Departments of the Interior, State, and Defense, it was decided that, in order to win the agreement of the Government of Japan upon a settlement of Micronesian claims, a very limited access could be accorded to Japanese commercial interests; namely, that of permitting Japanese fishing vessels, already fishing off Micronesian waters, to enter two, and only two, Micronesian ports, for the limited purposes described.

There will be no resident Japanese in Truk and Palau. The business operations necessary to service the Japanese visitors will be Micronesian; the economic benefits of Japanese purchases will flow to Micronesians. The limited access accorded to these two Micronesian ports will be accorded to fishing vessels of other members of the United Nations as well, "subject to the requirements of security and the obligation to promote the advancement of the inhabitants" (art. 8 of the trusteeship agreement).

Salvage of Japanese vessels has a long and undistinguished history. In the midfifties, the High Commissioner decided to undertake salvage, at which time the Government of Japan reserved the rights to vessels of Japanese registry. A firm was engaged by the administering authority, which in turn contracted with Japanese salvage operators.

A considerable operation was mounted; that which was most easily salvaged was salvaged first. The operation was a fiasco; it is understood that the contractor went bankrupt. The trust territory received no more than \$35,000 from the operation, which it paid over to Micronesians in return for yen which they had deposited a decade before with the American military government.

Whether Japan and its nationals will wish to take advantage of this opportunity for salvage is uncertain; presumably that decision will depend on the state of the scrap market and the technology. It is understood by the United States and Japan that the opportunity of Japanese nationals to salvage certain ships of Japanese nationality in territorial waters is not unlimited. It should be noted that there is not provision for salvage of "all" such ships sunk in "the" territorial waters. Rather, the exchange of notes provides for salvage of "ships sunk in territorial waters."

That opportunity is subject to security considerations, to a continuing right of the Micronesians to engage in salvage operations, and will be defined in the detailed discussion which the exchange of notes envisage.

So much for the terms of the agreement. I should like now to summarize its advantages.

THE ADVANTAGES OF THE AGREEMENT

The advantages of the agreement are several:

(1) The agreement finally provides for a definite settlement of a problem which has remained unsettled for 25 years.

(2) The terms of the settlement promise to do justice to the Micronesians.

(3) Doing justice to the Micronesians should, if not remove, then substantially moderate, criticism which they have pressed over the years for the failure to settle their war claims, with consequent benefit for American relations with the trust territory.

(4) As Deputy Assistant Secretary Herz has indicated, settlement of Micronesian claims in accordance with the agreement with Japan will meet the concerns of the United Nations.

(5) Settlement of the Micronesian claims issue removes an irritant in our relations with Japan.

Sixth, an incidental benefit to the Micronesian economy will flow from the business generated by Japanese and other foreign purchases of goods and services in the ports of Truk and Palau, and from the payment of port fees by Japanese and other foreign fishing vessels.

Seventh, the agreement records the final dispositions of claims of Japan and its nationals against the administering authority and the residents of the trust territory.

Finally, the agreement permits payment of individual, not simply collective, Micronesian claims; thus the individuals who suffered, or their heirs, will be directly compensated.

CRITICISMS OF THE AGREEMENT

Despite these advantages, criticism of the agreement has been made in the trust territory and outside. That criticism merits careful consideration. We believe that the substance of that criticism may be summarized as follows:

First, the amount of \$10 million provided for is too small.

Second, access to be accorded Japanese fishing vessels to the ports of Truk and Palau is undesirable, since it will increase Japanese fishing in the area, deplete bait, have an unfortunate social and cultural impact ashore, and even violate the trusteeship agreement.

Third, affording Japan and its nationals salvage opportunity is inequitable, since it will deprive Micronesians of a valuable resource—the sale of scrap; and that resource, if not salvaged, may have tourist potential. Moreover, the process of salvage could threaten the ecology of Micronesian waters.

Fourth, since the Japanese contribution will be in kind and the American contribution in cash, the Japanese will be more visible; credit in the eyes of Micronesians will go more to Japan than to the United States.

Fifth, the mutual waiver of claims which the agreement contains deprives Micronesians of recourse against Japan for alleged claims other than war claims, that is, claims dating back to the prewar days of the Japanese mandate.

Sixth, the Micronesians were not consulted on the terms of the agreement.

Permit me to respond to these points of criticism in turn.

As to the amount of the settlement provided for—\$10 million—it is the belief of the Departments of the Interior and State that this sum is wholly sufficient to provide for an equitable settlement of well-founded Micronesian war claims. I refer now to war claims alone, not to claims against the United States arising after the securing of the islands by United States Forces.

The figure of \$10 million was the considered recommendation of the then High Commissioner of the trust territory, Mr. Norwood, made in 1966 on the eve of the launching of renewed negotiations with the Government of Japan. The agreement provides for payment in full of all the High Commissioner asked for.

That recommendation of the High Commissioner took into account an extended survey of a special team of the Department of the Interior which, in the summer of 1961, examined for some weeks the substance and extent of Micronesian war claims. That team travelled widely in Micronesia, scrutinized available documentation, and talked with a large number of Micronesians. Much of the documentation it examined was documentation—claims forms—collected by U.S. Naval authorities in 1944 and 1945, when the claims were fresh. Its conclusion was that Micronesian claims merited payment of a sum much less than \$10 million.

However, when the High Commissioner reviewed the matter in 1966 in the light of inflationary trends, rising expectations, a widespread increase in the level of claims payments in many parts of the world, as well as the fact that the Micronesians had waited so many years to be paid, he recommended the sum of \$10 million.

It is useful to compare this amount with the scale of claims paid in Micronesia today in cases of wrongful death and injury, since the bulk of the claims are for death and injury. We have looked at such typical awards in Micronesian courts. In view of the amount of those awards, I can say that we are confirmed in the belief that the sum of \$10 million should be wholly sufficient to meet the valid Micronesian claims which are believed to exist.

It is recognized that reasonable men may reasonably differ about the scale of payment which is appropriate in claims of this kind. Evaluation of a human life in monetary terms is necessarily arbitrary in some measure. But in our submission, the estimate of \$10 million is fair and sound.

What of the opportunity to be accorded to Japanese fishing vessels to call on the ports of Truk and Palau for the purposes of purchase of supplies and rest and recreation of their crews, as well as available medical and emergency repair services?

Japanese fishing in the area is substantial and has been for years. This agreement accords the Japanese no fishing rights. They are not now entitled to fish in Micronesian territorial waters, and will not be so entitled by the terms of this agreement. All they will be granted is a limited access to two Micronesian ports.

They have no right to take or buy bait. The right to buy bait was expressly requested by Japan, and expressly declined by the United States, since the High Commissioner was of the view that bait supplies are short. It is difficult to see what unfortunate results may flow ashore from Japanese and other foreign fishermen buying ships' supplies and some beer. The number of Japanese fishermen will surely be very much less than the current large tourist flow of Japanese to the islands.

The ability of Japanese vessels to put in to Truk and Palau, even if briefly and in limited numbers, and "subject to requirements of the administering authority," will undoubtedly be of value to the Japanese fishing fleet. But there are plenty of fish for the Micronesians to fish; fishing outside of Micronesian territorial waters, on the high seas, by Japanese ships and ships of all other flags, is in any event lawful; the Micronesian economy will benefit by the spending of foreign fishermen and the payment of port fees; and the fact that fish are caught and consumed by man is not such a bad thing.

Now, it has been suggested that to accord Japanese fishing vessels access to Truk and Palau and to deny such access to nationals of other members of the United Nations would violate the most-favored-nation clause of the Trusteeship Agreement. And so it would.

But there is no intention to keep other foreign vessels from sharing the facilities of Truk and Palau, "subject," as article 8 of the Trustee-ship Agreement provides, "to the requirements of security."

What of salvage? It is alleged that to permit Japan and its nationals to salvage ships of Japanese registry sunk in Micronesian territorial waters during the period of 3 years in which the Japanese contribution will be made is to deprive the Micronesians of a valuable resource. History suggests otherwise.

First, a major salvage operation mounted in the mid-fifties was, as noted, a failure. Second, the Micronesians have had the right to salvage for some 20 years and have it today. While they themselves have not the resources to mount sophisticated salvage operations, if such operations promised to be as vastly profitable as some allege, it should be possible for interested Micronesian entrepreneurs (and there are some Micronesian entrepreneurs) to enlist foreign firms as partners.

It may well be that no American or foreign firm has sought since the mid-fifties to engage in salvage because it is thought that such

operations will be unprofitable, particularly in view of the fact that past salvage operations have skimmed off the cream.

As for the possible potential of some sunken ships in the Truk lagoon as tourist attractions, and possible dangers to Micronesian waters of salvage operations, it should be recalled that Japanese salvage rights are not unlimited and that the administering authority will enter into detailed discussions with the Japanese Government in respect of salvage when and if Japan so requests. In connection with those detailed discussions, the Government of Japan has assured us that it is fully cognizant of the wishes of the people of the trust territory.

May I turn now to a fourth criticism of the agreement, that the Japanese contribution in kind will be visible and the American contribution in cash invisible.

In fact, the Japanese contribution will be one-third in consumer goods, indistinguishable from the Japanese consumer goods now found in Micronesia; one-third in capital goods, of which the same may substantially be said; and one-third in investment projects, like a sewer system. The administering authority will spend the \$5 million worth of Japanese yen only for items and projects needed in the trust territory; it will select Japanese contractors from among bidders; and the \$5 million in trust territory expenditures saved by the supply of Japanese goods and services, or generated by the sale of Japanese goods, will be paid into the Micronesian claims fund contemplated by the resolutions.

It will be paid and mingled with the \$5 million contributed by the United States if that latter sum is authorized and appropriated. All of the \$10 million which may be awarded by the Micronesian Claims Commission will then be paid out directly to Micronesians, not by Japan, but by the Secretary of the Interior through the High Commissioner of the trust territory, acting on behalf of the United States as administering authority. Thus, if the question is one of visibility, clearly it is the United States which will be especially visible.

What about the mutual waiver of claims? Such a waiver is a common feature of a claims settlement. Surely it was not unreasonable for Japan to have required a waiver of claims against it, in circumstances where it agrees to contribute in value of \$5 million in satisfaction of such claims, and, besides, agrees to recognize its own claims as finally disposed of.

The final point of criticism of the agreement is that the Micronesians were not consulted on its terms.

I might note in this regard that, in July of 1966, while the Congress of Micronesia was in session in Saipan, I was privileged to visit Saipan and some other Micronesian islands for 10 days. The purpose of my visit as concerning Micronesian war claims was announced over the radio and published. I had the pleasure of meeting a number of the Members of the Congress of Micronesia at the home of the High Commissioner and elsewhere. I attended a session of the Congress.

A few Members of the Congress asked me if I would be agreeable to appearing before a pertinent committee of the Congress on the war claims question, and I replied that I would be happy to do so. But an invitation to appear never came. But I saw a good deal; read a great many files; photographed a lot of data; and talked to a number of people.

This was not, of course, equivalent to formal consultation with the Congress of Micronesia on the terms of the agreement before the agreement was signed. With the advantage of hindsight, we regret that such consultations did not take place at an appropriate stage, such as the period between the initialing of the agreement in January 1969, and its signature in April 1969.

ALTERNATIVES TO THE AGREEMENT

Finally, may I say a word about alternatives to the agreement. It will be only a word, for I believe that there are none, or, at any rate, no reasonable alternatives. There appears to be no possibility of the Government of Japan conceding more than this agreement gives.

If the resolutions—or one of them—were not to be approved, the choice would seem to be between no payment of Micronesian war claims, and exclusive payment by the United States of claims for which it has no legal responsibility, and which are directed against Japan as well as the United States. No payment at all would be inequitable for the Micronesians. Sole payment by the United States would be inequitable for the United States.

It is respectfully submitted that the agreement with Japan which these resolutions would implement is a good agreement; that there will not be a better agreement; and that adoption of a resolution on these terms will promote the interests both of the inhabitants of Micronesia and of the United States.

Thank you, Mr. Chairman.

Senator BURDICK. Thank you.

As far as this committee is concerned, we recognize that an agreement has been made.

Mr. SCHWEBEL. Right, sir.

Senator BURDICK. It is just for us to authorize the payment of money.

Mr. SCHWEBEL. We would fervently hope that you will, Mr. Chairman.

Senator BURDICK. If we are going to support our Government, this is what we should do.

Mr. SCHWEBEL. Right, sir.

Senator BURDICK. Thank you.

Mr. SCHWEBEL. I might add, sir, if I may, that there was extensive consultation in the Senate and in the House as negotiations with Japan went forward.

Senator BURDICK. Thank you again.

Mr. SCHWEBEL. Thank you so much.

Senator BURDICK. Our next witness will be Mr. Dennis J. Doolin, Deputy Assistant Secretary, East Asia and Pacific Affairs, Office of the Assistant Secretary of Defense (International Security Affairs), Department of Defense.

We shall be glad to hear from you at this time, Mr. Secretary.

Please proceed.

STATEMENT OF DENNIS J. DOOLIN, DEPUTY ASSISTANT SECRETARY,
EAST ASIA AND PACIFIC AFFAIRS, OFFICE OF THE ASSISTANT
SECRETARY OF DEFENSE (INTERNATIONAL SECURITY AFFAIRS),
DEPARTMENT OF DEFENSE

Mr. DOOLIN. Thank you for the opportunity to appear before this committee.

Mr. Chairman, I will not burden you with detailed or technical comments on the two bills being considered by this committee, which are being submitted separately. I will confine my remarks here to a broad assessment of the five separate titles of Senate bill 860 and of Senate Joint Resolution 35.

Before turning to these bills, however, I would like to briefly outline the interest of the Department of Defense in the Trust Territory of the Pacific Islands. I would simply say that it remains a strategic area in the central Pacific, astride our principal lines of communication to allies with whom we have treaty ties.

However, we have important missile testing facilities in the Marshall Islands, which contribute greatly to the deterrent posture of this country, and for that reason are important also for the continued peace and security of other nations of the free world.

Turning now to title I of Senate bill 860, the economic development loan fund, we strongly support early enactment of this title. The only understanding we would like to have is that the benefits of a loan or guarantee of loan would not redound to the benefit of foreign entrepreneurs; rather, we believe they should be limited to Micronesian businesses—those in which at least a majority interest is controlled by a Micronesian citizen.

With respect to title II, on war and postwar claims by Micronesian citizens, the Department of Defense strongly supports early enactment of legislation to resolve this matter. As to the ex gratia contribution to inhabitants who suffered damages during the Second World War, we believe that the innocent people of these islands have too long gone uncompensated for wartime suffering.

We also support legislation dealing with the so-called postsecure claims. While our principal concern is that an early resolution of these claims be accomplished, we recommend that the language of Senate Joint Resolution 35 be used in lieu of that contained in title II.

Senator BURDICK. What is the difference, Mr. Doolin, in the language?

Mr. DOOLIN. It is my understanding, Mr. Chairman, that the language contained in Senate Joint Resolution 35 would be more applicable and easier to administer.

Senator BURDICK. Do you know yourself of any specific substantive limitations?

Mr. DOOLIN. I can refer to my colleagues, Mr. Chairman. But I notice that in Senate bill 860 on page 12, under Chapter 2: Postwar Claims, line 21, the phrase "personal injury or death," which is not in the Senate Joint Resolution 35.

Senator BURDICK. But it was intended to pay these kind of claims, was it not? Was it not intended to pay these kind of claims in Senate Joint Resolution 35?

Mr. DOOLIN. It is our feeling that there are no such claims within the context of postsecure claims.

Senator BURDICK. Very well.

Please proceed.

Mr. DOOLIN. Title III, which would entitle citizens of the Trust Territory of the Pacific Islands to free entry or departure from the United States, would remove the authority of the Departments of State and Justice to pass on the admissibility to the United States of citizens of the trust territory and vest it in the high commissioner.

This would remove most, but not all, of the grounds for exclusion and subsequent deportation contained in the present law. In general, it appears to us that the objectives of this title are in the best interest of the United States; however, we also believe that careful consideration must be given to the possible need for some controls greater than those contemplated to insure that the relatively high degree of freedom of entry contemplated and easy route to U.S. citizenship does not work counter to our national interest in specific cases. We will defer to the Departments of State and Justice with respect to any further comment along this line.

With respect to title IV, regarding tariff treatment of trust territory products, the Department of Defense defers to other departments more directly involved.

Title V has to do with the enlistment of U.S. nationals and trust territory citizens in the Army and Air Force. The proposed legislation is limited to these two services because there is no bar to such enlistment in existing law in the case of the Navy and Marine Corps.

For the Army and the Air Force, there is a requirement that the enlistee be a U.S. citizen or an alien lawfully admitted for permanent residence. Thus, even U.S. nationals in American Samoa cannot enlist in these two services. We believe that both U.S. nationals and citizens of the trust territory should be permitted to voluntarily enlist in any of the Armed Forces of the United States if they are otherwise qualified.

However, we defer to the Department of State with respect to any international agreements affected by such legislation. I might add, incidentally, that if enacted into law, the Department of Defense neither desires nor intends to conduct any enlistment activities within the trust territory.

Thank you, Mr. Chairman. That concludes my statement.

Senator BURDICK. Thank you very much.

Mr. DOOLIN. Mr. Chairman, if I am of no further assistance to the committee, may I be permanently excused?

Senator BURDICK. If we need you we will call you back, Mr. Doolin.

Mr. DOOLIN. Thank you, Mr. Chairman.

Senator BURDICK. Our next witness is the Honorable Lyle S. Garlock, Chairman of the Foreign Claims Settlement Commission, who is accompanied by Mr. Andrew McGuire, General Counsel.

Will you proceed, sir.

STATEMENT OF HON. LYLE S. GARLOCK, CHAIRMAN, FOREIGN CLAIMS SETTLEMENT COMMISSION, ACCOMPANIED BY ANDREW T. MCGUIRE, GENERAL COUNSEL

Mr. GARLOCK. Thank you, Mr. Chairman.

Our testimony will be confined to Senate Joint Resolution 35 and title II of 860. And it will deal largely with the technical aspects of the

bill. And therefore I have asked Mr. McGuire, who is our General Counsel, to address himself to the testimony, Mr. Chairman.

Senator BURDICK. Thank you.

Mr. McGUIRE. Mr. Chairman, I appreciate this opportunity to appear before you today as General Counsel of the Foreign Claims Settlement Commission in support of the Micronesian claims legislation.

The purpose of Senate Joint Resolution 35 and title II of S. 860 is to:

(1) Implement the agreement dated April 18, 1969, between the United States and Japan providing compensation equivalent to \$10 million (\$5 million of which is to be appropriated under these bills as the U.S. share) to inhabitants of the Trust Territory of the Pacific Islands who suffered damages during the Second World War;

(2) Authorize the adjudication of claims of Micronesians arising during the war and those arising during the postwar period until July 1, 1951, for losses attributable to actions of members of the Armed Forces or civilian employees of the U.S. Government or the government of the trust territory;

(3) Establish a claims commission under the direction of the Chairman of the Foreign Claims Settlement Commission to settle these claims; and

(4) Authorize an appropriation of an additional \$20 million for use by the Secretary of the Interior for making payments to the extent authorized with respect to the postwar claims.

Title II of S. 860 and Senate Joint Resolution 35 are similar in many respects to Senate Joint Resolution 211 in the 91st Congress as passed by the Senate on October 8, 1970. Basically, the bills contain the recommendations of the Department of the Interior to the 91st Congress concerning the settlement of these claims and for the establishment of a special commission in the Trust Territory of the Pacific Islands to process them.

More specifically, the special commission will have the authority to receive, examine, adjudicate, and render final decisions with respect to claims of the Micronesian inhabitants of the Trust Territory of the Pacific Islands who suffered loss of life, physical injury, and property damage directly resulting from the hostilities between the United States and Japan between December 7, 1941, and the date of the securing of the various islands of Micronesia by the Armed Forces of the United States. The Governments of the United States and Japan will each contribute, and the bill authorizes to be appropriated, the sum of \$5 million for the settlement of the World War II claims.

The commission is also authorized to consider, ascertain, adjudicate and determine the claims by Micronesian inhabitants of the trust territory on account of damage to, or loss or destruction of private real and personal property or for personal injury or death, including claims for the taking, or for use or retention of property by military personnel of the U.S. Armed Forces or by civilian employees of the United States and the trust territory government acting within the scope of their employment. A sum of \$20 million is authorized to be appropriated for the payment of this category of claims.

The new Commission will operate primarily in the Trust Territory of the Pacific Islands under the control and direction of the Chairman of the Foreign Claims Settlement Commission. The Chairman is directed to appoint, in consultation with the Secretary of the Interior, the five members of the Commission and to designate a chairman.

Two of the members of the Commission are to be selected from a list of Micronesian citizens who have been nominated by the Congress of Micronesia.

The compensation and allowances of the members of the Commission and the appointment and compensation and allowances of such officers, attorneys, and employees of the Commission as may be necessary to carry out its proper functioning, in addition to those who may be assigned by the Chairman of the Foreign Claims Settlement Commission, are proposed to be under the control and approval of the Chairman of the Foreign Claims Settlement Commission.

The new Commission has the authority to prescribe such rules and regulations as are necessary for carrying out its functions. A 1-year filing period for both categories of claims is provided as well as a 3-year settlement period.

The Commission is required to certify all awards with respect to wartime damage claims to the Secretary of the Interior for payment out of the Micronesian claims fund when all claims have been adjudicated except that, in claims based on death, full payment up to \$1,000 is to be made immediately. The postwar claims would be paid out of the \$20 million authorized to be appropriated.

In case any money is not expended, the residual amount in the Micronesian claims fund would be paid into the Treasury of the Trust Territory of the Pacific Islands for appropriation by the Congress of Micronesia for the welfare of the people of the trust territory. Any residual amount not expended from the \$20 million authorized for the payment of the postsecure claims would be returned to the Treasury of the United States.

An annual report by the Commission is required to be made to the Congress concerning its operations under the act. Upon completion of its work the Commission is directed to certify to the Chairman, Foreign Claims Settlement Commission, the Secretary of the Interior, and to the Congress a list of all claims allowed or disallowed, and a copy of the decision rendered in each case.

As to the precise categories of claims covered under the proposed legislation, it is not my purpose to suggest restrictions or the exclusion of certain types of claims. However, I have noted in the testimony presented last year to the House subcommittee on similar legislation that a large percentage of the net worth of the claims appears to be based on alleged currency losses which raised the value of the estimated amount of the claims by the Micronesians and their representative well over the \$10 million as estimated by the Department of State as a reasonable amount for the settlement of the war damage claims.

While the Commission has no objection concerning the payment of this type of claim, it is believed that their payment would tend to dilute the funds available at the expense of claimants having more tangible types of property losses. In this connection, I wish to bring to the subcommittee's attention the fact that claims based on currency losses were not compensable under the War Claims Act of 1948 or the Philippine Rehabilitation Act of 1946.

However, the Commission adjudicating war damage claims arising on Guam under Public Law 79-224 limited the recovery of the loss of money on the amount "as it would be reasonable or prudent for a person to keep in a store, at home, or on the person."

As mentioned previously, there is no intention to suggest that any restrictions be placed on the types or categories of claims under the proposed Micronesian claims legislation, but I do wish to point out the possible areas which may cause some concern in their adjudication. On the other hand, the Commission is confident that these claims can be adjudicated successfully on a fair and equitable basis.

So far as I am aware, Micronesia is the last area in the Pacific under the control of the United States for which relief measures have not been made available to the inhabitants for losses or damages attributable, in whole or in part, to actions taken by the United States.

Claims of inhabitants of Guam, the Philippines, and the Ryukyu Islands have all been settled under legislation enacted by the Congress. Certainly the inhabitants of the Trust Territory of the Pacific Islands are as deserving as those in other Pacific areas who have been compensated previously for their losses or damages.

The Commission recommends the enactment of the legislation.

Thank you.

Senator BURDICK. Thank you.

I would like to have you turn to S. 860 at page 12. A previous witness testified that there was a difference between Senate Joint Resolution 35 and S. 860. And I referred specifically to the words on line 21 "or personal injury or death."

Would you give me your best opinion as to whether that is correct, and if there is that difference between Senate Joint Resolution 35 and S. 860?

Mr. McGUIRE. I am not able to give you that off the top of my head, but we will make a line-by-line check on it.

Senator BURDICK. Because it is our intention to get the substance of Senate Joint Resolution 35 in this bill.

Mr. McGUIRE. My understanding is that title II is in substance the same thing as Senate Joint Resolution 35, but there are some language changes. I would rather go through the two bills and mark them up and give you a memorandum on it.

Senator BURDICK. That would be very much appreciated.

Thank you very much, gentlemen.

(The memorandum referred to follows:)

FOREIGN CLAIMS SETTLEMENT COMMISSION,
OF THE UNITED STATES,
Washington, D.C., March 31, 1971.

MEMORANDUM

To Hon. QUENTIN N. BURDICK, *Chairman, Subcommittee on Territories and Insular Affairs, Committee on Interior and Insular Affairs, U.S. Senate.*
From ANDREW T. McGUIRE, *General Counsel, Foreign Claims Settlement Commission.*

Pursuant to our discussion on March 30, 1971, concerning the Micronesian claims legislation, the attached information is respectively submitted.

Beside the minor language changes and the rearrangement of certain sections, the significant differences between the two proposals the bill S. 860 and resolution S.J. Res. 35, are as follows:

(1) The bill S. 860 does not authorize the creation and management of the Micronesian Claims Fund. (Compare sec. 2(a) S.J. Res. 35, p. 4, line 11 with sec. 202(a) of S. 860, p. 5, lines 4-8).

(2) The bill S. 860 provides for post-war personal injury and death claims. S.J. Res. 35 does not. (Compare sec. 207, chap. 2, of the bill p. 12, line 21, with S.J. Res. 35, sec. 1, Title II, p. 11, lines 19-25.)

(3) S.J. Res. 35 imposes a condition that the acceptance by the claimant is required of the determination and payment by the Commission in full satisfaction of final settlement of the post-war claims. (Compare sec. 1, Title II, S.J. Res. 35, p. 11, line 11 with sec. 207 chap. 2, lines 16-17. S. 860 does not impose such a condition. However, both the bill and resolution provide that settlements by the Commission with respect to the post-war claims "shall be final and conclusive for all purposes notwithstanding any other provisions of law to the contrary and not subject to review." (Sec. 1, Title II of S.J. Res. 35, p. 12, lines 10-14. Sec. 207, chap. 2, S. 860, p. 13, lines 11-16.)

Our next witness will be the Honorable Vicente N. Santos, chairman of the Micronesian delegation, President, Mariana Islands District Legislature.

It is good to see you again.

Do you have a prepared statement?

**STATEMENT OF HON. VICENTE N. SANTOS, CHAIRMAN OF THE
MICRONESIAN DELEGATION, PRESIDENT, MARIANA ISLANDS
DISTRICT LEGISLATURE**

Mr. SANTOS. Thank you, Mr. Chairman.

Yes, I do have a prepared statement.

Senator BURDICK. So that we might get finished today, I wonder if you would try to summarize as much as possible. If not, go ahead with your full statement.

Mr. SANTOS. Thank you.

Mr. Chairman and distinguished members of the subcommittee, I welcome this opportunity to again appear before you in support of the equitable settlement of war claims of residents of the Trust Territory of the Pacific Islands. I return each time with the renewed faith that the Congress of the United States will recognize and act on the outstanding pre- and post-secure claims of my people.

I wish to express our deep and sincere gratitude to you, Mr. Chairman, your staff, the subcommittee and the U.S. Senate for their favorable action on Senate Joint Resolution 211 last year. I sincerely hope you will act favorably so that the House of Representatives can follow your leadership in this, the first session of the 92d Congress.

May I first introduce the members of our delegation who will testify today.

From Palau, we have Hon. Francisco K. Morei, vice chairman of the Special Committee of the Palau Legislature for War Damage Claims Settlement and a judge of Palau District Court.

Also from Palau is Hon. Lazarus Sali, a member of the senate, Congress of Micronesia and chairman of the Joint Committee of the Congress of Micronesia on Future Status.

From the Marianas, I would like to introduce Hon. Vicente T. Camacho, speaker of the Saipan Municipal Legislature; Hon. Edward L. G. Pangelinan, a member of the senate, Congress of Micronesia, and a member of the Joint Committee of the Congress of Micronesia on Future Status; and Mr. William B. Nabors, Legislative Council of the Mariana Islands District Legislature and attorney for the Marianas and Palau War Claim Settlement Committee.

We also have with us today Hon. Felipe A. Salas, president pro tem of the Mariana Islands District Legislature, Hon. Jose C. Cabrera,

member of the Mariana Islands District Legislature and minority floor leader in the District Legislature.

Your subcommittee is considering legislation, Senate Joint Resolution 35 and S. 860, of crucial importance to the welfare of the people of the Mariana Islands District. We strongly urge that the war claims legislation be expedited and the separate omnibus development proposals receive the same expeditious consideration.

Senate Joint Resolution 35 would implement an agreement reached in 1969 by the Government of the United States and the Government of Japan concerning the disposition of a portion of the claims arising from World War II. Our reservations concerning the provisions of this agreement are a matter of record, but we are confident that our people will be treated fairly in the settlement of their legitimate claims.

Our views with regard to the inadequacy of the amount to be made available to settle meritorious Micronesian claims against the Government of Japan, are also a matter of record. But it is apparent to us that we are dealing with the "art of the possible."

Under these circumstances, the people of the Marianas support the passage of Senate Joint Resolution 35.

Soon after the end of the fighting on Saipan, specifically during the months of November and December 1944, while the inhabitants were inside the stockade under protective custody, officials of the U.S. Navy conducted a survey of property losses suffered by the people during the fighting on Saipan. These claims, which totaled approximately \$8 million, represented those losses known to have been sustained by the people.

The people of the Marianas have been petitioning the United States, our administering authority under the trusteeship agreement, to expedite the settlement of their war claims. Our presence here today represents the latest effort to seek a prompt, fair, just, and equitable settlement of this problem that has been allowed to exist for almost three decades.

During the past 6 years, the War Damage Claims Settlement Committee for the Mariana Islands District has collected, investigated, evaluated, documented, and computerized the war damage claims for the Mariana Islands District. Our committee now has the only authoritative record of those losses of property, deaths, injuries, damage to and the use of property from December 7, 1971, to the present.

These documents have been presented to this subcommittee—both combat and postsecure. All of the claims have been uniformly finalized, with few exceptions, to allow this subcommittee to better understand the problem.

Through the application of certain formulas as are described in the computer reports, the composition of the various losses is, we hope, made clear and understandable. A brief review of the individual claims that were filed on sworn affidavits will show the extent of the suffering forced upon the people both during and after the fighting.

After this data was collected, we went to the extra time and expense of computerizing the losses in order to minimize the margin of error, and to be able to easily make adjustments if the Congress should decide either to lower or raise the unit values arrived at by us. The computer printouts indicate losses and damages chargeable to the Government of Japan for the Marianas at \$9,007,067. And the amount chargeable to the U.S. Government for losses, damages to, and the use of private property in the Marianas is \$23,746,234.

These totals were arrived at by applying values at the time of the losses—not today's values. We believe these values to be fair and reasonable in every respect.

The Mariana Islands District Legislature and the Saipan Municipal Legislature have endorsed the formulas used and the values assigned to the losses.

S. 860: Title I of S. 860 would authorize the appropriation of \$5 million for the economic development loan fund of the trust territory.

The economy of the Marianas Islands District is virtually stagnant. Over the past few years, a great deal of money has been spent on a wide range of economic development studies, but these studies simply sit and gather dust.

The need for a vigorous program of economic development in the trust territory cannot be overstressed. Efforts of the United States of America in the field of economic development in Micronesia leaves a lot to be desired, and the territory should not be allowed to continue with an economy that is so heavily dependent on Government expenditure financed almost entirely from outside the trust territory. Out of the 12,000-plus inhabitants in the Marianas Islands District, and estimated 46 percent are under 20 years of age. Thus, in the very near future, we must make available means of gainful employment for a large number of people.

The availability of low-interest, long-term financing is essential to our people to develop and establish industries that are suited for our area of the world. I consider this matter of developing the private sector of our economy to be of the highest priority.

Title III of S. 860 would authorize free entry into the United States for citizens of the Trust Territory of the Pacific Islands, which has also had the full support of both the Marianas Islands District Legislature and the Saipan Municipal Legislature.

In supporting free entry into the United States by citizens of the trust territory, we are not unmindful of the possibility of the "brain draining" of the native inhabitants that our neighbors on Guam have experienced in the past years, but are confident that the initial drain of qualified Micronesians will not be so severe as to seriously affect the smooth and efficient operation of our Government.

Title IV of S. 860 would permit the free entry into the United States of products that are manufactured or produced, in whole or in part, in the trust territory.

We favor this provision as being beneficial in augmenting and stimulating the development of private sector of our economy.

Title V of S. 860 would allow citizens of the Trust Territory of the Pacific Islands to enlist in the Armed Forces of the United States. Again, the Marianas Islands District Legislature and the Saipan Municipal Legislature have gone on record by passing several resolutions requesting the U.S. Congress to authorize our young boys to enlist in the Armed Forces of the United States.

Many of our young men have gone to the Territory of Guam in order to enlist in the Armed Forces of the United States. Several of our young men are presently serving in the Republic of Vietnam, and regrettably, a few have given the supreme sacrifice—their lives—for the country they love so dearly. So, we give our wholehearted support to the provision to allow citizens of the trust territory to enlist in the Armed Forces of the United States.

Thank you again, Mr. Chairman, for this opportunity to testify here, and I will be happy to answer any questions if there be any.

Senator BURDICK. Mr. Santos, you have a very good statement. And we appreciate your contribution to the committee.

Mr. SANTOS. Thank you very much.

Senator BURDICK. Our next witness will be Hon. Vicente T. Camacho, Speaker, Saipan Municipal Legislature.

It is good to see you again.

Do you have a prepared statement?

STATEMENT OF HON. VICENTE T. CAMACHO, SPEAKER, SAIPAN MUNICIPAL LEGISLATURE

Mr. CAMACHO. Mr. Chairman, on behalf of the people of the municipality of Saipan, I wish to express our deep appreciation to this subcommittee and the U.S. Senate for passing the war claims bill, Senate Joint Resolution 211, last year. Also on their behalf, I am pleased to support Senate Joint Resolution 35 and S. 860 which in my view are the most comprehensive, enlightened legislation ever introduced in the U.S. Congress for the peoples of Micronesia.

I would like to urge upon the committee the fact that as far as our people are concerned, they suffered losses of their properties, injuries, and deaths through no fault of their own. For more than 30 years under the Japanese, the people in the Mariana Islands District worked to accumulate their modest savings to provide a comfortable home for their families. We fully realize that after the sneak attack on Pearl Harbor, the United States of America had no choice but to protect its people, property, and to maintain its integrity.

In doing so, however, all the efforts of our people over the previous 30-year period to accumulate their modest possessions were destroyed. Thus we, the Micronesians, were victims of circumstances, and were indeed caught in the middle between two world powers.

This, of course, was also true as in the case of Guam, the Philippine Islands, and the Ryukyu Islands (Okinawa), but all these areas have received compensation for losses of their property, injuries, and deaths that resulted from the hostilities of World War II. We have waited a long time, and have now reached the point where the settlement of this problem will be a reality. I strongly urge prompt action on the part of the Congress.

Prior to the war, our people were led to believe that the Americans would take our women and run bulldozers over the men if they were allowed to take control of our island. Not having much exposure with Americans over the previous 30-year period, most of us believed this propaganda and were reluctant to come out of our place of hiding and surrender ourselves to the American liberators.

As our people went across the lines into the American invaders, more and more of our people came around, with the U.S. soldiers advising the rest of us that the Americans were good people and that we would receive food, water, and clothing.

The first invasion of Saipan came in early June 1944; and after days and weeks of pounding and firing, our people were hungry and many died, and we were very happy when we were finally liberated by the Americans. Many of our people died of hunger, some were killed by the Americans while they were searching for food, and many

more were killed by the Japanese soldiers as they attempted to go to their farms to get food that had been planted for the women and children. In many instances, the Japanese soldiers shot those who wanted to surrender themselves to the American soldiers.

At the war's end in Saipan on July 9, 1944, a group of approximately 30 Saipanese who spoke good Japanese were recruited as scouts for the 2d Marine Division and were very helpful in locating snipers from the jungles and the mountains. During this period some of the young men were injured, but all took great pride in the fact that we were free at last.

For our own protection and benefit, all of the Saipanese people were put in a fenced area where the U.S. military forces provided food, water, and medical treatment for the sick. This wire enclosure was torn down on July 4, 1946, when the people of Saipan were liberated.

As has happened thousands of times in the past centuries, our people started picking up the pieces, rebuilding their homes, planting their crops, and trying once again to carve out a new life for themselves under another nation. The American Government has been good to our people, and the gratitude of our people shows in the vast majority who have for the past 15 or so years expressed the desire to become American citizens, and several of our young men have and are still serving in Vietnam.

America is a great country, and we want to be a part of her greatness as equal partners; and the fair, just, equitable, and prompt settlement of this war damage claims problem will help us to recover from the destruction that resulted from World War II, and will help to reduce the necessity for large budgetary requests from the U.S. Congress.

In closing, I wish to cite a personal point. Since we started this intensive effort toward settling the war claims more than 5 years ago, many of our people who experienced the hardships and suffering that resulted during the hostilities of World War II had passed away, including my grandfather who spent 10 years in prison under the Japanese military command because he was suspected of being a spy for the Americans. He later was killed by the Japanese.

I strongly urge this honorable subcommittee to consider this problem seriously and help to expedite this war claims settlement.

S. 860

I fully endorse the position of President Santos with regard to this measure. The people of Saipan have gone on record as endorsing the various provisions of S. 860. In addition, the Congress of Micronesia has endorsed the lowering of the tariff on products entering the United States from the trust territory. In my personal view S. 860 will further solidify the strong ties between my people and the people of America.

As you know from your studies and visits to Micronesia, our islands have a one-industry economy; namely, the Government of the United States and its auxiliary agencies. Your bill, S. 860, will allow for economic diversification and encourage the development of local industries through tariff privileges. I know the people of Micronesia will live up to your expectations as indicated in S. 860 because there is great potential for the development of a diversified economy.

Thank you for allowing me to appear before your committee. I shall be happy to try and answer any questions that you may have as best as I can.

Senator BURDICK. Thank you very much. And thank you for the support of S. 860. We are going to do our very best to get this legislation passed as soon as we can. Of course, that is subject to the other members of the committee and the other body in the Congress. But we will try to act as expeditiously as we can on this.

Mr. CAMACHO. I appreciate your support, Mr. Chairman. Thank you very much.

Senator BURDICK. Thank you.

The next witness is the Honorable Edward L. G. Pangelinan, Senator, Congress of Micronesia; and member, Joint Committee on the Future Status, Congress of Micronesia.

We are glad to have you before the committee, sir.

STATEMENT OF HON. EDWARD L. G. PANGELINAN, SENATOR, CONGRESS OF MICRONESIA; AND MEMBER, JOINT COMMITTEE ON THE FUTURE STATUS, CONGRESS OF MICRONESIA

Mr. PANGELINAN. Mr. Chairman, thank you very much for the opportunity to testify in strong support of Senate bill 860. The bill's five titles contain provisions long sought by the people of Micronesia. Just the enlightened introduction of this measure has been a source of great pleasure to us. Its passage is most needed, and we are most excited by these prompt hearings.

I would like to refrain from repeating my comments regarding the war claims and postsecure claims of Micronesia at this time, since my testimony before this committee on a substantially identical matter is part of the record.

The elimination of tariff restrictions is a matter of great concern to Micronesia. The United States represents a natural outlet for Micronesian goods, and yet, Micronesia is prevented from competing in U.S. markets by tariffs which are at present prohibitively high. Goods produced in U.S. territories and insular possessions enter the United States duty free, while on Micronesian products, a duty is exacted which in many cases exceeds that imposed upon goods from foreign nations.

Perhaps Micronesia's greatest potential export is fish. Our waters abound with the fruits of the ocean, and commercial fishing on a large scale is just beginning to realize its potential in Micronesia. Fish exports have risen to become the second leading export from Micronesia. Yet duties on Micronesian fish entering the United States range from 12.5 percent to 35 percent ad valorem. At such an additional cost, we cannot hope to compete in the market by selling our fish.

The relatively small amount which we could supply would have no effect on U.S. fisheries, given the size of the U.S. demand for the product. But it would mean a great deal to us.

Senator BURDICK. Could you tell me if you have met some problem in Saipan and the Marianas in fishing?

Mr. PANGELINAN. Mr. Chairman, the only problem there is the lack of capital at the present time.

Senator BURDICK. There is some fishing going on at the present time?

Mr. PANGELINAN. Yes.

Senator BURDICK. But on a small scale, I presume?

Mr. PANGELINAN. On a small scale due to the lack of capital, Mr. Chairman.

Senator BURDICK. You do not have a fishing industry which approaches what is happening in Palau?

Mr. PANGELINAN. Not at this time. Our laws are so prohibitive against foreign capital due to the most-favored-nation agreement. That is the stumbling block we have at the present time.

Senator BURDICK. With adequate capital you could develop an industry very rapidly, could you not?

Mr. PANGELINAN. I am very hopeful that we could.

We are also operating at a great disadvantage with regard to handicraft. Our handicrafts are beginning to come into great demand in the United States as fashion-conscious women become aware of our beautiful handbags and collectors of unique art come to know our storyboards. The price of our handicraft is increased, however, by a duty which operates to price it out of the market.

Even though a separate demand exists because of the unique nature of the goods, the fact remains that there is only a fixed amount of dollars to be spent, and the more that must be apportioned to import duties, the less that can go to the Micronesian artisan.

I could cite many other examples, but the ones which I have just recited more than illustrate the point. The fact remains that the elimination of import duties would not affect the U.S. economy to any measurable degree, but would greatly help the Micronesian economy to achieve a basis on which it can one day operate to support itself.

Another matter of great importance is the increasing of our economic development loan fund to \$5 million. At present, Micronesia has very little to attract capital for economic development. Our most precious resource, our land, cannot be pledged because of trust territory law which prohibits alienation of that land to any but Micronesian citizens. Plans are presently under way for the formation of a bank of Micronesia, but this is at best a long-range solution.

If economic development is to proceed in Micronesia at the present time, there must be a source of investment capital. The economic development loan fund has been that source, but its original allotment has been exhausted. We do not ask for a handout; we are a proud people, and would not do so.

We ask only for a loan, which we intend to pay back, and with that loan invested wisely in Micronesia under the safeguards which are built into this title of the bill and into the economic development loan fund itself, will pay back when the capital has been used to build a greater Micronesia.

Thirdly, I would like to comment on the remaining two portions of the bill, namely, free entry into the United States and removal of the prohibition against enlistment into the military service of the United States.

We of the Mariana Islands District have a great love for the United States. We have demonstrated and vocalized our desires at many times in the past. Eventually, we hope to become an integral part of the United States.

We, therefore, view these two titles as an important step along that road. Our people have relatives in Guam, citizens of the United States

because of the accident of their place of birth, who have the privileges which would be allowed by this bill. Our people want those privileges also.

Entry into the United States is the first step toward solidifying our relationship with the United States, and for our citizens represents the first step on the road to their ultimate goal, U.S. citizenship. Eligibility to enter the Armed Forces would also be welcome; we have many patriots in the Marianas.

Our relatives on Guam have lost 63 of their small number in Vietnam, which shows that they, like us, are ready to make the ultimate patriotic sacrifice for the United States. Many of the people of Saipan have already enlisted in the U.S. Army.

This measure presently under consideration would open the door a little wider. I would ask that the restrictions against entry into the U.S. Coast Guard, Navy and Marines also be eliminated so that the Micronesian who would like to enter those branches might do so.

We have always been a people of the sea because of the nature of our homeland, and would welcome the opportunity to serve the United States in that area on which our people lived for centuries, the ocean.

For the record, Mr. Chairman, I have here the names of the three Saipan-born men who have died on active duty up to the present time. We have 20 Saipan-born servicemen who have been honorably discharged, we have more than 46 Saipan-born U.S. servicemen on active duty.

Senator BURDICK. The names will be placed in the file.

(The matter referred to will be found in the files of the committee.)

Mr. PANGELINAN. Thank you, Mr. Chairman.

In closing, Mr. Chairman, I would again like to express my unequivocal support for Senate bill 860 with but a few small changes to the war damages title as suggested by our attorney, William Nabors.

I hope that this measure will increase the cooperation and harmony between Micronesia and the United States, and will one day be a monument on the road to a permanent association between our two countries.

Thank you very much.

Senator BURDICK. Thank you for your contribution to this committee.

Mr. PANGELINAN. Thank you very much.

Senator BURDICK. The next witness will be the Honorable Francisco K. Morei, vice-chairman of the Special Committee of the Palau Legislature for War Damage Claims Settlement, and Judge, Palau District Court.

STATEMENT OF HON. FRANCISCO K. MOREI, VICE CHAIRMAN, SPECIAL COMMITTEE OF THE PALAU LEGISLATURE FOR WAR DAMAGE CLAIMS SETTLEMENT AND JUDGE, PALAU DISTRICT COURT

Mr. MOREI. Mr. Chairman and distinguished members of the subcommittee, the people of Palau are honored to have the privilege to bring to you their views on Senate Joint Resolution 35, to authorize an ex gratia contribution to certain inhabitants of the Trust Territory of the Pacific Islands.

The speedy action of this subcommittee and the U.S. Senate on Senate Joint Resolution 211 last year warmed the hearts of every

Palauan. The high chief of Palau, the speaker of the Palau Legislature, and scores of others asked me to express their deep and sincere gratitude to the U.S. Senate for their demonstrated interest in solving this war claims problem. Without a doubt, the image of America has been greatly improved by your action in the 91st Congress.

For the past 20 years or so, the people of Palau have urged the government of the trust territory to take the matter of the payment of the war claims of the people seriously. Unfortunately, higher priorities took precedence over these requests until very recently. Therefore, the people of Palau and the other inhabitants of the trust territory have been required to wait a long time for any positive response from the administering authority of the Trust Territory of the Pacific Islands to our requests and petitions for compensation for the devastating losses suffered during World War II.

We were extremely pleased with the speedy action by this subcommittee and subsequently by the Senate on Senate Joint Resolution 211 last year. It is sincerely hoped that we will again get your favorable action on this most important measure.

As was the case in the other parts of the trust territory, the people of Palau had no part in the fighting that took place during World War II. We were innocent victims caught in the middle of a fight between two powerful nations. All that we know is that the war came and we suffered. Our parents and families were killed and permanently disabled. Our homes, lands, crops, trees, and indeed, our way of life was destroyed.

During the 17 months of intensive assault by bombing, shelling, and final landings by the Armed Forces of the United States, our suffering was intense. Children, the aged, and the invalids would cry for food or suffer in silence—and eventually die of starvation. The Japanese soldiers prohibited us, under threat of instant death, from eating our own food. Our men were forced to go fishing to get food for the Japanese soldiers, and many were shot and killed by U.S. military aircraft flying high overhead, while they fished. All food on the island was taken for the Japanese soldiers, and unless the Palauans stole a few fish to take home to their families and others hiding in the area, many more native people would have starved to death.

Beyond this, many of our people were executed when they were caught by the Japanese when they were taking food from their own gardens or for not turning in all the fish that they had risked their lives to catch.

The suffering of the people of Palau cannot be described in words. During the latter stages of the war, the Japanese soldiers were like animals and did so many bad things to the people in desperation to survive.

With the kind assistance of Mr. Nabors, our counsel, the people of Palau have, over the past 6 years, systematically visited every island, village and hamlet in the Palau district, collecting the claims of our people, and arrived at reasonable values for those losses, which is considered to be only a token payment when the amount of suffering and the long delays are taken into account.

The people of Palau have no electricity except in the district centers. So, in collecting these claims, we had to work by candlelight, flashlight, lamplight, and by lanterns. The people hardly have sufficient food to sustain themselves, but willingly shared with us what they had because

they recognized the importance of our work, and would endure any sacrifice to get their legitimate claims before this honorable body for its fair and impartial consideration.

My people have one hope. They feel that the U.S. Congress is their last hope to get a fair settlement of their war claims problem.

Before I withdraw, I would like to say a few words about the damages to our islands caused by the Armed Forces of the United States.

After the end of the fighting in 1945, our people moved back to Koror Island, and most of the houses were still good or usable. But a U.S. military commander destroyed our houses by burning them down—all of them. We asked the military people to let us have the materials to build our houses elsewhere, but they said that American building materials were coming to us from Guam. But they never came.

On Peleliu, the U.S. military constructed one huge base—quarters, barracks, hospitals, airfields, fuel storage areas, warehouses, dumps, and other facilities that they needed for war purposes. By putting coral on the farm lands, they were destroyed and cannot now be used. Coconuts, taro, breadfruit, tapioca, and other food and feed crops will not grow any more.

The same is true for Angaur Island also. We must depend upon food from Koror, 28 and 35 miles distant.

This, I hope, will bring you understanding of the reason the claims against the United States are much greater than those claims attributable to Japan. The U.S. military occupied Peleliu from 1944 to 1951. Angaur was occupied for more than 2 years initially and has since been used to the present by the military and until recently by the trust territory. Peleliu and Angaur are since the war only for the very young and the very old—the living dead—examples of the horrors of war.

The total of all claims against the United States for Palau is estimated to be \$35,048,509. Most of this is for land damage—total destruction forever unless very large amounts of money is made available for the rebuilding of some of those lands—those where rebuilding is possible. In Palau, the privately owned land is not for sale, and relocation is not feasible. Therefore, we have no choice but to rehabilitate our small islands that were heavily coralized by the U.S. military forces after the fighting stopped.

Before I close, Mr. Chairman, I wish to state that our culture is many centuries old and our way of life is very dear to us. In the prewar days, the Japanese living on our island had their business establishments and homes, and the Palauan people had theirs. Modest as they were, they were nevertheless ours. Our claims are for the values of those losses, based upon a careful, uniform, and fair calculations as the lowest acceptable.

The proposal for settlement that has been submitted to this committee is recommended as the only logical way to reasonably and fairly resolve this problem.

S. 860

A matter of great concern to the people of Palau is the establishment of private business enterprises. The people of Palau have demonstrated their ability to establish and operate profitable businesses, but for a number of reasons have been unable to fully exploit this potential.

The establishment of the \$5 million economic development loan fund would be of great benefit to our people. Over the past few years, the people of Palau have fully utilized the economic development loan fund to establish fishing companies, commercial farms, apartment and housing construction for rental, pig farms, supermarket expansion, handicraft production, saw milling business, boat building and a number of other ventures that are owned, operated and controlled by our people.

If sufficient funds are made available to the citizens of the Trust Territory to establish businesses, a viable and self-sustaining economy could be established.

Another matter of interest to the people of Palau is title III of S. 860, that allows free entry of Trust Territory citizens into the United States of America. The people of Palau support this title as it will provide a profound benefit to our people.

Without reservation, title IV of S. 860 would provide the greatest benefit to the people of Palau. Our islands are blessed with an abundance of fish. We have a quick freeze plant in Palau, but its capacity is inadequate. With the benefits under title IV, the people of Palau could exploit this potential and provide numerous jobs for our people.

We also favor title V that would allow our young men to volunteer for the Armed Forces of the United States. Several of our young men now have to go to Guam and obtain permanent residence status in order to be eligible to volunteer for the Armed Forces of the United States. The enactment of this title to allow citizens of the Trust Territory to volunteer for the Armed Forces of the United States would facilitate our young men and women to do their share in the maintenance of world peace.

Thank you for this opportunity to give my views on these measures.

Senator BURDICK. Thank you, too, Judge, for a very good statement.

Now, we have three more witnesses here on the official list. The Honorable Lazarus Salii and William B. Nabors and Professor Harrop Freeman. We are going to conclude this hearing today. The only problem is, I have to leave at 12:30, but I do not want to close anybody out.

If you want to come back at 2 o'clock I will come.

How about you, Mr. Nabors, do you want to make an oral presentation?

Mr. NABORS. I would like to submit the statement. But I would like to summarize and then point out a few statements in Mr. Schwebel's testimony.

Senator BURDICK. We had better come back.

So we will recess at this time until 2 o'clock this afternoon.

(Whereupon, at 12:27 p.m. the committee recessed, to reconvene at 2:00 p.m. on the same day.)

AFTERNOON SESSION

Senator BURDICK. Let us resume our hearing.

Mr. Salii, Senator, Congress of Micronesia, and Chairman of the Joint Committee on the Future Status, Congress of Micronesia.

Proceed, sir.

STATEMENT OF HON. LAZARUS SALII, SENATOR, CONGRESS OF
MICRONESIA AND CHAIRMAN OF THE JOINT COMMITTEE ON THE
FUTURE STATUS, CONGRESS OF MICRONESIA

Mr. SALII. Mr. Chairman, I am going to summarize my testimony and make some changes.

Senator BURDICK. The entire statement will be made a part of the record without objection.

Mr. SALII. I would like to say first of all that it is an honor to appear before your committee. I am here representing the people of Palau. And I am here to express our full support for S. 860. It is a great bill. We hope that it gets through the Congress this session. And we thank you and the members of the committee for coming up with this type of a bill.

Title I of Senate 860 will provide \$5 million for a revolving economic development fund, and is of vital concern to me and everyone in Micronesia. And I am all for its passage. Micronesia has limited resources, but it does have some resources which can be developed. All we need at this point is some capital to help develop the resources. This \$5 million will go a long way toward permitting Micronesian businessmen to develop those resources with your help.

On the world war claims, I also support the claims wholeheartedly, as do the people of my district. Some reservations have been expressed by my constituents about the amount of the claims in the bill. They think that there are more claims which should be considered. But at this point I want to go on record as supporting the figure presently in the bill.

Some reservations have also been expressed by the nature of the payment both from the Government of Japan and from the United States, that it is a gift, this ex gratia payment. The people in Palau do not feel that this is a gift, we feel that it is a payment that should be made to the people of Palau as a result of damages caused by the war. And I want to go on record as expressing that concern on the part of the people of Palau.

I would like to point out also that the agreement between the two governments, which gives access to Japanese visitors to enter the ports of Truk and Palau, has also caused some concern among people in Micronesia. There is a great deal of fishing by Japanese going on in the waters around the Truk territory. Inasmuch as they do most of their fishing in international waters, there is not much that we can complain about. We only request that while we give the Japanese access to these ports, that we improve the facilities in the Truk territory so that they will be able to compete with foreign fishermen.

I would like to request, with your permission, Mr. Chairman that on page 5 of my testimony the second paragraph from the bottom of the page be stricken out from the testimony.

Senator BURDICK. We will strike that out. It is the next to the last paragraph?

Mr. SALII. Yes, sir.

For the moment, I would like to skip title III, and we will discuss that along with title V.

On title IV I would like also to address a few remarks as to what the Congress of Micronesia believes is a most important provision of this

bill. That is the elimination of tariff restrictions on products of the trust territory entering the United States.

At the moment we have a small handicraft industry which can flourish with the lifting of the tariff. But most important of all, I feel is the relation of the tariff to the development of the fishing industry of Palau. You know, Mr. Chairman, that the cannery products of Palau are not allowed to enter the United States free of tariff. If the tariff were lifted we could can tuna and ship it to the United States.

We fully support this title in the bill, and hope that it passes along with the other titles.

Titles III and V, on Micronesians entering the United States, and permitting Micronesians to serve in the U.S. Armed Forces, are all good titles, and I fully support them.

Micronesia has been under the United States for over 20 years. There are only about a hundred thousand Micronesians. Immigration to the United States is not going to cause any great problem to the United States. There are not that many Micronesians that will travel to the United States in any event.

Many Micronesians are now serving in the U.S. Armed Forces. More are likely to desire to enter the Armed Forces in the future. They should be permitted to do so on a voluntary basis.

In short, Mr. Chairman, S. 860 is a good bill. And I hope it passes. And I want to thank the committee for coming up with the bill.

Senator BURDICK. Thank you, Mr. Salii.

We will place your prepared statement in the record at this point. (The prepared statement of Mr. Salii follows:)

STATEMENT OF SENATOR LAZARUS SALII, PALAU DISTRICT

Mr. Chairman: It is an honor to appear before you today. I am here to represent the people of Palau district of the Trust Territory of the Pacific Islands. I am here to express our full support for Senate Bill 860. With your permission I will address my remarks to the provisions of this bill as they are set forth therein.

I—ECONOMIC DEVELOPMENT LOAN FUND

Title I of Senate Bill 860, which would provide five million dollars for a revolving economic development loan fund is of vital concern to me, to the Congress of Micronesia and to the Micronesian people as a whole. Three factors are essential before an area can develop its economy. There must be land, there must be labor and there must be capital. There is a labor force which is improving every day. There is land—limited though it is—but it is there and much of it is idle. The one factor which is extremely scarce in Micronesia is capital.

The reasons for the shortage of capital in Micronesia are somewhat unique. Of course, there is the problem, faced by all developing areas, of consumption spending resulting in little or no money available for savings to be invested in capital items. Added to this, however, is the problem of having no financial institutions into which Micronesians can put their savings and which can in turn make such savings available for loans to Micronesian businesses. There are two American banks that operate in Micronesia. However, due to restrictions on land ownership by non-Micronesians, Micronesian businesses cannot obtain loans from these banks and use their land as collateral for such loans. Further, since the people of Micronesia are widely dispersed over a large area, it is difficult for private businesses to obtain capital for business ventures from the private sector without some kind of centralized financial institution.

One possible remedy to this situation—and the Congress of Micronesia is studying the possible remedy—is to recreate a Bank of Micronesia. If and when the bank becomes a reality, it will help to alleviate the critical shortage of capital for business investment in Micronesia.

The Economic Development Loan Fund is one vehicle, however, which will provide an immediate solution to part of the problem of acute capital shortage in Micronesia. The fund was first established in 1963. Since that time, about 1.2 million dollars has been put into the fund. As of the end of 1970, however, all of the money in the fund has been loaned out and the fund is depleted. The purpose of the fund is to provide capital to private businesses when such capital is not available from other sources. This is done in two ways. First by direct loans, and second by guarantees for bank loans. The Congress of Micronesia has long supported the concept of an economic development loan fund, and has reflected such support in its budget recommendations for allocation of the United States grant funds.

The economy of Micronesia has reached the stage where substantial gains in economic development can be made in the next few years, if only the capital necessary for such development is available. In effect, this fund makes capital available to stimulate private enterprise in our developing economy. At the present time, Micronesia imports much that could be produced locally. Lack of such production results in an unfavorable balance of trade harmful to the development of a viable economy in Micronesia. We now have the land, labor, managerial capability and interest, and markets needed for rapid development. What we now desperately need is capital so that these other factors of production can be effectively utilized. We do not ask here for the United States to give Micronesians a handout. We only ask that you give us a loan so that we can effectively develop toward our goal of economic self-sufficiency.

II—WAR CLAIMS

The subject of Micronesian war damage claims is one which has commanded much attention in Micronesia for the past 25 years. It is now urgently hoped that at long last these war damage claims will be settled in an equitable manner. While I do not agree with all of the provisions contained in Senate Bill Number 860, I would like to make it clear that I feel that some type of legislation must be passed at this time much will finally start the process of compensating the Micronesian people for the damages which they suffered as a result of the hostilities of World War II.

One point which I feel should be clarified at the outset is that we do not consider settlement of these claims to be an *ex gratia* contribution to the Micronesian people. First, it should be noted that under these measures, the Japanese Government will be granted certain valuable rights in Micronesia for their so called *ex gratia* contribution for the settlement of the Micronesian war damage claims. By using the term "*ex gratia*" the United States and Japan are asserting that they have no liability to make compensation for losses suffered. The rights being granted to the Japanese, fishing rights and salvage rights, are the rights of the Micronesian people. It is difficult for us to understand how the contribution of the Japanese can be considered *ex gratia* when certain valuable rights of the Micronesian people are being exchanged for the right of the Micronesian people to be compensated for the damage done to them and their lands because of conflicts between foreign powers. The Micronesian people were in no way consulted about this arrangement between the United States and Japan. Further, we feel that the rights that are to be granted to the Japanese are more valuable than the 5 million dollars that Japan is to pay the Micronesians. In other words, we feel that the United States has agreed to give away valuable Micronesian fishing and salvage rights in exchange for something of far less value, a payment of 5 million dollars to which the Micronesian people are already entitled.

Second, it should be noted that with regard to the United States and Japan, the Micronesian people are required to accept the amounts being offered under these bills as final and full settlement for all damage and loss suffered as a result of the war. Therefore, the Micronesians are being asked to surrender their valuable right to actual compensation in exchange for the proposed *ex gratia* settlement. The fact that the United States and Japan do not recognize any duty to compensate the Micronesians for the damage suffered during and after the war does not make the claim any less important to the Micronesian people.

Along the same lines, many Micronesians feel that it is unjust and unconscionable for the United States, as trustee of Micronesia, to deal with its beneficiary so as to benefit the trustee and harm the beneficiary. The United States has negotiated a treaty with Japan and offered an *ex gratia* contribution to the Micronesians. This has been done without consulting with the Micronesian people or their elected leaders in the Congress of Micronesia or the district legislatures. In

exchange for this ex gratia contribution, however, the Micronesians are required to exchange something. It is difficult for us to understand why we must exchange something if your contribution is in fact a gift. If it is not in fact a gift, then we feel that we should not be required to release all claims against the United States and Japan until we first know the amount of such claims and can negotiate for their settlement.

I feel that it would be far better to leave the amount of the United States and Japanese contribution open until the actual amount of the claims has been determined. To set the amount of the payment before the amount of the damage is known, and to then require the injured party to release all right to further compensation in exchange for a gift, is not, we feel, the solution to this problem. We feel that if this bill is passed, it should not require Micronesians to release all of their claims. We feel that further requests for compensation should be permitted if necessary.

Another point that I feel should be considered by this committee is the composition of the Micronesian Claims Commission. I feel that having three Americans and two Micronesians on the Commission is unfair and improper. The culture and systems of property ownership in Micronesia are such that it will be difficult, if not impossible, for an outsider to deal effectively with the complexities that will be presented during the settlement of these claims. Further, the actual distribution of the money should be made by the representatives of the Micronesian people. I would recommend that three of the members of the Commission be Micronesian and two be American. Of the three Micronesians, I suggest that one be from the Mariana Islands district and one be from the Palau district since those are the districts where most of the damage was suffered during and after the war.

III TARIFF REDUCTION

I would also like to address a few short remarks to what all of us in the Congress of Micronesia believe is a most important provision of this bill: The elimination of tariff restrictions on products of the trust territory.

At the present time, goods from the trust territory have a duty imposed on them upon their entry into the United States. Unfortunately for our economy, goods from United States insular possessions and territories in the Pacific area, such as American Samoa and Guam, have no such duty. The effect of this policy is to make identical products more expensive if imported to the United States from the trust territory than from Guam or American Samoa. In fact, the United States imposes less restriction on goods of some foreign nations than on goods from the trust territory.

One good example of this is palm leaf handbags. I am informed that this fashion accessory will be in great demand in the warmer months of this year. In fact, inquiries have been made of Micronesian producers from some of the larger fashion outlets in the United States as to the possibility of delivery of large orders of this item. Palm leaf handbags from the trust territory are subject to a duty upon entry into the United States of 34% of their value, while the same items from Guam or from American Samoa enter duty free, and from the Philippines are subject to a duty of only 27%.

A second example is tuna. The Micronesian fishing industry has the potential of becoming the largest single source of revenue in the private sector of the trust territory economy, but to do so, there must be a market place where fish caught in our waters can be sold competitively. Import duties on trust territory fish range from 12.5% to 35% ad valorem, while those fish from insular possessions and territories of the United States enter duty free, and while fish from the Philippines are subject to duties of from only 10% to 28%.

America represents a natural outlet from Micronesian products. Micronesia faces a greatly unfavorable balance of trade problem, importing about 20.9 million dollars while exporting only \$4.2 million in 1971. With a limited population and limited internal markets, Micronesia must find external markets for her goods. In order to be able to purchase those goods which are not or cannot be produced internally, Micronesia must be able to compete in United States and other world markets in those goods which are produced locally to acquire the capital for imports and for continued development.

Let us examine the situation with regard to the United States market for Micronesian goods. In 1970, Micronesia imported \$10.1 million from the United States while exporting \$1.3 million. The result of this trade relationship is that Micronesia is contributing to the economy of the United States, albeit in a small way, instead of the other way around, as the trusteeship agreement indicates that it

should be. The facts further show that the Micronesian balance of trade is far better with Japan than with the United States, despite the fact that for 26 years our economy has been closely tied to yours.

In response to this situation, the Congress of Micronesia considered Senate Joint Resolution No. 14, calling for the elimination of import duties on Micronesian products. The measure passed the Senate, and failed to be adopted by the House of Representatives only because of the untimely adjournment of the Congress of Micronesia.

The Senate, in adopting the resolution, was of the opinion that if the United States Congress were to eliminate customs duties on Micronesian goods, the Micronesian balance of payments problem would be greatly alleviated. Micronesian goods could then enter the United States duty free and would be competitive with United States territories and insular possessions in the market for such goods. Suffice it to say that the Congress of Micronesia was in full support of that measure, and is of the same sentiment as to the measure presently before this Committee.

The facts show that the elimination of these restrictions would not in any way be harmful to the economy of the United States. Micronesian exports in 1970 included fish, meat, vegetables, copra, and handicrafts. Most of the meat and vegetables produced here are sold in Guam, where there is a shortage of such products. Copra and handicrafts do not share a market with any goods produced in the United States; Micronesian handicrafts are unique, and do not compete with the handicrafts of other areas. In the case of fish, there would be some small competition with United States fisheries, but when one considers the small amount of fish we produce as against the large demand for the product in the United States, the amount of competition which we might offer would indeed be infinitesimal. However, since fisheries play so great a role in our own economy, the effect of the removal of the tariff on fish would be of great benefit to us.

I would respectfully remind you, Mr. Chairman, of the words of the Trusteeship Agreement by which the United States administers the Trust Territory. The United States has voluntarily agreed to "promote the economic advancement and self-sufficiency of the inhabitants, and to this end shall . . . encourage the development of fisheries, agriculture, and industries." I respectfully submit, Mr. Chairman, that the importation of import duties much greater than those imposed against areas with whom we must compete in the marketplace is not in furtherance of that obligation. The elimination of those duties, however, would be a positive stimulus to our economy, which must one day enable us to attain our common goal of economic self-sufficiency for Micronesia.

IV—FREE ENTRY TO UNITED STATES MILITARY SERVICE

I also wish to state my support for those titles of the bill relating to free entry into the United States for Micronesian citizens, and to removing the restrictions against Micronesians entering the Army and Air Force. The former is important to those Micronesians who must obtain necessary training in the United States for a vocation or profession, or who desire to immigrate for the purpose of employment and permanent residence. In addition, many of our people have a desire to enter the United States Military, and to this extent, Senate Bill 860 will be welcome for them, also.

In closing, Mr. Chairman, let me again reiterate my support for this bill. I do hold the opinion that the title regarding war claims needs some substantial changes, but urge that favorable action on this measure, with such amendments as the Committee and the Congress see fit to make, be forthcoming.

Thank you very much.

Senator BURDICK. Bill Nabors.

You are an attorney for the War Damage Claims Settlement Committee for Mariana Islands District and for the Special Committee of the Palau Legislature for War Damage Claims Settlement, and legal advisor to the delegation.

Mr. NABORS. That is correct, Mr. Chairman.

Mr. Chairman, I too would like to submit my statement for the record.

Senator BURDICK. Without objection the complete statement will be made a part of the record.

Mr. NABORS. I would, however, like to touch upon a few highlights and address myself more in the nature of a rebuttal to some previous testimony given by administration witnesses.

STATEMENT OF WILLIAM B. NABORS, ESQ., ATTORNEY FOR THE WAR DAMAGE CLAIM SETTLEMENT COMMITTEE FOR THE MARIANA ISLANDS DISTRICT AND FOR THE SPECIAL COMMITTEE OF THE PALAU LEGISLATURE FOR WAR DAMAGE CLAIMS SETTLEMENT, AND LEGAL ADVISER TO DELEGATION

First of all, Mr. Chairman, let me express my gratitude to the subcommittee, and particularly the chairman, for their speedy consideration in passing in the 91st Congress Senate Joint Resolution 211. I have spent almost a decade in Micronesia, and consider this one of the most important aspects or problems facing Micronesia today.

It is my view that the settlement of the war damage claims for Micronesia and a resolution of the land problems in Micronesia would benefit our Government more than any other single or combined effort of the U.S. Congress.

I would like if I could, Mr. Chairman, to relate and address myself to the fact that last year I submitted on behalf of my clients 3,600 sworn affidavits detailing their claimed losses.

Senator BURDICK. The affidavits are in the committee files.

Mr. NABORS. As we stated last year, we consider the \$10 million war claims fund to be established pursuant to the agreement between the Government of Japan and the United States inadequate. However, we take the view that we are dealing not with total equity, but rather the art of the possible. We do, however, wish to point out that the \$10 million agreement apparently was arrived at due to a chargeoff by the Government of Japan, and for Japanese claims against the administering authority for property that it, the administering authority, took. Much of this property admittedly has gone for the use and benefit of the indigenous inhabitants of the trust territory. However, we wish also to point out that much of this property is presently held by the trust territory government as trustee for the Micronesians as residential areas, and some of which is used by the U.S. military for security purposes.

So it comes to our mind that the \$10 million agreement was arrived at in favor of the interest of the United States as well as those of the Micronesians.

The second point I wish to make in connection with the \$10 million agreement is the fact that in 1944 and 1945 the U.S. military forces on Saipan collected claims of the Saipanese people. These claims were collected from the Saipanese people while they were in stockade area that was erected for their own protection.

Based on the stated amounts in the claim taking in 1944 and 1945, there is a stated value of \$8 million for claims against the Government of Japan.

So we cannot fully agree that all documentation existing was taken into consideration in 1956, and most recently in 1969, with the signing of the agreement. It was not taken into full consideration by those who were responsible for negotiating this agreement.

However, as I stated earlier, we are dealing not with what is completely fair and equitable, but rather with the "art of the possible." And on behalf of my clients, the 3,600 claimants, we support the \$10 million and \$20 million claims provisions.

I would like, Mr. Chairman, if I might now, to address myself to Senate 860. I, too, join my colleagues in supporting enactment of 860. We are aware that Senate 860 contains several provisions, and that there is a likelihood or a possibility that one of the other titles might result in Senate 860 getting logjammed.

However, we feel that the provisions of Senate 860 are so important to Micronesians that we, and I on behalf of my clients, support the enactment of Senate 860, in that it contains the war claims bill, the economic development loan authorization, the military service for Micronesian citizens, the free entry into the United States of citizens of the trust territory, and the tariff benefit for products produced either in whole or in part in Micronesia.

We are hopeful that if it should occur that Senate 860 encounters any difficulty at all, that we would have the good will of the Congress in insuring that title II dealing with the war claims meets with success in this session of the Congress.

We are aware that each of these titles also has been dealt with in the past, individually. We are also aware that none has even reached the point of hearings. And we feel that the risk is calculated, but we feel that the benefits are such that it is justified that we support Senate 860 fully and unequivocally.

Thank you, Mr. Chairman, for this opportunity.

(The prepared statement of Mr. Nabors for inclusion in the record follows:)

STATEMENT OF WILLIAM B. NABORS, ESQ., ATTORNEY FOR THE WAR DAMAGE CLAIMS SETTLEMENT COMMITTEE FOR THE MARIANA ISLANDS DISTRICT AND THE SPECIAL COMMITTEE OF THE PALUA LEGISLATURE FOR WAR DAMAGE CLAIMS SETTLEMENT

Mr. Chairman and distinguished Members of the Subcommittee, I appreciate the privilege of testifying before you on S.J. Res. 35 and S. 860.

First, Mr. Chairman, I wish to add my gratitude to the Members of this Subcommittee, particularly to the Chairman, the Subcommittee staff and the Senate for their speedy consideration in passing the war claims measure in the 91st Congress.

SENATE JOINT RESOLUTION 35

The question of compensation for war damage suffered by the inhabitants of the Trust Territory has been the subject of comment and discussion since the last shot was fired that ended the hostilities of World War II. After forcing the inhabitants of the Trust Territory to wait for over a quarter of a century, there is hope that the end is in sight.

When I last testified before your Subcommittee, a great amount of supporting documents were submitted for the record and in justification of the need to settle these long outstanding equitable claims on the part of the people of Micronesia. You may recall at that time, in addition to a computer printout of individual claims, I also presented to you 3,600 sworn affidavits collected over many months from the island of Saipan to the most remote areas of the Marianas and Palua. I return today, after numerous meetings with my clients in both the Marianas and Palua concerning what in fact the legislative realities are in getting these

claims settled. Mr. Chairman, I cannot let this opportunity pass without telling you and Members of this Subcommittee how very much the people of Micronesia appreciate your continued interest in this, the most important and talked about issue in Micronesia today. In my meetings and conversations during the past few months I was particularly struck by the fact that these hearings and the Senate in the 91st Congress engendered a real sign of hope to the old people of Micronesia who have waited over a quarter of a century for some equitable solution of their claims. I noted among these older people of Micronesia two rather significant attitudes. In the first instance a feeling of renewed faith that America indeed is going to keep its trust. Secondly, I sensed a regeneration of hope for increased economic development for themselves and in particular for the future generations of Micronesians.

If I may now address myself specifically to the legislative proposals. Speedy action by this Subcommittee on Senate Joint Resolution 35, in view of the fact that the Senate Subcommittee on Territories reported an identical measure, Senate Joint Resolution 211, would clear the way for early passage and without a doubt bring happiness to tens of thousands of people before the end of this year. Under these circumstances, I urge the speedy passage of Senate Joint Resolution 35.

Soon after the June hearings in the 91st Congress were concluded, I made a full report to my clients in the Mariana District and the Honorable Francisco F. Morei, Vice-Chairman of the Special Committee of the Palua Legislature for War Damage Claims Settlement made several district-wide radio broadcasts in the Palua District on what had transpired in Washington during the month of June, 1970 on the war claims matter. In addition, I discussed these matters with the Honorable Itelbang Luii, Speaker of the Palua Legislature during his visit to Saipan in February of this year, and the consensus is that the passage of Senate Joint Resolution 35 should be strongly supported.

Based on the above, I fully and unequivocally support, for and on behalf of my clients, the passage of Senate Joint Resolution 35.

While the enactment of Senate Joint Resolution 35 is supported, we wish to again draw the Subcommittee's attention to some troublesome provisions of that measure for your consideration.

First of all, as has been previously alluded to, is the apparent inadequacy of the amount to be authorized to equitably settle the Micronesian War Claims, based on our extensive and meticulously documented data. The Congress, however will have to make the final decision in this regard.

Secondly, the language in Section 4(a) Title of S.J. Res. 211 that was passed by the Senate in the 91st Congress, covered all claims that arose "on or before July 1, 1951", but Section 4(a) Title I of S.J. Res. 35 covers all claims that arose "between the dates of the securing of the various islands of Micronesia by the United States Armed Forces and July 1, 1951". Technically, the language change is an improvement, but we fail to understand why the claims cut-off date is placed at July 1, 1951. The enactment of S.J. Res. 35 will leave open and unresolved all claims in Micronesia that arose after July 1, 1951. As our documentation submitted last year indicates there are a substantial number of just claims after July, 1951.

Lastly, we foresee some possible difficulty in having the Congress of Micronesia provide a list of Micronesian members of the Claims Commission, from which list two Micronesians will be selected. We, as was previously stated, unless each District has its own Claim's Commission, would prefer that there be no Micronesian members of the Claims Commission.

S. 860

I wish to endorse the testimony made by President Santos regarding S. 860. I have lived in Micronesia for nearly a decade and I believe no legislative proposal holds out more promise to the people of the islands than does S. 860. Its proposal to settle the war claims, the number one issue among Micronesians, adjust tariffs, provide for economic development funds, change the armed forces regulations means that the United States and Micronesia will enter into partnership for progress. It will mean economic diversification. It will mean that the young people of Micronesia will not have to fall prey to the old concept that "the grass is greener on the other side", because there will be the possibility for diverse employment opportunities. I applaud this Committee, its Chairman and staff for this farsighted approach to Micronesia.

Thank you again, Mr. Chairman, for your patience in this matter.

Mr. NABORS. I would be happy to answer any questions that you might have, Mr. Chairman.

Senator BURDICK. I have glanced over your written prepared statement, and together with your oral testimony here, I think you have covered the ground quite well. And we appreciate it.

Mr. NABORS. Thank you, Mr. Chairman.

Senator BURDICK. Mr. Schwebel, did you want to make some further comment?

STATEMENT OF STEPHEN M. SCHWEBEL, SPECIAL REPRESENTATIVE OF MICRONESIAN CLAIMS—Resumed

Mr. SCHWEBEL. Thank you, Mr. Chairman, so much.

May I say that I have listened to Mr. Nabors now with great interest and appreciation. And I am sure that my colleagues would join me in welcoming the support he has given to the resolution before you.

There were two points he mentioned which I would submit, however, indicate some misunderstanding, and I would like to take just this moment to endeavor to clear up that misunderstanding.

Mr. Nabors has the impression that the \$10 million sum arrived at in negotiations with Japan was arrived at, at least in part, by way of charging off against Micronesian claims of Japan. And that is an erroneous conclusion. Japanese claims are treated by the agreement, and were treated in the negotiations, as being disposed of, and not a penny has been paid on them either directly or indirectly, as by way of chargeoff or setoff, against Micronesian claims.

The amount to be paid for Micronesian war claims is exactly that amount, as was indicated earlier today, that the high commissioner asked us to seek. And that amount is to be paid in full.

The second point relates to the calculation of that sum of \$10 million which the high commissioner instructed us to seek. And Mr. Nabors is of the view that in the 1944 and 1945 claims then filed totaled as much as \$8 million. His familiarity with these claims much exceeds mine. But I might simply note that first there is considerable question about the rate of exchange to be taken in calculating the claims.

And second, in 1961 the Department of the Interior dispatched a survey team which examined all available documentation, including presumably that documentation, and arrived at a total sum for settlement which at that time was sought entirely from Japan, which was a good deal less than \$8 million, and less still than \$10 million.

Thank you so much, Mr. Chairman.

Senator BURDICK. Thank you.

At this time I will place in the record the telegram received from Prof. Harrop Freeman who was scheduled to be with us today.

(The telegram referred to by Senator Burdick for inclusion in the record follows:)

[TELEGRAM]

ITHACA, N.Y., March 29, 1971.

INTERIOR AND INSULAR AFFAIRS COMMITTEE,
U.S. Senate Office Building, Washington, D.C.:

As retained attorney and under specific cable instruction from Micronesian Congress I ask delay approval of Senate Joint Resolution 35 and S. 860 until

Micronesian Congress considers in May. Your committee authorized my appearance and submission statement for March 30. This telegram and seven-page statement sent today are my present testimony.

Grounds of objection: Amount grossly inadequate, should settle with Congress of Micronesia rather than individuals, is violation trustee obligations, attempts release United States and Japan from claims many times amount provided, United States may unknowingly be assuming \$4 billion liability, provisions as to U.S. Army undesirable, Micronesians not consulted. Many other objections.

PROF. HARROP A. FREEMAN.

Senator BURDICK. Are there any other witnesses who wish to testify?

If not, that concludes the hearing for today.

Thank you very much.

(Whereupon, at 2:27 p.m. the Senate Subcommittee on Territorial and Insular Affairs, Committee on Interior and Insular Affairs, adjourned, to reconvene subject to the call of the Chair.)

(Subsequent to the hearing the following material was received and, by instruction of the chairman, was ordered included in the record.)

TRUST TERRITORY OF THE PACIFIC ISLANDS,
THIRD MARIANA ISLANDS DISTRICT LEGISLATURE,
Saipan, Mariana Islands; March 11, 1971.

HON. HENRY M. JACKSON,
*Chairman, Interior and Insular Affairs Committee,
U.S. Senate, Washington, D.C.*

DEAR SENATOR JACKSON: Pursuant to the request of the 3rd. Mariana Islands District Legislature, I am enclosing, for your use and information, your copy of Resolution No. 61, that supports the speedy enactment of Senate Joint Resolution 35 for Micronesian War Claims.

Your courtesy in introducing this resolution for the benefit of the Micronesian is appreciated.

With kindest personal regards, I am

Sincerely yours,

VICENTE N. SANTOS, *President.*

Enclosure.

3D MARIANA ISLANDS DISTRICT LEGISLATURE—FIFTH REGULAR
SESSION

RESOLUTION No. 61-1971—INTRODUCED BY COMMITTEE OF THE WHOLE

A RESOLUTION RELATIVE TO ENDORSING AND URGING SPEEDY ENACTMENT OF SENATE JOINT RESOLUTION 35 OF THE 92D CONGRESS OF THE UNITED STATES OF AMERICA, RELATING TO MICRONESIAN WAR CLAIMS

Whereas, on January 26, 1971, Honorable Henry M. Jackson and Honorable Gordon Allott, Members of the United States Senate, introduced, by request, Senate Resolution 35 (S.J. Res. 35), a Joint Resolution

“To authorize an ex gratia contribution to certain inhabitants of the Trust Territory of the Pacific Islands who suffered damages arising out of the hostilities of the Second World War, to provide for the payment of non-combat claims occurring prior to July 1, 1951, and to establish a Micronesian Claims Commission.”; and

Whereas, Senate Joint Resolution 35 authorizes the appropriation of \$5,000,000 as a contribution towards the settlement of claims that arose in the Trust Territory prior to the securing of the various areas by the United States Armed Forces, and authorizes the appropriation of \$20,000,000 for damages to or loss or destruction of property, personal injury, or death caused by military civilian employees of the United States Government and arising out of accidents or incidents between the dates of securing of the various islands in the Trust Territory by the United States Armed Forces on July 1, 1951; and

Whereas, the enactment of Senate Joint Resolution 35 will make available a total of \$25,000.00 from the United States of America and \$5,000,000 from the Government of Japan to settle claims of the inhabitants of the Trust Territory of the Pacific Islands resulting from the hostilities of the Second World War up to July 1, 1951; and

Whereas, according to preliminary estimates, based on the values of properties of the date of loss, this amount of money appears to be inadequate to facilitate a fair and equitable settlement of the meritorious claims of the inhabitants of the Trust Territory, but the enactment of Senate Joint Resolution 35 will provide the machinery necessary to begin the settlement of this long and irritating problem; now, therefore, be it

Resolved By the 3rd. Mariana Islands District Legislature, that we hereby endorse and urge the speedy enactment of Senate Joint Resolution 35 of the 92nd Congress of the United States of America, relating to Micronesian War Claims; be it further

Resolved That the President certify to and the Legislative Secretary attest the adoption hereof and thereafter transmit copies of the same to each member of the Congress of the United States of America, the Secretary of the Department of the Interior, and the Secretary of the Department of State.

Passed by the 3rd Mariana Islands District Legislature February 23, 1971.

VICENTE N. SANTOS, *President.*

DANIEL T. MUNA,

Legislative Secretary.

ITHACA, N. Y., March 3, 1970.

HON. CHARLES E. GOODELL,
New Senate Office Building, Washington, D.C.

DEAR SENATOR GOODELL: I am writing this from the Trust Territory of the Pacific, where I am Attorney for the Micronesian people. I understand that there is presently before the United States Congress a Bill to appropriate the \$5 million which is the United States portion of \$10 million from Japan and the United States to settle claims between the two governments and between them and the Micronesian people. I ask that you look into this Bill and if possible demand hearings, including hearings of the Micronesians. You are authorized to file copies of this letter with appropriate committees or members of Congress.

In the spring of 1969 I filed with Congress, State, Interior and other departments and the President's Office and the United Nations, a formal protest against what I understood was the United States-Japanese "Treaty". It turned out to be an Executive Agreement, and is said to have become effective, July 7, 1969. I wish to stop any Congressional action that would affirm the Agreement by appropriations until the Micronesians can be heard, for the Agreement comes into effect on appropriation. Let me very briefly outline the Micronesian position:

- (1) The amount is wholly inadequate (perhaps only 1-2% of the total).
- (2) The Micronesians have claims against the Japanese under the League of Nations Mandate from 1918 to 1946; they have claims for seizure of land, for war damage, for using the islands in violation of the League, agreement for exploitation of the economy, for arming the islands and involving them in war contrary to the League Charter, etc.
- (3) They have claims against the United States for war damage, as successor to the Japanese, for land claims and use, for breach of the United Nations Trusteeship, for nuclear and missile testing, for other damages, etc.
- (4) The United States, as Trustee, is not allowed to amalgamate claims of its *cestuis* (Micronesians) and itself (as sovereign) and claims of Japan against the United States and offset these one against the other. The Trustee's obligation to the beneficiary must be administered solely in the beneficiary's interest, and kept separate from United States claims.
- (5) Even if the Executive Agreement binds the United States and Japan it is not controlling as to the Micronesians. They have claims against the United States as Trustee for improperly entering into the Executive Agreement. If the United States releases Japan (as the Agreement seems to do when money is appropriated by Congress) then the United States may itself become liable to the Micronesians for *all* their damages.
- (6) The United States is ultimately answerable in the United Nations and World Court as Trustee.
- (7) In no way should the Micronesians be forced to seem to approve the arrangement by Congress (United States) appropriating the \$5 million.

If you refer back to my earliest protest on the Executive Agreement you will see that this has been our position at all times.

I am now going to Japan to make my representations to the Japanese Government. I hope you will do all you can to have this matter reviewed and heard in the United States Congress. I expect to return to Ithaca in April.

Cordially,

HARROP A. FREEMAN.

ITHACA, N.Y., June 30, 1970.

HON. CORNELIUS GALLAGHER,
House of Representatives Office Building,
Washington, D.C.

DEAR MR. GALLAGHER: My good friend and former student, Rep. Frank Horton of Rochester, has called me to report that though the Hearings are presently closed in your committee on the U.S.-Japan Executive Agreement to settle Micronesian claims, you would be glad to hear me as attorney for the Micronesians and discuss the matter with me. I appreciate your courtesy in the matter.

I have previously filed protest against the Agreement with Japan and with the U.S. State and Interior Departments and certain Congressmen. A copy of such protest is attached. Our position may be briefly summarized:

- (a) The Agreement was made without consulting the Micronesians.
- (b) The United States is a trustee and acted in breach of its trust.
- (c) Claims of the Micronesians were amalgamated with other claims and consideration thus flowed to non-Micronesians.
- (d) The amount fixed is too small.
- (e) Other improper concessions were made in the exchanges of correspondence.
- (f) Many claims exist against Japan going back to the Mandate of 1918. Japan claims that all these are settled and it is fully discharged.
- (g) It appears to be Japan's (and the U.S.) position that the United States is holding Japan harmless against any Micronesian claim. We wonder whether the United States is prepared to take on our claims which we believe total several Billion dollars.
- (h) The Micronesians want the settlement, when made, made with their own government and they will settle with specific claimants. This is the usual international procedure.
- (i) They also want this settlement as a part of a settlement of all matters with the United States.

I shall appreciate an opportunity to meet with you at your convenience.

Sincerely,

HARROP A. FREEMAN.

CORNELL LAW SCHOOL,
Ithaca, N.Y., Mar. 29, 1971.

INTERIOR AND INSULAR AFFAIRS COMMITTEE,
U.S. Senate, U.S. Senate Office Building,
Washington, D.C.

GENTLEMEN: On March 26th I was in your office and was given permission to appear as a witness or submit a statement as testimony at the hearing on S.J. Res. 35 and S. 860 scheduled to begin March 30, 1971. I am the retained attorney for the Congress and People of Micronesia by a Joint Resolution of the Congress in 1969. Today (March 29, 1971) I received a telegram from the Congress of Micronesia instructing me to file objection to S.J. Res. 35 and S. 860, and agreeing on the grounds to be urged in my statement.

I submit herewith four copies of my seven page statement and three page attachment as and for my present testimony. I shall be glad to appear further before the Committee if they desire me to do so.

I have also sent a telegram to the Committee today stating the opposition of myself and the Micronesian Congress and outlining the grounds of objection. This, also, should be considered part of my statement.

I respectfully request that approval of S.J. Res. 35 and S. 860 be deferred until after May, when the Micronesian Congress may consider these matters, along with any others coming from negotiation with the United States as to future Political Status or otherwise.

Respectfully yours,

HARROP A. FREEMAN,
Attorney for Micronesian People and Congress.

ITHACA, N. Y., March 29, 1971.

To the U.S. Senate, Interior and Insular Affairs Committee, Senate Office Building, Washington, D.C.:

On March 26, 1971 I was given permission to appear as a witness at the Hearings beginning March 30, 1971 on S. 860 and S.J. Res. 35 dealing with the Trust Territory of the Pacific (Micronesia). I am the Attorney for the Congress and People of Micronesia, being retained by a unanimous Resolution of both Houses of that Congress. I have heretofore filed objection to the implementation of the United States-Japanese Executive Agreement of July 7, 1969 (April 18, 1969), the subject of S.J. Res. 35.

Although the Micronesian People appreciate and wish to express their thanks for the concern of the United States for their welfare expressed in this Bill and Resolution and elsewhere, we must most respectfully request that these be not adopted at this time. Our opposition is based upon the following considerations, among others:

1. The United States is a Trustee in the Trust Territory of the Pacific and all its acts must meet the high standard required of a trustee. It may not engage in self-dealing, act contrary to the desires of the trust beneficiaries, advance its own interests at their expense, make it harder for them to achieve self-government and independence.

2. We have stated many times that when settlement of Micronesian claims is made, the settlement should be made by the United States (or Japan) with the Micronesian People (government) and then this entity should recognize and pay the claims of separate Micronesians. We do not want an American claims commission handling the settlements. There are many reasons for this: a) Many of the claims belong to the People of Micronesia as a whole—damage to their islands, governance, lagoons and sea, communal rights; in a very real sense the death of an individual or the use of a piece of property affects the community entitled to rely thereon. b) There are many claims no single individual could assert or prove. c) It is the general practice of the International community to settle with the whole People (e.g., Philippines, Japan, Thailand, etc.). d) For the United States to insist on settling with individuals again robs the Micronesians of an important element of self-government which is to be fostered by the Trust Agreement. e) The Micronesian Congress has a draft Bill creating a Micronesian Claims Commission to handle all these matters. f) If the U.S. Commission were to allow some claims and bar others (by fixing time, limitations, etc.), these barred persons would be dissatisfied; it would be the Micronesian Congress, not the United States, who would have to live with this political discontent. g) [See later arguments also applicable here].

3. The Executive Agreement between the United States and Japan is particularly objectionable to the Micronesians. May I outline a few reasons: a) It was negotiated by the United States without any participation over a twenty year period by the Micronesians. b) The amount of \$10 million is wholly inadequate (one attorney representing perhaps 1% of the Micronesians has over four times that amount of claims). c) The United States attempted to act as Trustee in negotiating with Japan, yet it violated the basic concept of trusteeship in off-setting claims of Japan and its nationals against the United States as well as against Micronesians (e.g. including claims, property and rights of 100,000 Japanese who were repatriated by the United States for its own security reasons and whose property and rights then were taken over by the United States). d) The Executive Agreement releases Japan of all obligations and liability to the Micronesians (and this is asserted and agreed to by the United States and Japanese State Departments); the Micronesians assert claims against Japan (for breach of the old League Mandate, for arming the territory contrary thereto, for forced labor, for money put into Japanese securities and never repaid, for land taken and never paid for, for deaths and injuries, etc., etc.) of over \$1 Billion—and those are to be released by the United States on behalf of the Micronesians for \$5 Million? e) The Japanese admit that they may have owed Micronesia as much as \$1 Billion but that the United States received many advantages (good relations as to military bases in Japan) and for these the United States has substituted itself for the Japanese and Micronesia's claim is thus transferred against the United States. Does Congress by appropriating \$5 Million thereby represent to the Micronesians that it assumes responsibility for the claim against Japan to the tune of perhaps \$1 Billion? (see point later herein). f) By the letters accompanying the Executive Agreement, the United States attempted to give Japan two new rights for the future—to salvage vessels in Micronesian waters and to use ports—which are of much greater value than the \$5 million Japan is to pay. g) The right

of the United States to negotiate this Executive Agreement is asserted by the State Department under Article 4(a) of the Treaty of Peace with Japan and Articles 3, 8, 10, 11, 14 of the Trusteeship Agreement—none of which provisions contain any authority therefor. h) The Trust Territory is administered under the United Nations, Japan and the United States are members; this Agreement was not submitted to or approved by any United Nations agency; the issues here raised are proper issues for the World Court. i) There are many other objections to the Executive Agreement and Japan-United States settlement which may be developed further.

4. The amount of all the proposals for settlement are grossly inadequate. The Executive Agreement and S.J. Res. 35 calls for \$10 million. S. 860 adds another \$20 million. I have asserted claims for the Micronesians against the United States and Japan (the United States as successor, see point three above) for between \$2 and \$8 Billion. Let us outline these in general terms: The United States has kept out of use by the Micronesians nearly 50% of their land and water rights (figure use value or rent for twenty years of about 225,000 acres); it has injured the land, beaches, lagoons, seabed, sea use by atomic, missile and military testing; it has taken by eminent domain and agreement without understanding by the Micronesians of extensive land rights, whole islands, etc. for too extensive periods and for inequitable amounts (99 year leases, compensation at 1/10th value); it has caused war and post war damage—death, injury, property destruction and injury, destruction of Japanese improvements and other communal and cultural assets, exploitation and stagnation of the economy and development, the militarization of the islands. As Trustee the United States has breached the Trust Agreement by failing to bring Micronesians to self-government and independence promptly (it is the last United Nations Trusteeship); by self-dealing in all its forms (e.g. as trustee granting itself as sovereign military bases, atomic tests); by failing to provide adequate health, education, AID and like assistance; by seizing and keeping out of use large land and water areas and rights without authority and without just compensation; by threats to the peace and security of Micronesia by including it in the American defense perimeter; by many other acts. Japan (to whose liability we are told the United States succeeds) breached the League of Nations Mandate which made Japan a trustee as to the Micronesians, by failing to bring the Micronesians to self-government; by seizing and keeping out of use large land and water areas and rights without authority and compensation; by forced labor and conscription; by forced saving and non-payment of Japanese script, certificates and obligations; by bringing war and war destruction to the area; by self-dealing in all its forms; by failing to provide adequate education, health, etc.

Some comparison can be seen with other settlements. The earliest appropriation for war damages only in the Philippines was \$400 million (60 Stat. ch. 242-3, Apr. 30, 1946). The United States has just agreed to pay the Indians, Eskimos and Aleuts of Alaska \$1 Billion and return a large block of land. And here we are trying to settle all the claims of all the Micronesians for 50 years (1918) on for \$10.30 Million?

The Interior and State departments have insisted on asking me: what specific claimants do you represent, how much are their claims. I refuse to represent any individual claimant. To do so would be inconsistent with my obligation to the Micronesian People. There is one attorney in Micronesia who has pulled together claims totalling over \$50 million, from Saipan and Koror only. I have talked to Micronesian leaders, visited other islands and know that if all individual claims were found they would exceed this figure 10 to 20 times over. If these few claimants get all the money appropriated what do the rest do?

5. There is a special Micronesian Congress called for May 1971. By cable the Micronesian Congress has asked me to delay any United States Congress action on S.J. 35 and S. 860 until all matters related thereto can be considered in such session of the Micronesian Congress.

6. The Micronesian Congress at this point objects to any provision for incorporating Micronesian persons, through enlistment or otherwise into the United States army as in Title V of S. 860.

7. Attached hereto are two typical letters of protest on these matters which I have filed with both Houses of Congress and the Committees concerned.

8. A particular need exists to speak further of the Japanese-United States Executive Agreement of 1969, its theory and effect. As pointed out above, Japan insists and the United States agrees (letter from State Department) that Japan is fully released by the Agreement. There seems to be some argument whether the Agreement becomes effective before Congress appropriates money to implement

it (and as to the Micronesians before they approve in some way). Although the Agreement starts out speaking of war claims, its exculpatory language is broad enough to cover all claims. We have shown these to be many times greater than the amount agreed upon. From the view of the Congress of the United States the most important question may be whether in appropriating \$5 Million it is accepting liability to the Micronesians for all their claims against Japan, which may total \$2-6 Billion. If the United States is assuming that obligation and agreeing to pay what Micronesian claims prove to be, then we want this spread on the Record. This does not seem to be what S. 860 and S.J. Res. 35 is doing. Is the United States Congress ready to buy this pig-in-a-poke?

9. Let us examine S.J. Res. 35 to illustrate a few objections, specific but less critical than the above, but in some instances illustrating the above:

- (a) p. 1:
It covers only "certain" inhabitants.
"Claims prior to July 1, 1951" (the beginning date not fixed).
- (b) p. 2:
Payments are "ex gratia"—no recognition of liability.
"Incidents" is a very broad term and would cover all types of claims.
- (c) p. 3:
L. 4: "Ex gratia."
L. 5: To the specific "inhabitants" not Micronesia.
L. 7: Claims commission.
L. 8, 13-14: Only "particular" amounts.
- (d) p. 4: L. 5-24: A \$10 million claims fund administered by the United States.
- (e) p. 5: L. 1-25: A claims commission of 5 members, only 2 Micronesians.
- (f) p. 7: L. 9-24: A procedure wholly inadequate to allow for prepaying and presenting claims, barring claims.
- (g) p. 8: L. 4-23: Here shifts to language broad enough to bar claims of all "Micronesian inhabitants", not just specific claims.
- (h) p. 9: L. 12-21: Makes it clear that this is all the money there is to be and if not enough claims receive only "pro rata payments".
- (i) p. 9: L. 22-25; p. 10: L. 1-2: Even clearer that this is all there is to be and sneaks in a general release of both the United States and Japan "in respect of any alleged liability of the United States or Japan or both arising before the dates of securing of the various islands of Micronesia by the United States Armed Forces. That would mean not merely individual claims but Micronesian People claims from the beginning of the Japanese Mandate (1918) and United States obligation to stand in place of Japanese liability, mentioned above.
- (j) Title II, p. 11-12: Title II and its shotgun provision may be the worst. It appropriates \$20 million and attempts to finally settle all the many claims up to July 1951 whether caused by the military or civilian, sovereign or trust,
- 10. A similar analysis of S. 860 would show the same and additional objectionable features:
 - (a) p. 2 L. 2: An attempt to sweeten the settlement of claims by small additions to a development fund
 - (b) p. 4: Only "certain" inhabitants; "exgratia"
 - (c) p. 5: Special fund limited to \$10 million; creates a Commission
 - (d) p. 6:
Commission controlled by United States
Only 2 out of 5 are Micronesians
Provision for Commission costs
 - (e) p. 8: Fixes unreasonable procedure for filing claims and bars all claims after 1 year.
 - (f) p. 9: Broadens language to cover all claims of Micronesian inhabitants
 - (g) p. 11:
L. 7: This is to be whole fund end pro rata payments are contemplated.
L. 8-13: Very broad general releases must be executed, releasing many claims discussed above.
 - (h) p. 12 ft.: Ch. II attempts to provide \$20 Million in complete settlement of all post war claims ("all claims by Micronesian inhabitants"). But it allows claims only to July 1951. It bars all claims not presented promptly. The settlements are final and not subject to review.
 - (i) p. 14: Title III on Free Entry of Citizens ought not to be in here to "sweeten" an inequitable attempt at settlement.
 - (j) p. 15: The same is true of Title IV, which also contains language difficulties of its own.

(k) p. 17-18: We already stated separate objection to Title V and any inclusion of Micronesian People in the United States Army.

Sometime the United States Government must come to the realization that its own unilateral good grace is not an adequate basis for dealing with Micronesian interests. Micronesia is seeking and ready for independence or *free* association with the United States. That must be negotiated out. The various legitimate claims of Micronesia and its desire to deal with its own people must be recognized in that negotiation and final settlement. For all the above reasons, this Committee and the Senate and House of Representatives of the United States is respectfully requested to defer action of S. 860 and S.J. 35 until the Congress of Micronesia hall meet and take action.

Respectfully submitted,

HARROP A. FREEMAN,
Attorney for the Micronesian Congress and People.

DEPARTMENT OF STATE,
Washington, D.C., April 12, 1971.

HON. QUENTIN N. BURDICK,
*Chairman, Subcommittee on Territories and Insular Affairs,
Committee on Interior and Insular Affairs, U.S. Senate*

DEAR MR. CHAIRMAN: In response to Mr. Gamble's request to Mr. Stephen M. Schwebel, we have examined the letter and attached material relating to the claims legislation sent by Professor Harrop A. Freeman to the Senate Interior and Insular Affairs Committee.

The attached memorandum signed by Deputy Assistant Secretary Herz and approved by the Department of the Interior sets forth our comments on the substance of Professor Freeman's presentation.

If we can be of any further assistance to you on this matter please let me know.

Sincerely yours,

HARRISON M. SYMMES,
Acting Assistant Secretary for Congressional Relations.

Attachments as stated.

MEMORANDUM BY THE DEPARTMENT OF STATE RESPECTING PROFESSOR HARROP A. FREEMAN'S LETTER OF MARCH 29, 1971, TO THE INTERIOR AND INSULAR AFFAIRS COMMITTEE OF THE UNITED STATES SENATE

1. Professor Harrop A. Freeman, in his letter of March 29, 1971 to the Senate Interior and Insular Affairs Committee, in the attachments to that letter, and elsewhere, has made a large number of statements about proposed settlements of Micronesian claims. This memorandum addresses the salient points advanced by Professor Freeman in his letter of March 29.

2. Professor Freeman states that he is "the" Attorney for the Congress and People of Micronesia, "being retained by unanimous Resolution of both Houses of that Congress." It is not clear when Professor Freeman was retained, for what purpose, with what authority, and for what period of time. It may be noted that spokesmen of Micronesian claimants who have appeared before a Subcommittee of the Senate Committee in 1970 and 1971 and before a Subcommittee of the Committee on Foreign Affairs of the House of Representatives in 1970 have expressed views profoundly at variance with those advanced by Professor Freeman.

3. Professor Freeman states that any settlement of Micronesian claims should be made by the United States or Japan (he apparently excludes a joint settlement by the United States and Japan) with "the Micronesian People (government)", which government will "recognize and pay the claims of separate Micronesians". That is to say, Professor Freeman maintains that any claims settlement should be deferred until there is an independent or self-governing Micronesian Government. It may be questioned whether, in so stating, Professor Freeman speaks for the Congress of Micronesia or for Micronesian claimants. The Congress of Micronesia, the District Legislatures of the Marianas and Palau (the districts having the bulk of claims) and counsel for claimants and representatives of Micronesian claims committees have, on the contrary, pressed for the earliest possible satisfaction of Micronesian claims. So has the United Nations. In this regard, attention is drawn to the attached (a) bill adopted February 2, 1971 in one House of the Congress of Micronesia (it was not acted upon in the other prior to the premature adjournment of the Congressional session); (b) resolutions of the District Legislatures of Palau of October 1970 and of the Marianas of February 23, 1971, and to the quotations from United Nations proceedings set out by Deputy Assistant

Secretary of State Martin Herz in his testimony before a Subcommittee of the Senate Committee on March 30, 1971.

4. Professor Freeman advances several reasons for his wish to defer settlement of Micronesian claims, among them, that there are claims not of an individual character, that it is the general practice of the international community to settle "with the whole People", that self-government of Micronesians is not fostered by individual settlements, and that, if some claims are debarred, it will be the Micronesian Congress which will have to live with the resultant political discontent.

5. In reply, it should initially be noted that, over the years, it has been individual, not community claims, which have been pressed before Visiting Missions of the United Nations and upon officials of the Trust Territory. As far as is known, it is individual claims for which compensation is still sought by Micronesians. The Agreement between the United States of America and Japan which entered into force on July 7, 1969, does not debar collective settlement of claims. Since, however, it has been individual claims for which settlement has been sought, it has been the intention of the United States Government to respond to those claims. Should the Congress of Micronesia officially manifest a preference for collective in place of individual settlements—which it has not—and should certain Micronesian claimants wish, as a group, to submit their claims collectively, the Micronesian Claims Commission is not limited to individual claims and would be free to examine and adjudicate collective claims which otherwise are within its competence.

6. There is no "general practice" of claims settlements made on behalf of the inhabitants of a Trust Territory. It is established, however, that the Administering Authority of a Trust Territory conducts the foreign relations of that Territory, of which an international claims settlement is an aspect. By the terms of the Trusteeship Agreement approved by the Security Council of the United Nations, the United States, as Administering Authority, is accorded "full powers of administration, legislation and jurisdiction" over the Territory and shall afford diplomatic protection to inhabitants of the Territory. It necessarily flows from these plenary powers that the United States is competent, as a matter of international law, to conclude an international claims settlement on behalf of the people of Micronesia as a whole and individual claimants among them.

7. It is difficult to see the point of Professor Freeman's assertion that settlement of individual Micronesian claims "again robs the Micronesians of an important element of self-government". The adjudicatory processes of a claims commission customarily involve relatively few persons; and of those to be involved in the Micronesian Claims Commission which is contemplated, only three will necessarily be American. If his point is that settlement should be deferred until the future status of Micronesia is both determined and implemented, that would seem to be an approach not shared by authoritative Micronesians.

8. That, as Professor Freeman foresees, there may be some persons dissatisfied with the processes of the Micronesian Claims Commission because some claims will be allowed and others not, is in the nature of the claims adjudication process. If such discontent is visited upon a claims commission constituted by the Administering Authority rather than wholly by Micronesians, it is hard to see why that should be to the detriment of the Congress of Micronesia or other Micronesian agencies.

9. Professor Freeman then proceeds to list several reasons why the Executive Agreement with Japan for settlement of Micronesian claims is "particularly objectionable". These will now be stated and dealt with in turn.

10. Professor Freeman states that the Agreement was negotiated by the United States without any participation over a twenty-year period by the Micronesians. This criticism (the factual basis of which is substantially correct) was considered, and its force was acknowledged, in the statements of the Special Representative for Micronesian Claims of the Department of State made before the Senate Subcommittee in 1970 and 1971 and before the House Subcommittee in 1970 (attention is drawn particularly to pages 28-29 and pages 72-73 of *Micronesian Claims, Hearings before the Subcommittee on International Organizations and Movements of the Committee of Foreign Affairs, House of Representatives, Ninety-first Congress, Second Session, on H.J. Res. 1161, H.J. Res. 1258, and H.J. Res. 1265.*)

11. Professor Freeman states that the amount of \$10,000,000 for settlement of wartime claims for which the Agreement with Japan provides is "wholly inadequate". However, \$10,000,000 is the whole of the sum which the High Commissioner of the Trust Territory recommended be sought in 1966, on the eve of renewed negotiations with the Government of Japan; it is a sum which very sub-

stantially exceeds what the survey team of the Department of the Interior recommended be the total for settlement of war claims in 1961; it is a sum which exceeds the amount paid to inhabitants of Guam by the United States after the Second World War (an island whose population then more or less equaled that of the whole of Micronesia, and which had been the scene of especially intense fighting); and it is a sum which, when compared with the scale of payment of death claims in Micronesian courts in recent years, appears to be generous.

12. Professor Freeman states that the United States violated its obligations as Trustee by offsetting against Micronesian claims that claims of Japan and its nationals against the United States as well as those against Micronesia. In response, it is true that claims of Japan and its nationals against the Administering Authority of the Trust Territory and its inhabitants are treated by the Agreement with Japan as disposed of and as fully and finally settled. But not one penny of those Japanese claims was offset against the claims of Micronesians; on the contrary, the Agreement provides for payment of the whole sum of \$10,000,000 which was sought on the Micronesian behalf. Nor were any claims of Japan or its nationals against the United States, whether in its capacity as Administering Authority or otherwise, offset against Micronesian claims.

13. Professor Freeman notes that the Agreement with Japan releases Japan of all Micronesian claims; and he asserts that these claims are "over \$1 Billion." Japan is indeed released by the terms of Article III of the Agreement of all claims contemplated in Article 4(a) of the Treaty of Peace with Japan (which is quoted in an attachment to this memorandum); and the Agreement is further supplemented by an exchange of notes of April 18, 1969, which confirms the understanding that, "in view of the fact that all claims of Japan and its nationals against the United States, as Administering Authority, and the residents of the Trust Territory are recognized to have been disposed of, Japan and its nationals are fully and finally discharged from all Micronesian claims falling under Article III of the Agreement, including claims arising out of involvement of the Trust Territory in the Second World War." By the force of the Agreement, Japan treats as relinquished its claims against the residents and administration of the Trust Territory; it undertakes to contribute to the meeting of Micronesian claims; and, in return, the United States, acting on behalf of the Micronesians, treats Japan and its nationals as fully and finally discharged of Micronesian claims. Such a mutual waiver of claims is a customary provision of a claims settlement, reasonable in this case as in others.

It should be added that Professor Freeman's contention that the Micronesians assert claims against Japan "of over \$1 Billion" has not been substantiated by claims which the Congress of Micronesia, District Legislatures, the various claims committees in Micronesia, or counsel for Micronesian claimants have, as far as is known, submitted to the Administering Authority or the Government of Japan. Such claims were not advanced in all the years of Micronesian efforts to obtain a settlement of claims against Japan. For their part, the Departments of State and Interior know of no basis for claims against Japan remotely approaching the dimension of one billion dollars.

14. Professor Freeman continues that, "The Japanese admit that they may have owed Micronesia as much as \$1 Billion but that the United States received many advantages (good relations as to military bases in Japan) and for these the United States has substituted itself for the Japanese and Micronesia's claim is thus transferred against the United States. Does Congress by appropriating \$5 Million thereby represent to the Micronesians that it assumes responsibility for the claim against Japan to the tune of perhaps \$1 Billion?"

15. Professor Freeman cites no evidence for the claim of a Japanese admission of liability to Micronesia of "as much as \$1 Billion". In almost twenty years of concern with the subject, the Government of Japan has never, to the best of the knowledge of the Departments of State and Interior, admitted owing anything to the Micronesians. Specifically, we have no information supporting, and would have difficulty in crediting, any claim that authoritative Japanese have acknowledged that "they may have owed Micronesia as much as \$1 Billion".

16. Moreover, there is no basis whatsoever for the imputation that the United States has assumed responsibility for Micronesian claims against Japan. The United States recognizes no legal responsibility for Micronesian war claims, whether leveled against it or against Japan. It proposes to make an *ex gratia* contribution to the settlement of Micronesian war claims, and thus clearly does not accept legal responsibility for them. In agreeing with Japan on the terms of a settlement and a mutual waiver of claims—claims of Japan against the Administering Authority and residents of the Trust Territory, and claims of the Administering

Authority and residents of the Trust Territory against Japan—the United States no more assumes liability for Micronesian claims against Japan than does Japan assume liability for Micronesian claims against the United States. (In this regard, see the *Hearings* cited above, at pages 33–37 and 57–58.) It is accepted in international law and practice that a State may settle the international claims of persons to whom it extends diplomatic protection and that, in so doing, the State does not become liable to the claimant unless it assumes such liability. That the United States most decidedly has not done.

17. Professor Freeman maintains that rights to be accorded to Japanese fishing vessels to call at the ports of Truk and Palau and to be accorded to Japan and its nationals to salvage vessels of Japanese registry in Micronesian waters are “of much greater value than the \$5 million Japan is to pay.” The Departments of State and Interior are not aware that this is the fact, and note that no evidence is advanced in support of this contention.

18. Professor Freeman contests the right of the United States to negotiate an executive agreement on Micronesian claims pursuant to Article 4(a) of the Treaty of Peace with Japan—but again offers no reason for his challenge. Authorization in a treaty is one of the principal sources of the President’s authority to conclude executive agreements. Article 4(a) of this Treaty, in providing for the subsequent conclusion of “special arrangements” on claims, is a classic case of authorization of the Executive to conclude an executive agreement. The authority of the United States, as Administering Authority, to conduct the foreign relations of the Trust Territory and to represent its citizens internationally has been referred to in paragraph 6 of this memorandum.

19. Professor Freeman, noting that the Trust Territory is “administered under the United Nations”, complains that the Agreement was not submitted to or approved by any United Nations agency. Professor Freeman is in error. The most competent United Nations organ, the Trusteeship Council, has been fully informed of the Agreement and the conclusion of the Agreement has been welcomed by the Council.

20. Professor Freeman then proceeds to elaborate some of the contentions discussed above. He notes: “I have asserted claims for the Micronesians against the United States and Japan (the United States as successor . . .) for between \$2 and \$8 Billion.” And he proceeds to cite elements of these alleged, immense claims—the elastic range of which (between two and eight billion) is suggestive of their lack of substance.

21. Insofar as Professor Freeman asserts that claims may be maintained against the United States, as successor to Japan, for international delicts of Japan, he contradicts accepted international law. A successor State is not generally liable for the international wrongs of its predecessor, and international wrongs—breaches of the League Mandate by Japan—are precisely the basis of Professor Freeman’s claim (see O’Connell, *State Succession in Municipal Law and International Law*, 1967, pages 482–493).

22. Professor Freeman’s claim of the inadequacy of the ten million dollars to be allotted to Micronesian war claims, which he seeks to bolster by reference to the Philippines and Alaska, has been dealt with in paragraph 11 of this memorandum. It may be added that, in respect of the Philippines, the number of people and the amount of property affected by the hostilities of the Second World War were far greater than was the case in the islands of Micronesia (where the total wartime population of Micronesians was of the order of 45,000); and in respect of Alaska, that the extent of the territory and resources involved is vastly greater than in Micronesia—apart from other distinguishing facts which make reliance on Alaska inapposite.

23. The United States accepts none of the multiple charges of breaches of trust which Professor Freeman alleges as basis of his claims of between two and eight billion dollars. It is pertinent to note that the United Nations, which carefully oversees the performance by Administering Authorities of their obligations under trusteeship agreements, has not considered, still less upheld charges of the grave breaches of international obligation which Professor Freeman has advanced.

24. Professor Freeman states that the Congress of Micronesia “has asked me to delay any United States Congress action on S.J. 35 and S. 860” until a special session of the Congress of Micronesia meets in May. Apart from the fact that the Congress of the United States is the master of its proceedings, the Departments of State and Interior have not been informed by the Congress of Micronesia that it is its wish that action on Micronesian claims and the relevant bills before Congress be delayed until May.

25. Professor Freeman maintains that there is "some argument" whether the Agreement with Japan becomes effective before Congress appropriates money to implement it and before the Micronesians approve it. As United States *Treaties and Other International Acts* officially records, the Agreement entered into force on July 7, 1969. While elements of the Agreement will not be effective unless the United States Congress appropriates \$5,000,000, thereby activating the Japanese contribution and certain of Japan's rights under the Agreement, other elements of the Agreement are already fully effective, including the mutual waiver of claims.

26. Professor Freeman reverts to the "most important question" of whether the United States Congress, by appropriating five million dollars, "is accepting liability to the Micronesians for all their claims against Japan, which may total \$2-6 Billion." As pointed out in paragraph 16 of this memorandum, the answer to this question is clear: the United States does not, directly or indirectly, assume any measure of liability for any Micronesian claims against Japan by reason of the Agreement with Japan or its implementation or otherwise. (A memorandum developing this conclusion was submitted by the Department of State to the Congress in 1970; attention is drawn to the *Hearings* cited, at pages 57-58.) It is, however, of interest to note, that, while at the outset of his letter, Professor Freeman characterizes Micronesian claims against Japan as "over \$1 Billion" (see paragraph numbered 3 of Professor Freeman's letter), at the conclusion of his letter (paragraph 8), he states that Micronesian claims against Japan "may total \$2-6 Billion". The reason for this further inflation of claims in the course of the letter is not stated.

The Department of the Interior concurs in the views expressed in the above memorandum.

MARTIN F. HERZ,
Deputy Assistant Secretary,
International Organization Affairs.

[H.J. Res. 24, 4th Cong., First regular sess.]

A HOUSE JOINT RESOLUTION: Urging the United States Congress to arrive at a speedy and equitable settlement of the pre-secure and post-secure damage claims for the people of the Trust Territory of the Pacific Islands

WHEREAS, more than twenty-five (25) years have elapsed since the cessation of hostilities that marked the end of World War II which brought destruction of private property, loss of life, and serious injuries to the people of the Trust Territory of the Pacific Islands; and

WHEREAS, under provisions of the Treaty of Peace between the United States and Japan, the Government of Japan agreed to settle claims for the destruction of private property, loss of life and injuries to the people of the Trust Territory of the Pacific Islands; and

WHEREAS, in April, 1969, the United States Government and the Government of Japan entered into an agreement that would provide \$10,000,000 to the people of the Trust Territory of the Pacific Islands for the destruction of private property, loss of life, and injuries to persons between 1941 and the date of securing various areas in the Trust Territory of the Pacific Islands by the United States military forces; and

WHEREAS, after the securing of the various areas, the United States military forces took possession of many areas of private property for its own use, without either the permission of or any compensation to the owners thereof; and

WHEREAS, as a result of the occupation of the various areas by the United States military forces, many of the people of the Trust Territory of the Pacific Islands suffered loss of life, injury and damage to private property; but no compensation has been paid to the people of the Trust Territory therefor; and

WHEREAS, during the 91st Congress of the United States, legislation was introduced which would have provided compensation to the people of the Trust Territory of the Pacific Islands, but such legislation did not clear the House of Representatives before the 91st Congress of the United States adjourned; and

WHEREAS, based upon the nature of the property losses, deaths and injuries, claims appear to fall into both the pre-secure and the post-secure categories, which would make the settlement of only one category of claims confusing and unworkable; and

WHEREAS, since the \$10,000,000 war claims fund to be established pursuant to the agreement between the United States Government and the Government of Japan to provide compensation for all pre-secure claims is believed to be in-

adequate to equitably settle these claims, it is felt that both categories should be settled at the same time in order that the problems might be disposed of once and for all; and

WHEREAS, the urgency of providing a speedy settlement of this long-standing problem is obvious, since those who suffered most during the hostilities resulting from World War II are presently preaching old age; now, therefore,

BE IT RESOLVED by the House of Representatives of the Fourth Congress of Micronesia, First Regular Session, 1971, the Senate concurring, that the United States Congress be and it is hereby urged to expedite a speedy and equitable settlement of pre-secured and post-secured war damage claims for the people of the Trust Territory of the Pacific Islands; and

BE IT FURTHER RESOLVED, that certified copies of this House Joint Resolution be transmitted to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, the President of the United States of America, the President of the Trusteeship Council of the United Nations, and the Secretary of State and the Secretary of the Interior of the United States of America and to the High Commissioner.

Introduced February 2, 1971, by:

FELIPE Q. ATALIG.
HERMAN Q. GUERRERO.
CARLOS A. SHODA.

[Res. 70(2)-3, 4th Palau Legislature, Sixth regular sess., Oct. 1970.]

A RESOLUTION Requesting the District Administrator to issue a proclamation setting a specific day and hour for the people of Palau and the world community to observe a moment of silent prayer for the prompt approval by the United States Congress of the War Claims Bill to compensate the people of the Trust Territory of the Pacific Islands for their losses and suffering during and subsequent to World War II.

WHEREAS, the emergence of World War II caused great hardship, destruction of property, suffering, and loss of lives to the people of the Trust Territory of the Pacific Islands; and

WHEREAS, in addition to the loss of lives, property, and injuries suffered by the people, the scourge of war left an indelible shock in the minds of the inhabitants of the Trust Territory, who were innocent bystanders wedged in a vise of hostilities between two warring camps of powerful nations; and

WHEREAS, contrary to the prohibitions contained in the covenants of the League of Nations, the Japanese Government heavily fortified several major islands in the Trust Territory thus creating a formidable barrier to the advance upon the Japanese Empire; and

WHEREAS, the first offensive action by the United States military forces during World War II was directed against Micronesians, because any advance against Japan without capturing the islands of Micronesia would have resulted in leaving the flank of the invading forces vulnerable; and

WHEREAS, in the advance across the Pacific the United States military forces invaded those islands where the Japanese forces were significant, and cutoff supplies to the other islands; and

WHEREAS, in those areas which the United States military forces did not invade the local inhabitants suffered grave atrocities at the hands of the Japanese soldiers, who took their food, water, shelter and other essentials of life, resulting in the death by starvation of many local inhabitants; and

WHEREAS, after being required to wait for more than a quarter of a century, the people of Palau have received information that the Senate of the United States Congress has finally voted upon and passed a bill to provide compensation to the people of the Trust Territory of the Pacific Islands, and than an identical bill is awaiting passage by the United States House of Representatives of the United States Congress; and

WHEREAS, the people of Palau are gratified by this news and desire prompt action by the United States House of Representatives so that those Micronesians who suffered enormous property losses, deaths of relatives, and injuries will have an opportunity to enjoy their compensation before they die; and

WHEREAS, the people of Palau would be highly appreciative if the world community would join them in a moment of silent prayer on the specific day to be set by the District Administrator, and ask God's assistance for the speedy enactment of this war claims legislation by the Congress of the United States of America; now, therefore,

BE IT RESOLVED by the Fourth Palau Legislature, Sixth Regular Session, October, 1970, that the District Administrator be and is hereby requested to issue

a proclamation setting aside a specific day and hour for the people of Palau and the world community to observe a moment of silent prayer for the prompt approval of the War Claims Bill by the Congress of the United States to compensate the people of the Trust Territory of the Pacific Islands for their losses and suffering during and subsequent to World War II; and

BE IT FURTHER RESOLVED that certified copies of this resolution be transmitted to the President of the United States of America, the Trusteeship Council of the United Nations, the Secretary of the Department of State, the Secretary of the Department of Defense, the Secretary of the Department of Interior, the Chairman of the Committee on Interior and Insular Affairs of the United States Senate, the Chairman of the Foreign Affairs Committee of the United States House of Representatives, the High Commissioner, the Honorable Quentin Burdick, the Honorable Henry Bellmon, the Honorable Lee Metcalf, the Honorable Daniel K. Inouye, the Honorable Hiram Fong, and the Honorable Ted Stevens of the United States Senate, the Honorable Representative Wayne Aspinall, the Honorable Patsy Mink, the Honorable Lloyd Meeds, the Honorable Rogers C. B. Morton, the Honorable Spark Matsunaga, and the Honorable Thomas Foley of the United States House of Representatives, His Holiness Pope Paul VI, the President of the World Council of Churches, the Pastor of the Seventh-Day Adventist Church, the Pastor of the Christian Science Church, the Pacific Daily News, and the District Administrator.

Adopted October 23, 1970.

ITELBANG LUII, *Speaker.*

SYLVESTER F. ALONZ, *Secretary.*

ARTICLE 4

"(a) Subject to the provisions of paragraph (b) of this article, the disposition of property of Japan and of its nationals in the areas referred to in Article 2, and their claims, including debts, against the authorities presently administering such areas and the residents (including juridical persons) thereof, and the disposition in Japan of property of such authorities and residents, and of claims, including debts, of such authorities and residents against Japan and its nationals, shall be the subject of special arrangements between Japan and such authorities. The property of any of the Allied Powers or its nationals in the areas referred to in Article 2 shall, insofar as this has not already been done, be returned by the administering authority in the condition in which it now exists. (The term nationals whenever used in the present Treaty includes juridical persons)."

[Res. 61-1971, 3d Mariana District Legislature, Fifth regular sess.; introduced by the Committee of the Whole.]

A resolution relative to endorsing and urging speedy enactment of Senate Joint Resolution 35 of the 92nd Congress of the United States of America, relating to Micronesian war claims

WHEREAS, on January 26, 1971, Honorable Henry M. Jackson and Honorable Gordon Allott, members of the United States Senate, introduced, by request, Senate Resolution 35 (S.J. Res. 35), a Joint Resolution

"To authorize an ex gratia contribution to certain inhabitants of the Trust Territory of the Pacific Islands who suffered damages arising out of the hostilities of the Second World War, to provide for the payment of noncombat claims occurring prior to July 1, 1951, and to establish a Micronesian Claims Commission."; and

WHEREAS, Senate Joint Resolution 35 authorizes the appropriation of \$5,000,000 as a contribution towards the settlement of claims that arose in the Trust Territory prior to the securing of the various areas by the United States Armed Forces, and authorizes the appropriation of \$20,000,000 for damages to or loss or destruction of property, personal injury, or death caused by military civilian employees of the United States Government and arising out of accidents or incidents between the dates of securing of the various islands in the Trust Territory by the United States Armed Forces on July 1, 1951; and

WHEREAS, the enactment of Senate Joint Resolution 35 will make available a total of \$25,000,000 from the United States of America and \$5,000,000 from the Government of Japan to settle claims of the inhabitants of the Trust Territory of

the Pacific Islands resulting from the hostilities of the Second World War up to July 1, 1951; and

WHEREAS, according to preliminary estimates, based on the values of properties of the date of loss, this amount of money appears to be inadequate to facilitate a fair and equitable settlement of the meritorious claims of the inhabitants of the Trust Territory, but the enactment of Senate Joint Resolution 35 will provide the machinery necessary to begin the settlement of this long and irritating problem;

NOW, THEREFORE, BE IT RESOLVED by the 3rd Mariana Islands District Legislature, that we hereby endorse and urge the speedy enactment of Senate Joint Resolution 35 of the 92nd Congress of the United States of America, relating to Micronesian War Claims.

BE IT FURTHER RESOLVED that the President certify to and the Legislative Secretary attest the adoption hereof and thereafter transmit copies of the same to each member of the Congress of the United States of America, the Secretary of the Department of the Interior, and the Secretary of the Department of State.

Passed by the 3rd Mariana Islands District Legislature, February 23, 1971.

VICENTE N. SANTOS, *President.*

DANIEL T. MUNA, *Legislative Secretary.*



