



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SOLICITOR

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September 20, 1971

Memorandum

To: Ambassador Arthur W. Hummel, Jr.  
From: Associate Solicitor, Territories, Wildlife and Claims  
Subject: Emergency Powers Listed

The emergency powers of the United States enumerated below should be available to the President for application in Micronesia; but only in the event the President or the U.S. Congress declares a National Emergency subsequent to the effective date of the compact. These powers deal primarily with the relationships between the U.S. Government and the people of Micronesia. They in no way impinge upon or impair the authority of the military to conduct its internal affairs or to take care of the United States' defense interests in the area - a matter of extreme concern to D.O.D. 1 In fact, these powers are in aid of such efforts.

The paraphrases below of the U.S. laws are, generally speaking, written to apply in Micronesia and to citizens of Micronesia and others in Micronesia. It should be understood that many of the U.S. laws referred to will have to be amended to make them applicable.

1. 8 U.S.C. 1185 - In case of war between two states, the President may regulate the movement of aliens in and out of Micronesia. Micronesians would be forbidden to leave the area or enter it without a valid passport, subject to any exceptions the President may make.

2. 8 U.S.C. 1253(b) - If the United States is at war, an alien to be deported from Micronesia need not be returned to his own country if it is impracticable, inadvisable, inconvenient or impossible because of enemy occupation. Instead the alien may be sent (1) to the country in which the government of his country is in exile or (2) to the country which is proximate to his country or (3) if his country consents, to any country.

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BRANCH OF SECURITY, DOI  
SIGNED: *[Signature]*

D.O.D. is to present a paper outlining those areas of concern where it will want protection from Micronesian laws. These will include Soldiers and Sailors Civil Relief, taxation of military, civil and criminal jurisdiction over military personnel, etc.

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3. 10 U.S.C. 4742, 9742 - If the United States is at war, the President may take possession of and control all or part of any system of transportation to transport troops, war material and equipment, or for other purposes related to the emergency, and to the extent necessary, he may exclude other traffic on the system.

4. 12 U.S.C. 95(a) (Also as 50 App. U.S.C. 5(b)) - The President may regulate or prohibit transactions in foreign exchange, dealings in gold and silver coin or bullion, or transactions in which any foreign country or national thereof has any interest, by any person or with respect to any property subject to the jurisdiction of Micronesia. All foreign property or interest therein shall vest in the United States and shall be dealt with in the interests of the United States and Micronesia.

5. 12 U.S.C. 249 - Trade with or transportation of enemy aliens or secret communications with the enemy will be prohibited. Enemy owned or controlled businesses may be regulated or seized.

6. 18 U.S.C. 959 - Micronesians will be prohibited from enlisting in the armed forces of any other nation.

7. 18 U.S.C. 2153, 2154, 2157 - Micronesians will be subject to penalties for the destruction or defective manufacture of war or defense materials.

8. 18 U.S.C. 2388, 2399 - Seditious activities affecting the armed forces when the United States is at war will be prohibited.

9. 19 U.S.C. 1318 - Micronesians may be prohibited from exporting articles, materials or supplies, including technical data to unfriendly foreign powers. Free importation into Micronesia of supplies used in work connected with the emergency may be required by the President.

10. 42 U.S.C. 266 - In time of war the U.S. Surgeon General may by regulation provide for the apprehension, examination, and detention of any person reasonably believed to be infected with a communicable disease who is a probable source of infection to members of the armed forces, or to individuals engaged in the production or transportation of arms or other supplies for the armed forces.

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11. 43 U.S.C. 1341(b) - The United States will have the right of first refusal to purchase at the market price all or any of the mineral resources of Micronesia, including those of the seabed.

12. 46 U.S.C. 1401-1413 - Extend the subsidy program to Micronesia to build fishing vessels in Micronesian shipyards if, among other conditions, the U.S. Secretary of Defense, after approving the plans and specifications, notifies the U.S. Maritime Administrator that such vessels will be suitable for economical and speedy conversion into a naval or auxiliary vessel or otherwise suitable for use by the United States, and such vessel shall subject to such use with appropriate compensation in time of war or national emergency.

13. 47 U.S.C. 606 - During a war the President may, in the interest of national defense or security, direct that essential communications shall have preference and priority with any carrier subject to FCC regulation and in Micronesia, and it will be unlawful for anyone to obstruct or retard by physical force or threat of force such communications by radio or wire. The President may also suspend or amend rules and regulations applicable to stations or devices which emit electromagnetic radiation and which are subject to the control of the FCC or in Micronesia; and, when he considers it necessary in the interest of national security and defense he may (1) suspend or amend the rules and regulations applicable to any or all facilities or stations for wire communications in Micronesia; (2) close any facility for wire communication and remove its apparatus and equipment; or (3) authorize the use and control of any such facility or station by any department of the U.S. or Micronesian Governments.

14. 50 App. U.S.C. 21 - In the case of a declared war, or any invasion, or predatory incursion is perpetrated, attempted, or threatened against the United States or Micronesia by any foreign nation or government, the President may direct the conduct to be followed by the United States or Micronesia toward the citizens, natives, or subjects of the hostile nation with respect to their apprehension, restraint, security, or removal as alien enemies.

15. 50 App. U.S.C. 191 - In the case of actual or threatened wa insurrection, or invasion, or disturbance of the internal relations of the United States or Micronesia, the President may regulate the anchorage and movement of foreign and domestic vessels in the territorial waters of Micronesia, may inspect, and, under certain conditions, may seize such vessels.

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16. 50 App. U.S.C. 196-198 - The President may charter or requisition the use of or take over title or possession of, for such use as he may direct, any merchant vessel not owned by citizens of the U.S. or Micronesia which is lying idle in waters under the jurisdiction of Micronesia if he finds it to be necessary to the national defense.

17. 50 App. U.S.C. 812 - Whenever (1) the United States, a possession, or Micronesia is invaded, (2) war is declared by the U.S. Congress, or (3) there is an insurrection in the United States, a possession, or Micronesia in aid of a foreign enemy and the President finds that a proclamation of an emergency is essential, he may proclaim an "Internal Security Emergency" which shall continue until terminated by him or by concurrent resolution of the U.S. Congress.

18. 50 App. U.S.C. 811-826 - During an Internal Security Emergency, any person may be apprehended and detained, if there is reasonable ground to believe that he will engage in, or probably will conspire to engage in, acts of espionage or sabotage.

19. 50 App. U.S.C. 781-785 - The photographing, sketching, or making of other representations of defense installations or material, or of any place used for the manufacture, storage, or repair of defense equipment or materials, will be prohibited, except as may be permitted by U.S. regulations.

20. 50 App. U.S.C. 1622(g)(2)(E) - The United States shall have the right to the exclusive use of all airports in Micronesia. - This will probably be covered by the D.O.D.'s property requirements.

21. Regardless of whether a state of emergency or war exists or has been declared, the United States will be entitled to maintain without interference its military forces in Micronesia.

*C. Brewster Chapman*

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