



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

January 14, 1972

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Declassified in accord
with E.O. 12356
9/14/85
S.D. Hooker

Memorandum

To : Captain William J. Crowe, Jr.
Office of Micronesian Status Negotiations

From : Acting Assistant Solicitor
Branch of Territories

Subject: President's Emergency Powers - supplemental comments.

Please refer to our previous memorandum of December 15, 1971, on the President's emergency powers. As the discussion therein points out, situations affecting this country domestically or internationally, or both, do arise which necessitate emergency action by the President - or, by the Congress. The President's power to act in a particular grave situation may be inherent in the office, or implied as incidental thereto, or stem from statutory authority, or a combination of these.

Since a Presidential proclamation proclaiming a national emergency may relate directly to or affect banking and currency, maritime shipping, and other services extended to Micronesia by the Compact, an appropriate provision in the Compact may be desirable. In order to make the provision more acceptable to Micronesia a declaration or proclamation of national emergency would (1) specifically extend to and include Micronesia, and (2) provide for consultation with Micronesia, if such is practical. The proposed provision could read as follows:

Recognizing that circumstances may arise necessitating the United States declare or proclaim a national emergency in case of disaster, invasion, insurrection, rebellion or imminent danger thereof, and the emergency may relate to or affect programs and services of the United States made applicable in Micronesia by this Compact, Micronesia agrees to abide by and faithfully execute the declaration or proclamation of the United States: provided, the declaration or proclamation specifically extends to Micronesia; and provided further, the United States has consulted with Micronesia regarding the situation, if practical under the circumstances.

Mr. Salii's draft Compact of December 21, 1971, doesn't appear to cover the above area.

William D. Holeman
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Acting Assistant Solicitor
Branch of Territories

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(7) The debts, liabilities, and obligations of the present Philippine government, its Provinces, municipalities, and instrumentalities, valid and subsisting at the time of the adoption of the constitution, shall be assumed and paid by the new government.

Assumption of debts, etc., by new government.

(8) Provision shall be made for the establishment and maintenance of an adequate system of public schools, primarily conducted in the English language.

Public schools; English language.

(9) Acts affecting currency, coinage, imports, exports, and immigration shall not become law until approved by the President of the United States.

Approval of designated Acts.

(10) Foreign affairs shall be under the direct supervision and control of the United States.

Foreign affairs.

(11) All acts passed by the Legislature of the Commonwealth of the Philippine Islands shall be reported to the Congress of the United States.

Laws to be reported to United States Congress.

(12) The Philippine Islands recognizes the right of the United States to expropriate property for public uses, to maintain military and other reservations and armed forces in the Philippines, and, upon order of the President, to call into the service of such armed forces all military forces organized by the Philippine government.

Rights of United States recognized.

(13) The decisions of the courts of the Commonwealth of the Philippine Islands shall be subject to review by the Supreme Court of the United States as provided in paragraph (6) of section 7.

United States Supreme Court jurisdiction. Post, p. 462.

(14) The United States may, by Presidential proclamation, exercise the right to intervene for the preservation of the government of the Commonwealth of the Philippine Islands and for the maintenance of the government as provided in the constitution thereof, and for the protection of life, property, and individual liberty and for the discharge of government obligations under and in accordance with the provisions of the constitution.

Right of intervention, by Presidential proclamation.

(15) The authority of the United States High Commissioner to the government of the Commonwealth of the Philippine Islands, as provided in this Act, shall be recognized.

United States High Commissioner; authority recognized. Post, p. 461.

(16) Citizens and corporations of the United States shall enjoy in the Commonwealth of the Philippine Islands all the civil rights of the citizens and corporations, respectively, thereof.

Civil rights.

(b) The constitution shall also contain the following provisions, effective as of the date of the proclamation of the President recognizing the independence of the Philippine Islands, as hereinafter provided:

Additional Constitutional provisions.

(1) That the property rights of the United States and the Philippine Islands shall be promptly adjusted and settled, and that all existing property rights of citizens or corporations of the United States shall be acknowledged, respected, and safeguarded to the same extent as property rights of citizens of the Philippine Islands.

Property rights to be safeguarded, etc.

(2) That the officials elected and serving under the constitution adopted pursuant to the provisions of this Act shall be constitutional officers of the free and independent government of the Philippine Islands and qualified to function in all respects as if elected directly under such government, and shall serve their full terms of office as prescribed in the constitution.

Qualifications of constitutional officers.

(3) That the debts and liabilities of the Philippine Islands, its Provinces, cities, municipalities, and instrumentalities, which shall be valid and subsisting at the time of the final and complete withdrawal of the sovereignty of the United States, shall be assumed by the free and independent government of the Philippine Islands; and that where bonds have been issued under authority of an Act of Congress of the United States by the Philippine Islands, or any Province, city, or municipality therein, the Philippine government

Subsisting obligations to be assumed by new government.

Bonds.