



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR

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September 23, 1971

Memorandum

To: Ambassador Arthur W. Hummel, Jr.

From: Associate Solicitor, Territories, Wildlife and Claims

Subject: So-called "public domain" land in the TTPI.

The land in Micronesia which is called "public domain" land or public land is that land which was identified and held as such under the prior German and Japanese administrations. It also includes land which was owned in the proprietary sense by the Japanese Government, its corporations and nationals. It is held by the Trust Territory Government as successor administrator, in trust for the people of Micronesia and is to be turned over to them when they become self-governing. Generally speaking, "public domain" land is vacant and unappropriated while public land includes lands on which public facilities have been constructed.

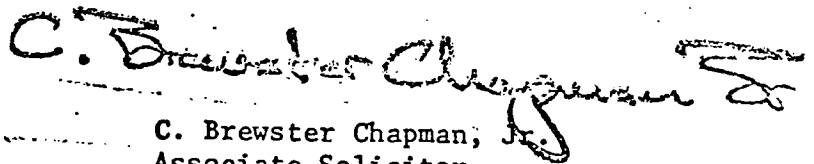
Military retention land in the Mariana district is largely carved out of the so-called public domain. Some private lands were included in these retention areas but the owners either have been or will be (Post-Secure claims) compensated. The right to retain these public lands for an indefinite period of time was obtained from the TTPI Government, and a sum of money was paid therefor which amounted to around \$40.00 per acre. This money was placed in trust for the people of Micronesia (Mariana district) and has been used over the years to construct public facilities such as hospitals, schools, etc., in Mariana Islands. In terms of international law, a successor government will be bound by the lawful acts of a predecessor government. Accordingly, a new Micronesian government should be bound by the TTPI Government's arrangements with the military. They may not feel that they should be so bound, however, and may try to renegotiate on these retention lands, at least as to price.

In contradistinction to the arrangement in the Mariana Islands, use rights in the Marshalls were negotiated with the private owners of the lands in question. These private agreements would survive a change or transition in government in Micronesia.

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In any event, with respect to DOD's land proposal in the Mariana Islands, when they offer to "swap"; that is, release from retention lands on Saipan in exchange for additional retention lands on Tinian, they are exchanging lands which they have a paid for right to retain for new retention lands of much lesser value. Thus, in a very real sense, D.O.D. is making a concession.

The question of public lands in the Palau district is extremely complex. Practically all public lands, particularly on Koror, are subject to private or communal claims, and these claims remain unadjudicated and unsatisfied. In the meantime, resentment and antagonism concerning them builds. The DOD land needs in this district will have to be handled with considerable finesse; particularly since these, although only expressed in terms of options for possible future use, will be new demands.



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