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4
1 Executive Powers Available By Virtue Of The
National Emergency Proclaimed on December 16, 1950

13 Introduction

The following study constitutes an enumeration of existing Executive powers which are dependent upon the National Emergency proclaimed on December 16, 1950, and which would lapse if that emergency were to be terminated.

The emergency legislation covers a wide range of subjects. It may be summarized in its more important aspects as follows: The President is given special control over the movement of aliens in and out of the United States, and a passport is made a requisite for certain foreign travel of citizens; a number of special provisions pertaining to the armed forces come into effect, i.e., the President may detail personnel to give military assistance to foreign countries, rules on appointments and promotions are relaxed, enlistments may be extended, numerical limitations on Navy and Marine Corps officers are relaxed, and restrictions on the procurement of material and services through bids are relaxed.

In addition, special powers over transactions in foreign exchange and over communications are given to the President; the President has special powers to suspend and relax provisions governing contracts with the United States concerning hours of work, inspection of plant and books, etc.; war-time prohibitions and penalties concerning the protection of defense information remain in effect; various properties may be re-taken and used by the United States; the President may require preference for the transportation of troops and material; and special provisions are in effect governing the use of vessels.

For ease of reference, the statutes are grouped by subject and an index of statutes listed is provided at the end of the text material.

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13 I. Provisions - by subject

4 Agriculture

4 1. Adjustment of marketing quotas

4 7 U.S.C. 1371(b)

4 If the Secretary of Agriculture has reason to believe that, because of a national emergency, any national marketing quota for corn, wheat, cotton, rice, peanuts, or tobacco should be increased or terminated, he shall cause an immediate investigation to be made to determine whether the increase or termination is necessary to effectuate the declared legislative policy or to meet such emergency. If, on the basis of such investigation, the Secretary finds that such increase or termination is necessary, he shall immediately proclaim such finding, and thereupon such quota shall be increased, or shall terminate, as the case may be.

4 2. Reduction of agricultural commodity set-aside

4 7 U.S.C. 1743(a)(6)

4 Commodity set-asides made by the Commodity Credit Corporation shall be reduced in accordance with the directions of the President by donation, sale or other disposition to meet any national emergency declared by the President.

4 Airports

4 3. Right to exclusive control

4 50 U.S.C. App. 1622(g)(2)(E), as amended, 72 Stat. 808

4 During any national emergency declared by the President or by Congress the United States has the right to the exclusive use of all or part of airports at which surplus property which has been disposed of under 50 U.S.C. App. 1622(g)(1) is located.

4 Aliens and Nationality

4 4. Exclusion of aliens

4 8 U.S.C. 1182(a)(22)

4 Persons, except for non-immigrant aliens, who have departed from or remained outside the United States to avoid or evade training or service in the armed forces in time of war or a period declared by the President to be a national emergency, shall be excluded from admission to the United States.

5. Travel control of citizens and aliens during war or national emergency

8 U.S.C. 1185

During a war or national emergency proclaimed by the President, and whenever there is a war between any two states in the case of aliens, the President may regulate the movement of aliens in and out of the United States. Citizens are forbidden to leave the country or enter it without a valid passport, subject to any exceptions the President may make.

The departure and entry from and into the United States of citizens and nationals are subject to regulations prescribed by the Secretary of State and published in 22 C.F.R. 53.1-53.7. The departure of aliens from the United States is made subject to regulations prescribed by the Secretary of State with the concurrence of the Attorney General, published in 22 C.F.R. 46.1-46.7. The entry of aliens into the Canal Zone and American Samoa is made subject to regulations prescribed by the Secretary of State with the concurrence of the Attorney General, published in 22 C.F.R. 41.145, 42.145.

6. Loss of nationality

8 U.S.C. 1481(a)(10)

A person who is a national of the United States by birth or by naturalization shall lose his nationality by departing from or remaining outside the United States in time of war or during a period declared by the President to be a period of national emergency for the purpose of avoiding training and service in the military, air, or naval forces of the United States.

Armed Forces and Defense

(3) A. Armed Forces Generally

7. Retirement for disability

10 U.S.C. 1201

In time of war or national emergency, any member of the armed forces entitled to basic pay called to active duty for more than 30 days who incurs a 30% disability in line of duty may be retired with retirement pay.

8. Separation for disability

10 U.S.C. 1203

In time of war or national emergency, any member of the armed forces entitled to basic pay called to active duty for more than 30 days who incurs a disability of less than 30% in line of duty may be separated from the service with severance pay.

9. Suspension of retirement or disability compensation

69 Stat. 300

34 U.S.C. 853(e)(1)

If a member of the Army, Navy, Air Force, or Marine Corps Reserve receiving a pension, retainer pay, disability compensation or retirement pay is ordered to extended active duty for more than 30 days in time of war or national emergency, such pension, retainer pay, disability compensation or retirement pay shall be suspended for the period of the extended active duty unless it exceeds the authorized compensation for such duty.

10. Detail of forces to assist foreign governments

10 U.S.C. 712(a)(3)

During a war or a declared national emergency, the President may detail members of the armed forces to give military assistance to countries requesting it when he considers it in the interest of national defense.

11. Commutation of officers' sentences

10 U.S.C. 871 (Art. 71 of Uniform Code of Military Justice)

In time of war or national emergency, the Secretary concerned or his designee may commute a commissioned officer's sentence of dismissal to reduction to any enlisted grade, and the defendant may be required to serve until six months after the termination of the war or emergency.

12. Use of Reserve component facilities

10 U.S.C. 2231-2238

In time of war or national emergency, facilities acquired for the Reserve components of the armed forces may be used by the United States to the greatest practicable extent for efficiency and economy, and no use or disposition of such facilities which would interfere with such use may be permitted.

B. Navy and Marine Corps

13. Temporary appointments of officers in the regular Navy and Marine Corps

10 U.S.C. 5597

In time of war or during a national emergency declared by the President, temporary appointments, effective not longer than 6 months after the end of the war or national emergency, may be made to grades not above lieutenant in the regular Navy and captain in the regular Marine Corps from specified grades.

Under 37 U.S.C. 256, enlisted men in the Navy or Marine Corps receiving temporary appointments in time of war or national emergency are entitled to \$250. as a uniform gratuity.

4 14. Temporary appointments in the medical corps

4 10 U.S.C. 5599

4 Temporary appointments in the grade of lieutenant (junior grade) in the Naval Medical Corps may not exceed 250, except that in time of war or declared national emergency, the President may appoint as many as he considers necessary to meet the needs of the naval service.

4 15. Temporary appointments in Naval and Marine Corps Reserves

4 10 U.S.C. 5598

4 In time of war or during a national emergency declared by the President, temporary appointments, effective not longer than 6 months after the end of the war or national emergency, may be made to any commissioned grade in the Naval Reserve or the Marine Corps Reserve of any qualified person.

4 16. Temporary promotions in Navy and Marine Corps

4 10 U.S.C. 5787

4 In time of war or during a national emergency declared by the President, temporary promotions, effective no later than 6 months after the end of the war or national emergency, may be made in the Navy and the Marine Corps; the grade of commodore of the Navy is established for the purposes of the section.

4 17. Suspension of promotion provisions

4 10 U.S.C. 5785

4 During a war or national emergency, and through June 30 of the fiscal year following that in which the war or emergency ends, the President may suspend certain provisions relating to the eligibility of officers of the Navy and the Marine Corps for recommendation for promotion. Executive Order No. 10780 and Executive Order No. 10861 suspended this provision with regard to the grades of commander and captain in the Supply Corps, the Chaplain Corps, the Civil Engineer Corps and the Medical Service Corps.

4 18. Suspension of running mate provisions

4 10 U.S.C. 5662(b)

4 During a war or national emergency, the President may suspend provisions relating to running mates of officers in the Navy and Naval Reserve, through June 30 of the fiscal year following that in which the war or emergency ends.

4 19. Suspension of selection board provisions

4 10 U.S.C. 5711(b)

4 During a war or national emergency and through June 30 of the fiscal year following that in which the war or emergency ends, the President may suspend

certain provisions relating to selection boards to consider the promotion and continuation on the active list of naval and Marine Corps officers.

20. Recall of retired Naval and Marine Corps officers to active duty
10 U.S.C. 6481

In time of war or national emergency declared by the President, the Secretary of the Navy may order any retired officer of the Regular Navy or Marine Corps to active duty.

10 U.S.C. 6483 and 6488 prescribe the grades at which retired Naval and Marine Corps officers are to be recalled and released. 10 U.S.C. 5507(e) and 6487 deal with the pay of Navy rear admirals recalled from retirement.

21. Recall of retired enlisted personnel of the Regular Navy and Marine Corps
10 U.S.C. 6482

In time of war or national emergency the Secretary of the Navy may order to active duty any retired enlisted member of the Regular Navy or the Regular Marine Corps.

10 U.S.C. 6484 states that retired enlisted men on active duty may receive permanent promotions.

22. Call to active duty of Fleet Reserve and Fleet Marine Corps Reserve
10 U.S.C. 6485

A member of the Fleet Reserve or the Fleet Marine Corps Reserve may be ordered to active duty without his consent in time of war or national emergency declared by Congress or the President, or when otherwise authorized by law.

23. Suspension of retirement, separation and furlough provisions
10 U.S.C. 6386(c)

During a war or national emergency, and through June 30 of the fiscal year following that in which the war or emergency ends, the President may suspend the provisions governing the involuntary retirement, separation, and furlough of Regular Navy and Marine Corps officers.

24. Discharge of Navy and Marine Corps officers for unsatisfactory performance of duty
10 U.S.C. 6395

In time of war or national emergency declared by the President Regular Navy and Marine Corps officers may be discharged for unsatisfactory performance of duty.

25. Recall of furloughed enlisted men

10 U.S.C. 6296

In time of war or national emergency, any enlisted member of the Regular Navy on furlough for the unexpired term of his enlistment may be recalled to serve until his enlistment expires.

26. Extension of enlistments

10 U.S.C. 5538(a)

The Secretary of the Navy may extend enlistments in the Regular Navy and the Regular Marine Corps in time of war or of national emergency declared by the President for such period as he considers necessary in the public interest, but not longer than 6 months after the end of the war or the national emergency.

27. Suspension of limitations on numbers and distribution in grade of officers

10 U.S.C. 5451

During a war or national emergency and until June 30 of the fiscal year following that in which such war or emergency ends, the President may suspend the provisions relating to distribution in grade of naval and Marine Corps officers, but the provisions limiting the proportion of officers in grades above lieutenant in the Navy or Captain in the Marine Corps to the total number of officers in these services may be suspended only during a war or national emergency declared after May 5, 1954.

28. Suspension of distribution in grade of certain officers

10 U.S.C. 5234

During a war or national emergency, the President may suspend provisions relating to the distribution in grade of admirals and vice admirals of the Navy, and generals and lieutenant generals of the Marine Corps through June 30 of the fiscal year following that in which the war or emergency ends. The provision relating to Admirals and Vice-Admirals was suspended by Executive Order No. 10886.

29. Limitation on the number of Navy line rear admirals

10 U.S.C. 5447

Except in time of war or national emergency not more than 150 officers restricted in the performance of duty may hold permanent appointments in the grade of rear admiral on the active list in the line of the Navy. The number

of such appointments of those restricted in the performance of their duty may not exceed 19 except in time of war or national emergency.

30. Calculation of number of Navy line officers

10 U.S.C. 5442

Navy line officers receiving temporary appointments or promotions under sections 5597 (132) or 5787 (137) of title 10 in time of war or during a national emergency declared by the President are counted in their permanent grade for purposes of the limitation on the number of officers who may serve in each grade.

31. Limitation on Navy staff rear admirals

10 U.S.C. 5449

Except in time of war or national emergency, not more than the specified number of officers may hold permanent appointments in the grade of rear admiral on the active list of the Navy in the specified staff corps.

32. Limitation on number in grades for Navy staff officers

10 U.S.C. 5444

Navy staff officers receiving temporary appointments or promotions under sections 5597 or 5787 of title 10 in time of war or during a national emergency declared by the President are counted in their permanent grade for purposes of the limitation on the number of officers who may serve in each grade.

33. Limitation on number of retired Naval officers on active duty

10 U.S.C. 5450

Except in time of war or national emergency not more than ten retired officers of the regular Navy in the grade of rear admiral and above may be on active duty, not including those serving on selection boards.

34. Limitation on number of Marine Corps officers

10 U.S.C. 5448

Except in time of war or national emergency not more than 32 officers may hold permanent appointments in the grades of major general and brigadier general on the active list of the Marine Corps. The number of such appointments in the grade of brigadier general designated for supply duty may not exceed 4 except in time of war or national emergency.

35. Calculation of number in grades of Marine Corps officers

10 U.S.C. 5443

Marine Corps officers receiving temporary appointments or promotions under sections 5597 or 5787 of title 10 in time of war or during a national emergency declared by the President are counted in their permanent grade for purposes of the limitation on the number of officers who may serve in each grade.

36. Suspension of number and grade of Naval officers with important missions
10 U.S.C. 5231

Naval officers designated for command of fleets or subdivisions of fleets, for command of naval units performing unusual missions, or for performance of duty of great importance and responsibility, must be above the rank of captain except in time of war or national emergency, when they must be above the rank of commander.

An officer so designated may be appointed an admiral or vice admiral, but the number of officers serving in these grades is limited to 26, (of whom only the chief of Naval Operations and 3 others may have the rank of admiral) except in time of war or national emergency.

37. Suspension of number and grade of Marine officers with important missions
10 U.S.C. 5232

Marine officers designated for higher commands or for performance of duty of great importance and responsibility must be above the grade of colonel, and in time of war or national emergency above the grade of lieutenant colonel.

Officers so designated may be appointed to the grade of lieutenant general, but the number of officers in this grade may not exceed 2, except in the time of war or national emergency.

38. Transportation on vessels
10 U.S.C. 7224

In time of war or during a national emergency declared by the President, such persons as the Secretary of the Navy authorizes by regulation may be transported and subsisted on naval vessels at Government expense.

17 C. Army

39. Temporary appointments of officers
10 U.S.C. 3444

In time of war, or of emergency declared by Congress or the President, the President may appoint any qualified person in any temporary commissioned grade in the Army. A person so appointed may be ordered to active duty for such period as the President prescribes. Unless sooner vacated, such an appointment is effective during the war or emergency in which it is made and for six months thereafter.

40. Temporary rank and appointment

10 U.S.C. 3445

In time of war, or of national emergency declared by the President, a regular officer or a reserve warrant officer of the Army may be appointed temporarily to a higher grade without vacating his permanent appointment.

41. Suspension of promotion and retirement laws for Regular Army officers

10 U.S.C. 3313

In time of war, or of emergency declared by Congress or the President, the President may suspend the operation of any laws relating to promotion or mandatory retirement or separation of commissioned officers of the Regular Army.

42. Limitation on resignation

10 U.S.C. 3815

The resignation of a person who has served 3 years of an enlistment for an unspecified period of time must be accepted by the Secretary of the Army and the person concerned discharged within 3 months. In time of war, or of national emergency declared by the Congress or the President, the Secretary of the Army may refuse to accept any such resignation.

43. Eight-hour day limitation for laborers and mechanics

10 U.S.C. 4025

During a national emergency declared by the President, the regular working hours of laborers and mechanics employed by the Army in the manufacture or production of military munitions or supplies are 8 hours a day or 40 hours a week. However, under regulations prescribed by the Secretary of the Army, these hours may be exceeded, with payment of time and one half for hours worked in excess of 40.

44. Temporary construction on private land

10 U.S.C. 4776

If in an emergency the President considers it urgent, a temporary fort or fortification may be built on private land if the owner consents in writing. In such a case, the Attorney General's written opinion of the validity of title is not required before money may be spent on the land.

13 D. Air Force

45. Temporary appointments

10 U.S.C. 8444

In time of emergency declared by the Congress or the President, or of war, the President may appoint any qualified person in any temporary grade in the Air Force, effective no longer than 6 months after the war or emergency terminates.

46. Temporary promotion

10 U.S.C. 8445

In time of war, or of national emergency declared by the President, a regular officer or a reserve warrant officer of the Air Force may be appointed to a higher grade in the Air Force without vacating his permanent appointment.

47. Suspension of promotion and retirement laws for Regular Air Force

Officers

10 U.S.C. 8313

In time of war, or of emergency declared by Congress or the President, the President may suspend the operation of any laws relating to promotion, or mandatory retirement or separation of commissioned officers of the Regular Air Force.

48. Limitation on resignation

10 U.S.C. 8815(b)(5)

During a war or a national emergency declared by Congress or the President, the Secretary of the Air Force may refuse the resignation of Regular Air Force members who have served at least 3 years of an enlistment for an unspecified period.

49. Omitted [10 U.S.C. 88074(c) repealed by 72 Stat. 517]

50. Eight-hour day limitation for laborers and mechanics

10 U.S.C. 9025

During a national emergency declared by the President, the regular working hours of laborers and mechanics of the Department of the Air Force producing military supplies or munitions are 8 hours a day or 40 hours a

a week. However, under regulations prescribed the Secretary of the Air Force, these hours may be exceeded, with payment of time and one-half for hours worked in excess of 40.

51. Temporary construction on private land

10 U.S.C. 9776

If in an emergency the President considers it urgent, a temporary air base or fortification may be built on private land if the owner consents in writing; in such a case, the Attorney General's opinion of the validity of the title is not required before money may be spent on the land.

138 E. Coast Guard

52. Applicability of laws removing restrictions on Navy

14 U.S.C. 652

Any law removing for the duration of a war or national emergency proclaimed by the President any restriction contained in any law as applied to the Navy shall remove such restriction as applied to the Coast Guard.

53. Temporary appointments

14 U.S.C. 435

In time of war or during a national emergency declared by the President, temporary appointments in the Coast Guard, effective not later than 6 months after the end of the war or the emergency, may be made in grades not above lieutenant in the Regular Coast Guard or Coast Guard Reserve from specified grades of officers in the Coast Guard.

Under 37 U.S.C. 256, enlisted men in the Coast Guard receiving temporary appointments in time of war or national emergency are entitled to \$250. as a uniform gratuity.

54. Temporary promotions

14 U.S.C. 436

In time of war or during a national emergency declared by the President, there may be temporary promotions, effective not later than 6 months after the end of the war or emergency, of Coast Guard Officers in the grades of ensign or above, or of warrant officers to higher warrant officer grades. The grade of commodore of the Coast Guard is established for purposes of this section.

14 U.S.C. 759a provides for the grades at which Reserve officers appointed under this section shall be released from active duty.

55. Recall of retired personnel to active duty

14 U.S.C. 240

In time of war or national emergency, any retired commissioned officer in the Coast Guard may be recalled to active duty.

14 U.S.C. 462a establishes pay rates for certain Coast Guard rear admirals recalled from retirement.

14 U.S.C. 310

In time of war or national emergency, any retired warrant officer in the Coast Guard may be recalled to active duty.

14 U.S.C. 359

In time of war or national emergency, any retired enlisted man in the Coast Guard may be recalled to active duty.

56. Discharge for unsatisfactory performance of duty

14 U.S.C. 437

In time of war or national emergency declared by the President, Coast Guard officers may be discharged for unsatisfactory performance of duty.

57. Extension of enlistment

14 U.S.C. 367(a)(4)

An enlisted man may be retained in the Coast Guard beyond the term of his enlistment during a period of war or national emergency proclaimed by the President, and not exceeding 6 months after the end of the War or emergency.

17 F. Public Health Service

58. Commissioned officers in military service

42 U.S.C. 217 (Supp. IV)

In time of war, or of emergency proclaimed by the President, the President may utilize the Public Health Service to such extent and in such manner as he considers will promote the public interest. In time of war or of emergency involving the national defense proclaimed by the President, he may, by Executive Order, declare its commissioned corps to be a military service.

42 U.S.C. 213 extends to commissioned officers of the Public Health Service certain benefits provided to members of the armed forces.

59. Temporary promotion of officers

42 U.S.C. 211(k)

In time of war, or of national emergency proclaimed by the President, any commissioned officer of the Regular Corps of the Public Health Service may be temporarily promoted whether there is a vacancy or not and without examinations or regard to length of service.

60. Transfer to Navy or Army

33 U.S.C. 855

The President is authorized, whenever in his judgment a sufficient national emergency exists, to transfer to the service of the Army or Navy for the duration of the emergency such equipment, stations, and personnel of the Coast and Geodetic Survey as he deems in the best interest of the country.

33 U.S.C. 855a grants military rights and benefits to certain officers of the Coast and Geodetic Survey assigned to duty on military projects in war or national emergency.

61. Suspension of law as to promotion of officers

33 U.S.C. 8531, 854a-1

In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized to suspend the provisions of law pertaining to promotion of officers of the Coast and Geodetic Survey. In addition certain provisions governing naval promotions in time of war or national emergency are applicable to officers of the Coast and Geodetic Survey.

13 H. Defense Generally

62. Reorganization of Department of Defense

72 Stat. 515, 5 U.S.C. 171a(c)

If the President determines that it is necessary because of hostilities or imminent threat of hostilities, certain functions within the Department of Defense may be transferred, reassigned, or consolidated and subject to the determination of the President shall remain so transferred, reassigned, or consolidated until the termination of such hostilities or threat of hostilities.

62a. Revocation of leases

10 U.S.C. 2667

Whenever the Secretary of a military department finds it advantageous to the United States, he may lease real or personal property which is not surplus to the needs of his department and not presently required for public use. Ordinarily, the lease should be revocable by the Secretary at any time; it must be revocable by him during a national emergency declared by the President.

63. Photographing defense installations

50 U.S.C. App. 781-784

Until six months after the termination of the national emergency proclaimed by the President on December 16, 1950, 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, is prohibited, except as permitted by regulations of the Secretary of the Army or of the Navy.

64. Consultation on construction and plans

40 U.S.C. 71d(b)

The Department of Defense need not consult the National Capital Planning Commission in the preparation of plans for structures it erects during wartime or national emergency within existing military, naval, or Air Force reservations, unless traffic will be materially affected or coordinated planning of the surrounding area is necessary.

65. Transportation of private plant personnel engaged in defense production

10 U.S.C. 2632

In time of war or national emergency declared by Congress or the President, and upon a determination by the Secretary of a military department that it is necessary for the effective conduct of the affairs of the department, the Secretary may, at reasonable rates of fare under regulations prescribed by him, provide transportation by motor vehicle or water carrier to and from their places of employment for persons attached to or employed by a private plant that is manufacturing material for the department.

65a. Transmission of TVA power to Defense Department and AEC

73 Stat. 281, 16 U.S.C. 831n-4(a)

Upon certification by the President that an emergency defense need for such power exists, the provisions of 16 U.S.C. 831n-4, relating to bonds for financing TVA power program, shall not prevent the transmission of TVA power to the Atomic Energy Commission or the Department of Defense.

66. Exemption from advertising requirements

10 U.S.C. 2304(a)(1)

During a national emergency declared by Congress or the President, the head of an agency may negotiate purchases of or contracts for specified property or services for the armed forces without advertising if necessary in the public interest. (10 U.S.C. 2302(1) defines the head of an agency as the Secretary, the under Secretary, or any Assistant Secretary, of the

Army, Navy, or Air Force, the Secretary of the Treasury, or the Executive Secretary of the National Advisory Committee for Aeronautics; 50 U.S.C. 403(c) extends the same authority to the Central Intelligence Agency.)

67. Civilian employment in Canal Zone: recurring provision
in Department of Defense appropriation acts [Omitted in
1961 appropriation and Supplement]

68. Administrative examination of accounts
31 U.S.C. 80a, 80b

The time for the examination of monthly accounts of expenditures by disbursing officers and agents is extended from 60 to 90 days, 1) for the Army in time of war or during any emergency declared by Congress or determined by the President, and for 18 months thereafter, and 2) for the Navy, Marine Corps, and Coast Guard, in time of war or national emergency and for 18 months thereafter.

Banking

69. Regulation of foreign exchange
12 U.S.C. 95a (also codified as 50 U.S.C. App. 5(b))

During the time of war or any other period of national emergency declared by the President, he may regulate or prohibit any transactions in foreign exchange, dealings in gold or silver coin or bullion, or transactions in which any foreign country or a national thereof has any interest, by any person or with respect to any property subject to the jurisdiction of the United States. All foreign property or interests therein shall vest as directed by the President, in an agency designated by him, and shall be dealt with in the interest of the United States by such agency. See Executive Order No. 10896 and Executive Order No. 10905.

Communications

70. Powers of President
47 U.S.C. 606(c)

Upon proclamation by the President that there exists war or a threat of war, or a state of public peril or disaster, or other national emergency, or in order to preserve the neutrality of the United States, the President may suspend or amend the regulations applicable to stations or devices to emit electromagnetic radiations if he deems it necessary in the interest of national security or defense, and for so long as he may see fit. He may

order the closing of any radio communication station or device suitable for aiding navigation beyond 5 miles, or its control by any government department.

The authority granted to the President by this section was delegated to the Federal Communications Commission by Executive Order No. 10312 (16 F.R. 12452), as amended by Executive Order No. 10438 (18 F.R. 1491).

70a. Waiver of Formal Applications.

47 U.S.C. 308

In time of war, or of national emergency declared by the President or Congress, and when necessary for the national defense, the requirement that the Federal Communication Commission receive formal application before granting a radio station construction permit or station license may be waived.

Contracts

71. Suspension of eight-hour law for employees of contractors

40 U.S.C. 326

During a national emergency, the President may suspend the eight-hour law with respect to persons engaged upon work covered by contracts with the United States. Each such person who works more than eight hours in a work-day shall be paid at not less than one and one-half times the regular hourly rate for each hour in excess of eight.

The provisions of this section were suspended with respect to the Atomic Energy Commission for the duration of the national emergency declared on December 16, 1950, by Executive Order No. 10443.

72. Wages of laborers and mechanics

40 U.S.C. 276a-5

In the event of a national emergency the President may suspend the provisions of the Davis-Bacon Act, requiring in certain government contracts for work on public buildings a stipulation that all contractors and subcontractors will pay mechanics and laborers employed on the job at not less than specified rates.

73. Exemption from restrictions

72 Stat. 972, 50 U.S.C. 1431-35

During a national emergency proclaimed by the President or Congress, and for six months thereafter, the President may authorize any government department or agency exercising national defense functions to enter into, amend, modify or make advance payment on contracts without regard to certain statutory limitations, whenever he deems such action would facilitate the national defense.

By Executive Order No. 10210, authority under a similar prior law was conferred on the Departments of Defense and Commerce. The authority con-

ferred by that order was subsequently extended to the Department of Agriculture, the Atomic Energy Commission, the National Advisory Committee for Aeronautics, and the Government Printing Office (Executive Order No. 10216); the General Services Administration (Executive Order No. 10227); the Tennessee Valley Authority (Executive Order No. 10231); the Federal Civil Defense Administration (Executive Order No. 10243); and the Department of the Interior (Executive Order No. 10298). These were extended and continued in effect by Executive Order No. 10789.

74. Exemption from advertising requirements

41 U.S.C. 252(c), as amended, 72 Stat. 966

40 U.S.C. 356(j)(1)

During a national emergency declared by the President or by Congress, purchases of or contracts for property or services may be made without advertising if determined to be necessary in the public interest.

This represents one of several exceptions to the general requirement of 41 U.S.C. 252(c) that all purchases and contracts be made by advertising. 40 U.S.C. 356(j)(1) makes the provisions of 41 U.S.C. 252(c) applicable to lease-purchase contracts. A similar exception is provided for contracts for the disposal of surplus property, 40 U.S.C. 484(e).

75. Reduction or set-off against assignee

31 U.S.C. 203

41 U.S.C. 15

In time of war, or of national emergency proclaimed by the President or by joint resolution of Congress, any contract of the Department of Defense, the General Services Administration, the Atomic Energy Commission, or any other department or agency designated by the President, except a contract under which full payment has been made, may provide or be amended without consideration to provide that payments to be made to an assignee of any moneys due or to become due under the contract shall not be subject to reduction or set-off for any liability of the assignor with specified exceptions. The National Aeronautics and Space Administration and the Federal Aviation Agency were designated under this section by Executive Order No. 10824 and Executive Order No. 10840, respectively.

76. Inspection of plants, books, and records of contractors

50 U.S.C. App. 643a-643c, as amended by 67 Stat. 120

Grants authority to the United States to inspect the plant, books and records of any contractor with whom a defense contract has been placed until six months after the termination of the national emergency proclaimed by the President on December 16, 1950, or until such earlier date as may be designated by Congress by concurrent resolution or by the President.

Customs Duties

77. Free importation and extension of time for doing acts

19 U.S.C. 1318

Whenever the President shall by proclamation declare an emergency to exist by reason of a state of war, or otherwise, he may authorize the Secretary of the Treasury to extend during the continuance of such emergency the time prescribed for the performance of certain acts relating to the collection of customs duties and may permit the free importation of supplies used in emergency relief work.

Proclamation No. 2948, of October 16, 1951 (16 F.R. 10589), authorizes the Secretary of the Treasury to extend specified time limitations for specified lengths of time, but not beyond the termination of the national emergency declared December 16, 1950.

Federal Employees

78. Appointments on a non-permanent basis

5 U.S.C. 43 note

Until termination of the national emergency proclaimed on December 16, 1950, the Civil Service Commission and the heads of the departments and agencies shall use their authority to require that appointments in and outside the competitive civil service be made on a non-permanent basis; the Civil Service shall facilitate the transfer of employees to defense activities, and use its authority to prevent too rapid promotions. Departments and agencies shall review and adjust positions created since September 1, 1950, and report thereon to Congress.

79. Retention of position during military service

5 U.S.C. 2253(d)

A federal employee who, during the period of any war or national emergency proclaimed by the President or declared by Congress, leaves his position to enter military service, shall not be considered separated from his position by reason of such service, for the purpose of the Civil Service

Retirement Program, unless he receives a lump-sum benefit thereunder. However, the employee does not retain his civilian position after December 31, 1956, or five years of military service, whichever is later.

Internal Security

80. Protection of defense information

18 U.S.C. 793, 794, 798

Section 793 prohibits collecting, transmitting, losing, gathering, or communicating to a foreign government information concerning national defense and defense installations, including information regarding places designated by proclamation of the President in time of war or national emergency.

The penalties applicable for violations during wartime under section 794 are continued in effect by section 798 until six months after the termination of the national emergency proclaimed by the President on December 16, 1950, or until such earlier date as Congress may prescribe by concurrent resolution.

81. Protection of defense material

18 U.S.C. 2153, 2154, 2157

Sections 2153 and 2154 provide penalties for the destruction or defective manufacture of war or defense materials in time of war or national emergency.

The penalties applicable to wartime violations are continued in effect by section 2157 until six months after the termination of the national emergency proclaimed by the President on December 16, 1950, or until such earlier date as Congress may prescribe by concurrent resolution.

82. Seditious activities affecting armed forces

18 U.S.C. 2388, 2391

Section 2388 provides penalties for engaging in seditious activities affecting the armed forces in time of war. Section 2391 continues such penalties in effect until six months after the termination of the national emergency proclaimed by the President on December 16, 1950, or until such earlier date as Congress may prescribe by concurrent resolution.

Leases

83. Maximum rental

40 U.S.C. 278b

The prohibitions on paying rent for any building used for Government purposes at a rate exceeding 15% of the market value of the premises annually,

and on making alterations of the premises valued at more than 25% of the first year's rent do not apply during war or a national emergency declared by Congress or by the President to leases or renewals thereof certified by the Secretary of the Army or of the Navy to be necessary for the prosecution of the war or vital in the national emergency.

After April 1, 1950, authority is granted under certain circumstances to increase the amount payable for rental of land acquired for national defense, war or veterans' housing purposes where the term of the government's interest is for the "duration of the emergency" or "duration of the war", or for such a period plus a specified period thereafter, or for some similarly prescribed term. 42 U.S.C. 1585(b).

Materials

84. Stockpiling of strategic and critical materials

50 U.S.C. 98d

In time of war or during a national emergency with respect to common defense proclaimed by the President, strategic and critical materials stockpiled may be released on order of an agency designated by the President.

Executive Order No. 10638, (20 F.R. 7637) as amended by Executive Order No. 10773 and Executive Order No. 10782 authorizes the Director of the Office of Civil and Defense Mobilization during the emergency declared December 16, 1950, to order such release in the event of an enemy attack on the continental United States.

84a. Suspension of Helium Licenses

74 Stat. 920, 50 U.S.C. 167c(d)

In time of war or national emergency, the Secretary of Interior is authorized to suspend any license granted under the Helium Act, if in his judgment such suspension is necessary to the defense and security of the United States, and he is further authorized to take such steps as may be necessary to recapture or reacquire supplies of helium.

Munitions

85. Control of explosives

50 U.S.C. 142

Provisions of 50 U.S.C. 121-142, relating to the regulation of the manufacture, distribution, storage, possession, and use of explosives, are operative only in time of war or when the President proclaims that a national emer-

agency requires the application of those provisions for national defense and security purposes, and remain operative until the war is terminated, or until such proclamation is revoked by the President.

Patents

86. Secrecy

35 U.S.C. 181-188

When informed by the Atomic Energy Commission or the Army or any other department or agency designated by the President as a defense agency that disclosure of an invention would be detrimental to the national security, the Commissioner of Patents shall withhold the grant of a patent for that invention and order it kept secret for a period of one year. The order may be renewed for additional periods of one year upon a new finding that secrecy is necessary. The Secretary of the Army may enter into an agreement with an inventor, whose invention has been kept secret and used by the Government, for full settlement for such use. An order of this type in effect at the beginning of a war, or issued during a war, is effective until one year after those hostilities are terminated. An order of this type in effect at the beginning of a national emergency declared by the President, or issued during such an emergency, is effective until six months after that emergency is terminated.

The Department of Justice was designated as a defense agency under this statute by Executive Order No. 10457.

Real Property

87. Closing of Fort McHenry

16 U.S.C. 440

In a national emergency, the Secretary of the Interior may close Fort McHenry and it may be used for military purposes during the emergency and for such period of time thereafter as the public need may require.

88. Barro Colorado Island

20 U.S.C. 79

The President may set aside Barro Colorado Island, Canal Zone, which, except in time of declared national emergency, will be left in its natural state for scientific observation and investigation.

89. Recapture of certain part of Anastasia Island, Florida

43 Stat. 959

In time of emergency, the United States may assume control of the property concerned for military, naval or lighthouse purposes without liability for damages or compensation.

90. Recapture of Hoboken Manufacturers' Railroad Company

43 Stat. 984.

In time of war or national emergency, the United States may use the property concerned in accordance with the contract between the Secretary of the Army (then War) and the Port of New York Authority transferring the property concerned to the Port of New York Authority.

91. Recapture of land formerly part of Presidio of San Francisco, California

43 Stat. 1129

In time of war or any other great national emergency, the United States may, without payment, enter the property concerned and use it and all improvements thereon for the duration of the war or emergency.

92. Recapture of leased facilities at New Orleans naval station

46 Stat. 329, 332

Authority is granted to lease the floating dry docks and waterfront accessories at the naval station, New Orleans; the lease is revocable on six months' notice or at the discretion of the Secretary of the Navy in time of national emergency declared by the President.

93. Recapture of leased facilities at Squantum naval base.

46 Stat. 479

The Secretary of Navy is authorized to lease all or part of the naval base at Squantum when he judges the property not needed for naval uses. Any such lease is revocable at the discretion of the Secretary of the Navy in time of national emergency declared by the President without payment of damages.

94. Recapture of Little Rock, Arkansas, municipal airport

49 Stat. 1278, 1292

In time of national emergency, upon request of the Secretary of the Air Force, control and operation of the Little Rock, Arkansas, municipal airport shall be turned over to the United States, without charge.

95. Recapture of Hoboken Pier Terminals

52 Stat. 833

In time of national emergency, the property concerned may be taken upon order of the President for the use of the Army during the emergency, subject to the payment of just compensation for improvements placed on the property.

96. Recapture of Fort Morgan, Alabama

60 Stat. 332

In time of a national emergency, the Department of the Army or the Department of the Navy may reoccupy the property without cost to the United States.

97. Reversion to the United States of part of Howard University property

62 Stat. 1062, 1065 (Note following 42 U.S.C. 1575)

Certain property in the District of Columbia conveyed to Howard University shall revert to the United States upon a written finding by the President that it is needed in connection with a national defense emergency prior to July 1, 1963.

98. Recapture of certain part of Santa Rosa Island, Florida

62 Stat. 1229, as amended by 63 Stat. 921

In time of a national emergency, the United States may take control of the property for such use and for such length of time as the emergency might require, as determined by the Secretary of the Army, without rental but on payment of just compensation for use of improvements on the property.

99. Recapture of certain lands formerly part of Camp Robinson, Arkansas

64 Stat. 310

In time of war, or national emergency declared by Congress or the President, and upon a determination by the Secretary of Defense that the property is useful or necessary for defense purposes, the United States may, without payment, enter the property concerned and use it or any part thereof, including any improvements made by the grantee, for the duration of the war or emergency. Six months after the termination of the war or emergency the property concerned, including any improvements made by the grantee, reverts to the grantee without any obligation on the part of the United States to restore the property.

100. Recapture of certain land formerly part of Fort Schuyler, New York

64 Stat. 591, as amended by 66 Stat. 727, 71 Stat. 584

During the time of war or national emergency declared by Congress or the President, and upon a determination by the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force that the property is useful for defense purposes, the United States may have, without payment except for fair rental of improvements added without federal aid, the possession and use of the property concerned.

101. Recapture of certain land in Windsor Locks, Connecticut

68 Stat. 31

In time of war, or national emergency declared by Congress or the President, and upon a determination by the Secretary of Defense that the property is useful or necessary for defense purposes, the United States may, without payment, enter the property concerned and use it or any part thereof, including any improvements made by the grantee, for the duration of the war or emergency. Six months after the termination of the war or emergency the property concerned, including any improvements made by the grantee, reverts to the grantee.

102. Recapture of certain land in the former Camp Butner Military Reservation, North Carolina

68 Stat. 50

In time of war, or national emergency declared by Congress or the President, and upon a determination by the Secretary of Defense that the property is useful or necessary for defense purposes, the United States may reenter and use the property for the duration of the war or emergency plus six months. The United States shall pay the cost of maintaining the property while used, and a fair rental for the use of improvements placed thereon without federal aid.

103. Recapture of certain lands formerly part of Camp Blanding Military Reservation, Florida

68 Stat. 474

In time of national emergency declared by the Congress or proclaimed by the President, upon request by the Secretary of the Army to the grantee, the property concerned will revert to the United States for the duration of the national emergency without cost to the United States.

104. Recapture of Boston Army Base pier

68 Stat. 535, 537-538

In time of war, or national emergency declared by the President, and upon a determination by the Secretary of the Army that the property is useful or necessary for military purposes, the United States may enter the property concerned and use it for such period as the Secretary determines to be necessary in the interests of national security. At the option of the lessee upon such entry, the lease may be terminated or extended for a period equal to the period of possession by the United States. In the event of termination, Massachusetts is to receive compensation for the cost of repairing and rehabilitating the property and for capital items provided by it.

105. Recapture of certain lands formerly part of Fort Bliss, Texas

68 Stat. 974

In time of war, or national emergency declared by Congress or the President, and upon a determination by the Secretary of Defense that the property is useful or necessary for defense purposes, the United States may, without payment, enter the property concerned and use it or any part thereof, including any improvements made by the grantee, for the duration of the war or emergency. Six months after the termination of the war or emergency the property concerned, including any improvements made by the grantee, reverts to the grantee.

106. Recapture of Martindale Auxiliary Field, San Antonio, Texas

68 Stat. 975

In time of war, or national emergency declared by Congress or the President, and upon a determination by the Secretary of Defense that the property is useful or necessary for defense purposes, the United States may, without payment, enter the property concerned and use it or any part thereof, including any improvements made by the grantee, for the duration of the war or emergency. Six months after the termination of the war or emergency the property concerned, including any improvements made by the grantee, reverts to the grantee.

107. Recapture of certain land in Austin, Texas

69 Stat. 68

In time of war, or national emergency declared by Congress or the President, and upon a determination by the Secretary of Defense that the property is useful or necessary for defense purposes, the United States may without payment, enter the property concerned and use it or any part thereof, including any improvements made by the grantee, for the duration of the war or emergency. Six months after the termination of the war or emergency the property concerned, including any improvements made by the grantee, reverts to the grantee.

108. Recapture of certain land located in Polk County, Iowa

69 Stat. 70

In time of war, or national emergency declared by Congress or the President, and upon a determination by the Secretary of Defense that the property is useful or necessary for defense purposes, the United States may, without payment, enter the property concerned and use it or any part thereof, including any improvements made by the grantee, for the duration of the war or emergency. Six months after the termination of the war or emergency the property concerned, including any improvements made by the grantee, reverts to the grantee.

109. Recapture of Jackson Barracks, Louisiana

69 Stat. 79

In the event of need therefor during a national emergency, the United States may reenter and use the property concerned.

110. Recapture of certain land near Lake Guernsey, Wyoming

69 Stat. 138

In time of war, or national emergency declared by the Congress or the President, and upon a determination by the Secretary of Defense that the property is useful or necessary for defense purposes, the United States may, without payment, enter the property concerned and use it or any part thereof, including any improvements made by the grantee, for the duration of the war or emergency. Six months after the termination of the war or emergency the property concerned, including any improvements made by the grantee, reverts to the grantee.

111. Recapture of certain land formerly part of Fort Devens, Massachusetts

69 Stat. 293

In time of war or national emergency declared by Congress or the President, and upon a determination by the Secretary of Defense that the property is useful or necessary for defense purposes, the United States may, without payment, enter the property concerned and use it or any part thereof, including any improvements made by the grantee, for the duration of the war or emergency plus six months; upon the cessation of such use, the property concerned, including any improvements made by the grantee, reverts to the grantee.

112. Recapture of certain land in Harris County, Texas

70 Stat. 17, 18

In time of war, or national emergency declared by Congress or the President, and upon a determination by the Secretary of Defense that the property is useful or necessary for defense purposes, the United States may, without payment, enter the property concerned and use it or any part thereof, including any improvements made by the grantee, for the duration of the war or emergency. Six months after the termination of the war or emergency the property concerned, including any improvements made by the grantee, reverts to the grantee.

113. Recapture of certain area formerly part of Charleston Army Base Terminal, South Carolina

49 Stat. 1387, as amended by 63 Stat. 169, 70 Stat. 35

In time of national emergency, the property may be taken upon order of the President for the use of the Army during the period of the emergency.

114. Recapture of Camp Livingston, Camp Beauregard and Ester Field, Louisiana
70 Stat 156

The United States reserves the right of reentry into and use of certain property conveyed to Louisiana in the event of need during a national emergency.

115. Recapture of former Burns General Hospital area in Santa Fe, New Mexico
70 Stat. 296

The United States reserves the right of reentry into and use of certain property conveyed to New Mexico in the event of need during a national emergency declared by the President or Congress.

116. Recapture of former prisoner of war camp near Douglas, Wyoming
70 Stat. 336

The United States reserves the right of exclusive use without charge of certain property conveyed to Wyoming and any improvements during any period of national emergency.

117. Recapture of certain part of Ethan Allen Air Force Base, Colchester, Vermont
70 Stat. 536

In the event of need therefor during a national emergency declared by the President or the Congress, the United States may reenter and use the property.

118. Recapture of land in vicinity of Williamsburg, Virginia, formerly a part of Camp Perry
70 Stat. 550

In time of war, or national emergency declared by Congress or the President, and upon a determination by the Secretary of Defense that the property is useful or necessary for defense purposes, the United States may, without payment, enter the property concerned and use it or any part

thereof, including any improvements made by the grantee, for the duration of the war or emergency. Six months after the termination of the war or emergency the property concerned, including any improvements made by the grantee, reverts to the grantee.

119. Recapture of LaCrosse National Guard Target Range, Wisconsin
70 Stat. 576

The United States has reserved the right of reentry and use without payment of these lands in the event of need therefor during a national emergency declared by the President or Congress.

120. Recapture of certain land previously conveyed to Montgomery,
West Virginia
70 Stat. 590

In time of war, or national emergency declared by Congress or the President, and upon a determination by the Secretary of Defense that the property is useful or necessary for defense purposes, the United States may, without payment, enter the property concerned and use it or any part thereof, including any improvements made by the grantee, for the duration of the war or emergency. Six months after the termination of the war or emergency the property concerned, including any improvements made by the grantee, reverts to the grantee.

121. Recapture of former Department of Agriculture San Antonio
Nursery Site
70 Stat. 697

In time of war, or national emergency declared by Congress or the President, and upon a determination by the Secretary of Defense that the property is useful or necessary for defense purposes, the United States may, without payment, enter the property concerned and use it or any part thereof, including any improvements made by the grantee, for the duration of the war or emergency. Six months after the termination of the war or emergency the property concerned, including any improvements made by the grantee, reverts to the grantee.

122. Recapture of certain land in Clackamas County, Oregon
70 Stat. 793

In time of war, or national emergency declared by Congress or the President, and upon a determination by the Secretary of Defense that the

property is useful or necessary for defense purposes, the United States may, without payment, enter the property concerned and use it or any part thereof, including any improvements made by the grantee, for the duration of the war or emergency plus six months. After the cessation of such use the property concerned, including any improvements made by the grantee, reverts to the grantee.

123. Recapture of Fort Preble Military Reservation, South Portland, Maine
71 Stat. 467

During any state of war or national emergency and for six months thereafter, if the Secretary of Defense determines that such lands are useful or necessary for national defense purposes the United States may, without payment therefor, reenter such lands and use all or any part thereof (including improvements thereon), but upon the termination of such use such lands shall revert to the State of Maine.

123a. Recapture of Castle Island Terminal Facility, South Boston,
Massachusetts
65 Stat. 658, as amended by 71 Stat. 473

In time of war or national emergency, the United States has the right of free and unlimited use of the property, including any improvements erected by the grantee. The United States shall pay a reasonable rental for the improvements and shall bear the entire cost of maintaining the property during the period of use.

123b. Recapture of land in York County, Virginia
72 Stat. 401

In time of war or national emergency, upon the determination by the Secretary of Defense that the property conveyed to the Board of Supervisors of York County, Virginia is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right to reenter upon the property and use the same or any part thereof. Six months after the termination of the war or emergency the property shall revert to the Board of Supervisors of York County, Virginia.

123c. Recapture of property located at Boston Neck, Narragansett,
Washington County, Rhode Island
72 Stat. 404

In time of war or national emergency, upon the determination by the Secretary of Defense that the property conveyed to the State of Rhode

Island is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without payment, to reenter upon the property and use the same or any part thereof. Six months after the termination of the war or emergency, the property shall revert to the State of Rhode Island.

123d. Recapture of certain lands at Hot Springs National Park, Arkansas
73 Stat. 595

In time of war, or national emergency declared by the President, and upon determination by the Secretary of Defense that the property is useful or necessary for military purposes the United States may enter the property concerned, or part thereof, and use the property including any improvements made by the State of Arkansas for the duration of the emergency plus six months. Upon termination of this period, the State of Arkansas may reenter but without right to compensation of any kind.

X 123e. Recapture of the E. Street Annex, South Boston Annex, Boston Naval Shipyard, South Boston, Massachusetts
74 Stat. 356

In time of war or national emergency, the United States has the right of free and unlimited use of the property, including any improvements erected by the Massachusetts Port Authority. The United States shall pay a reasonable rental for the improvements and shall bear the entire cost of maintaining the property during the period of use.

123f. Recapture of land located in Will County, Illinois
74 Stat. 371

In time of war or national emergency, upon the determination by the Secretary of Defense that the property conveyed to the State of Illinois is useful or necessary for military, air, or naval purposes, or in the interest of national defense, the United States shall have the right, without payment, to reenter upon the property and use the same or any part thereof. Six months after the termination of the war or emergency the property shall be returned to the State of Illinois.

Transportation

124. Preference to essential traffic
49 U.S.C. 1(15)

In time of war or threatened war, the President may certify to the Interstate Commerce Commission that it is essential to national defense and security that certain traffic have preference or priority in transportation, and the commission will direct the carrier that such preference or priority be afforded. Continued in effect until six months after the termination of the emergency declared December 16, 1950, by 67 Stat. 115.

The provisions of this section were made applicable to freight forwarders and other persons by 49 U.S.C. 1020, which was also continued in effect until six months after the termination of the national emergency declared on December 16, 1950 by 67 Stat. 115.

125. Preference to military traffic

49 U.S.C. 6(8)

In time of war or threatened war preference and precedence shall, upon demand of the President, be given to the transportation of troops and material of war over all other traffic. Continued in effect until six months after the termination of the emergency declared December 16, 1950 by 67 Stat. 244.

Vessels

126. Transfer to foreign registry

46 U.S.C. 835

When the United States is at war or during any national emergency declared by the President, it shall be unlawful, without the prior approval of the Secretary of Commerce, to transfer to foreign ownership or control any vessel owned by a citizen of the United States or a domestic corporation or documented under the laws of the United States, or any shipyard.

127. Citizenship of officers and men

46 U.S.C. 1132(h)

During a national emergency proclaimed by the President, he may suspend the requirements of citizenship for the officers of United States vessels and for the crew of subsidized vessels and the conditions required for employment of aliens of such vessels.

128. Obsolete vessels

46 U.S.C. 1160(g), as amended by 74 Stat. 216.

The Federal Maritime Board or the Secretary of Commerce may acquire obsolete vessels in exchange for an allowance of credit to be applied upon the purchase of a new vessel. Such obsolete vessels, and vessels over twenty-five years old in the Board's or Secretary's laid-up fleet, may not be used for commercial operation except during a period in which vessels may be requisitioned under section 1242 (Item 130).

129. Charter termination

46 U.S.C. 1202(d)

50 U.S.C. 1738(c)

All charters of vessels made by the Secretary of Commerce are required to contain a provision allowing the termination of the charter without cost to the United States whenever the President shall proclaim that the security of the national defense makes it advisable or during any national emergency declared by the President.

130. Requisition

46 U.S.C. 1242(a)

Whenever the President shall proclaim that the security of the national defense makes it advisable or during any national emergency declared by proclamation of the President, the Secretary of Commerce may requisition or purchase or charter any citizen-owned vessel or any vessel under construction in the United States. Just compensation is required to be paid.

131. Requisition of foreign-owned vessels

50 U.S.C. 196-198

Whenever the President shall proclaim that the security of the national defense makes it advisable or during any national emergency declared by the President, the Secretary of Commerce may purchase or requisition any alien-owned merchant vessel lying idle in United States territorial waters on payment of just compensation.

During such period alien-owned merchant vessels may be purchased or chartered by the Secretary of Commerce by voluntary agreement.

Such vessels may be documented under the law of the United States and engage in the coast-wise trade. Provisions as to the officers, crew, and their accommodations for United States-documented vessels may be waived. Such vessels may be reconditioned without regard to the provisions of 41 U.S.C. 5, as amended by 72 Stat 967 relating to advertising.

132. Control of vessels in territorial waters

50 U.S.C. 191

Whenever the President declares a national emergency to exist by reason of actual or threatened war, insurrection, or invasion, or disturbance of the international relations of the United States, the Secretary of the Treasury (and the Governor of the Canal Zone as to his territory) with the approval of the President may regulate the anchorage and movement of foreign and domestic vessels in United States territorial waters, may inspect, and, under certain conditions, seize such vessels.

The same actions may be taken as to foreign flag vessels by the President when he finds that the security of the United States has been endangered by reason of actual or threatened war, insurrection, invasion, or subversive activity, or of disturbance or threatened disturbance of the international relations of the United States. He may also provide rules to guard ports and vessels in our territorial waters from sabotage.

The President's authority under this section was delegated to the Secretary of the Treasury by Executive Order No. 10637 (20 F.R. 7025).

133. National defense reserve fleet

50 U.S.C. App. 1744(a)

Vessels placed by the Secretary of Commerce in a national defense reserve shall not be used for any purpose except that they may be used for account of any United States department or agency during any period in which vessels may be requisitioned under section 1242 (Item 130).

134. Recapture of any CI-SAY-1 vessels sold to the Republic of China under P.L. 86-473

74 Stat. 143

In time of war, or national emergency declared by the President, the Government may request the return of ownership of CI-SAY-1 vessels sold to the Republic of China under P.L. 86-473. The United States shall pay the price of the vessel, not exceeding \$1,100,000 depreciated at the rate of 10 per centum per annum, or the scrap value, whichever is higher.