

VIII. Protection of the Corporation From Government Interference

It is important to consider whether there are significant ways in which the executive or legislative branches of the United States or Trust Territory government might, without fair compensation, act to take or restrict the use of the lands or fundamentally alter the structure or activities of the corporation. Of course, it is impossible to analyze these possibilities completely without speculating as to the precise actions that might be taken and the circumstances surrounding them. However, there would be certain broad protections available to the corporation under its contract with the United States and under the contract and due process clauses of the United States Constitution and the Trust Territory Code.

Under Article I, Section 10 of the Constitution, no state may pass any law "impairing the obligation of contracts." This principle applies not only to agreements between private persons, but generally as well to grants or contracts to which the state itself is a party. 1/ As to the federal government, "there is at least a tendency for the contract clause and the due process clause to coalesce." 2/

Particularly where the private party seeks to protect a right to real property, the Supreme Court has generally rejected any claim that the United States may

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1/ Fletcher v. Peck, 10 U.S. (6 Cranch) 87, 137-39 (1810); Dartmouth College v. Woodward, 17 U.S. (4 Wheat.) 518 (1819)

2/ Hale, The Supreme Court and the Contract Clause: III, 57 Harv. L.Rev. 852, 890 (1944).