

JAMES E. WHITE
ATTORNEY AT LAW
P. O. BOX 47, Capitol Hill
SAIPAN, MARIANA ISLANDS 96950

Phone 3133

01
8

January 9, 1974

Mr. Howard P. Willens
Wilmer, Cutler & Pickering
Farragut Building
900 - 17th Street, N. W.
Washington, D. C. 20006

Dear Howard:

A meeting was held yesterday with the Marianas Political Status Commission, and the following United States Congressional Representatives were there: Phillip Burton, Tom Foley, Bill Ketchum, Tony Won Pat, and Ron Lugo. Also at the meeting were Adrian Winkle, staff man for Phillip Burton, Commander Bresnesh, apparently a military liaison for the group, and Steve Sanders who is the Administrative Assistant for Lloyd Mead. The meeting developed a very healthy interchange, and a high degree of respect for our negotiations by the United States Congressmen. The discussions were mainly centered around what Congressmen Burton and Foley felt could create sensitive issues in attempting to get Congressional approval of any status agreement. The issues in order of their mentioning were as follows:

Under Federal Income, Estate and Gift Taxation, at page four (4) of our joint communique, Section three (3), referring to Section 872(b)(4) of the Internal Revenue Code, they were somewhat perplexed that we would make a specific section of the agreement apply to series E and H bonds for the specific purpose of exempting them from any United States taxes. Congressman Burton's concern in this area was that certain individuals may attempt to take advantage of the situation by depositing a large amount of funds in these governmental bonds, either through a front man or by acquiring residency themselves, and that could create a tax loop hole for the "well to do" when, in fact, it would not be to any practical value to the people of the Marianas.

A long discussion was also developed in reference to Section two (2) on this same page four (4) as mentioned above regarding special tax treatment for United States citizens and United States corporations doing business in the Marianas. His recommendation was that we disregard these types of special developments as to the form of taxation and accept the United States tax structure as the appropriate way to go in that, on a joint basis at least, it would require a four thousand dollar (\$4,000) income before taxation would begin, and since most of the people of the Marianas do not fall in that category, they would

00006

Mr. Howard P. Willens
January 9, 1974
Page 2

not be taxed anyway. Further, special taxes and surcharges could be added on to this if we so desired, and he insured us that, like Guam and the Virgin Islands, these taxes would all be rebated to the Marianas. He used the terminology, "fraught with peril" and "fraught with political problems" and went on to state that "off shore areas" (terminology for all disconnected possessions away from the mainland) are already getting a break beyond belief over the Continental United States. He stated that Sections two (2) and three (3) appear to be "rip off" arrangements for the very well to do. Additionally, he felt that there could be a big problem in Guam--that companies such as J & G might move their headquarters to Saipan in order to avoid taxation. In general, he felt that the tax issue was a tremendous problem in gaining Congressional acceptance of our agreement.

We responded by indicating that the Marianas was attempting, through Section two (2), to develop a certain amount of economic flexibility in that the people of the Marianas, through local legislation, could control the amount of United States corporate or individual investment by imposing a local tax of either a lenient or strict nature, depending upon the total economic loan capability for local development. Additionally, Section three (3) only applied to people of Micronesia. Because of the short period of time the Congressmen were here, it did not seem appropriate to go into a thorough examination of the advantages or disadvantages of these provisions. Therefore, we indicated that an extensive paper on these two (2) subjects would be submitted for Congressman Burton's review. If this work could be developed for informal presentation to Congressman Burton's committee, I think it would be helpful.

Congressman Burton stated that Congress had not really been kept well informed by the Ambassador, although he had met with him several times. Congressman Foley indicated that he was on the committee for Puerto Rico and offshore areas, and to attempt to develop new ways of doing things rather than taking principles already established and building on them would create and raise political problems when reviewed by such places as Puerto Rico and the Virgin Islands. He then indicated that we should adopt the United States tax structure rather than break off and do something new. It would appear important that we develop a logical explanation as to why our inclusions in the tax line are not variances but rather building blocks for what has been previously created.

We then discussed the economic situation. There has been fourteen and a half million dollars (\$14.5 million) offered by the United States

Mr. Howard P. Willens
January 9, 1974
Page 3

and Congressman Burton and others on the committee seemed to think that this figure was pretty accurate as it is fifty percent (50%) more than what is presently being paid through the Trust Territory Government. There was an indication that we could probably hold tight for a bit more, but just how much was something that they were non-committal about. Congressmen Burton and Foley both indicated that the development loan fund, at one million dollars (\$1 million) a year, is considered modest and could probably be "beefed up" a bit. As to a five (5) year funding program, Congressman Burton indicated that this could probably be informally agreed to, but not necessarily put into the agreement itself as it could create some extremely tough political problems. There is a precedent for this funding, such as revenue sharing over a five (5) year period, however, his indication was that this created bloody war before final approval, and it may be better for tacit approval rather than have the five (5) year plan within the agreement itself.

Congressman Burton continually stressed that they were not trying to order us about in any way nor were they trying to tell us what to do. Their intentions were to help whenever and wherever they could to see that this agreement goes through smoothly. He stated that they wanted to welcome us as brothers with open arms and that they considered this meeting the most important meeting of their trip. I felt that there was a great amount of sincerity in his statements. In fact, the committee bypassed a luncheon engagement and stayed in session with us until their plane left at 1:30 p.m. The implication here was that they considered it more important to get a good understanding with us than to have an additional meal.

A long discussion developed on the leasing versus the sale of land to the military. Congressman Burton said that we should "hold to our guns" for a long term lease agreement as the best way to go; and if it is indicated that terms on return are necessary, we should make sure that they are specifically spelled out. He emphasized this second point three times. Congressman Foley seemed to feel that a conditional fee would be better than a long term lease. It could have a reverter capability with terms that are not too prohibitive. Congressman Burton then stated that it is the United States' policy to buy, but with the stressing of land sensitivity in a small island environment we could probably "win through" on a lease basis. The length of the lease should be sufficient to allow the United States to cover the costs of its development.

A discussion was had on whether or not fifty (50) years would be sufficient and Congressman Foley seemed to think that fifty (50)

Mr. Howard P. Willens
January 9, 1974
Page 4

years would not be sufficient. Then the question was asked about a fifty (50) year lease with an option for a second fifty (50) years, and with that Congressman Foley said "one hundred (100) years is a long time, that it may be okay, but it's hard to say at this time." He indicated that a lease payment on a fair market basis would be looked at closely. He also indicated that Congressman Burton was very generous in these areas, but that the Armed Services Subcommittee would have a tendency to be somewhat less generous. An annual payment may be possible in lieu of tax if a conditional fee were used as land is not taxable against the Federal Government if purchased. At this point Congressman Burton said that one hundred (100) years from now Tinian land would be ten thousand percent (10,000%) more valuable than what it is now. If military use needs are satisfied then a long term lease should be okay.

Congressman Burton indicated that if an agreement is reached with the Executive there is then an implication that the military approves of the procedure. However, Congressman Foley cautioned that sometimes the military will, on the surface, approve but in the back room disapprove, so terms should not be too stringent.

Congressmen Burton, Foley, and Won Pat all agreed that, in time, they would like to see a reunification with Guam; however, they did not feel that this was a necessary requirement in the status agreement.

There was some confusion as to the plenary aspects of 4-3-2. There was a general feeling that 4-3-2, in accordance with what had been decided, would not be applied to the Marianas. This was very disturbing to them. It was indicated that 4-3-2 would have application to the Marianas subject to specific limitations placed within the compact itself. This seemed to create relief on their part, and it was further indicated that much could be done by way of limitations and future potentials as long as it was in the compact. Congressman Foley added a side note that might be worth investigating. Many of the states, when becoming part of the United States, had special compacts with special exemptions and additions placed therein. The example he used was Texas. Within their compact it was agreed that, if at any time the Texas legislature decided, they could split Texas into five (5) separate states of the United States. This has not been widely known, however, the implication is that Texas could wind up with ten (10) Senators if the rule is ever applied. Other states have similar capabilities, and it might be worth while for us to be aware of these for negotiation purposes.

The subject of possibly having a non-voting representative in Congress was brought up and Congressman Burton was very plain here that no way would this be possible. It was the most amazing thing as far as he was concerned that Guam and the Virgin Islands

05809

Mr. Howard P. Willens
January 9, 1974
Page 5

accomplished this. With only fourteen thousand (14,000) people in the Marianas, a non-voting delegate would be out of the question. However, if the northern Marianas were to be represented by the same individual who represents Guam there may be a possibility that, with the added strength of the northern Marianas being included with Guam, his present non-voting capability could be changed to a voting capability. He stated that in order to have a voting delegate one hundred thousand (100,000) population was about the magic amount. He also said that it was hard to say what the number was for statehood.

The question was brought up in reference to treating Saipan under a separate administration and the Congressional representatives indicated that there would probably be no problem. As far as the United Nations is concerned, about fifty (50) of the Representatives of the House are sensitive to what the United Nations might think, and one hundred fifty (150) members are anti whatever sentiments the United Nations might develop, and the rest fall in between.

Congressman Burton indicated that what we have to develop is a "level of communications" and we also need to develop the following:

1. A way to work things out as brothers.
2. Special treatment for land for the people of the Marianas.
3. The assistance of the United States economically during the start up.

He also indicated that so much appears to have been agreed upon already, and that we are so much in accord in the United States Congress now, that they would not like to see some peripheral issue or area blow it up. They would like a solid status agreement ahead of time, if possible, and the indication here was that an indirect setup with his office might be appropriate. The suggestion then came from our delegation that maybe a United States Congressman could attend our next session and this created a hesitating three "noes" from Congressman Burton which was probably the most descriptive phrase throughout the whole session. You could tell that he was going through all of the political bomb shells which this would create. He seemed to feel that, if we made contact with his office in any sort of official capacity, in all probability it would be appropriate for a Representative of the United States team to also be present. This may answer why you have not been able to successfully see Congressman Burton in the past.

00600

Mr. Howard P. Willens
January 9, 1974
Page 6

My general impression of the meeting was that the United States Congress would most probably favorably accept any realistic status agreement that was presented to them. Although many hackles were raised in reference to the tax problem, my general conclusion was that these, too, would be acceptable if made part of the status agreement, as long as they were reasonably assured that they were based upon good logic and reason. If there was a general commitment by the people of the Marianas to assist the military and comply with the general principles of sovereignty, this agreement would be acceptable. They seemed to have a problem in reference to why we should want the alternative of becoming nationals rather than everybody becoming a citizen. We indicated the genuine political sensitivity in this area, and it seemed to pacify them. I think, however, that this will be a continuing problem. If we do allow this potential alternative, it will have to be thoroughly explained to all of the Congressmen.

Sincerely yours,


James E. White

cc: Edward DLG. Pangelinan
James Leonard

06601