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DLSchiele/AdeGraffenried:7-18-75:kkc

QUESTIONS ON THE COVENANT

1. a. Please explain Section 105 which provides the Northern Marianas will be specifically named in Congressional legislation not applicable generally to the States.

b. Will the U.S. hold its traditional plenary powers under Article IV, Section 3, Clause 2?

c. What is the purpose of the mutual consent provision in Section 105?

2. a. What is the purpose of the general formula for extending federal law to the Northern Marianas?

b. Why are some federal laws given special treatment? (e.g., the Coastwise laws, federal minimum wages).

c. Will U.S. income tax apply?

3. Why apply specific provisions of the U.S. Constitution? Is this done for other territories?

4. a. Under Section 202 will the U.S. Congress review the Northern Marianas Constitution?

b. Why establish a six month period for reviewing the Northern Mariana Islands Constitution?

c. What will U.S. review of the Northern Mariana Islands Constitution consist of?

d. Why is membership in one house of the Northern Mariana Islands bicameral legislature composed of equal representation?

5. a. When will the people of the Northern Marianas become eligible for U.S. citizenship?

b. Will U.S. citizenship be automatic?

- c. Are people in other territories full U.S. citizens?
- 6. a. For what purposes will the \$14 million annual grant under Article VII be used?
  - b. Why the seven year period?
  - c. Will it be necessary to continue this support beyond the seven year period provided for in the Covenant?
  - d. How does this compare to our treatment of other territories?
    - e. Is this an authorization or appropriation?
    - f. Is this a dole?
    - g. What about federal programs?
- 7. a. For what purpose will the United States lease the lands described in Article VIII?
  - b. Are there plans for base construction and/or the stationing of troops on Tinian?
  - c. What kinds of military activity do we have now in the Marianas?
  - d. Will the U.S. give up any lands it now holds?
  - e. Why?
- 8. Does the United States hold full rights of eminent domain in the Northern Marianas?
- 9. a. Who proposed Section 805a, which restricts during the first 25 years the acquisition of permanent or long term interest in land in the Northern Marianas to persons of Northern Mariana Islands ancestry?
  - b. Why?

- c. Is there precedent for this approach?
  - d. What happens after the first 25 years?
10. a. Is the Northern Mariana Islands outside the U.S. customs jurisdiction?
- b. Is this like Guam?
  - c. Can the Northern Mariana Islands levy customs taxes on goods from the U.S. mainland or areas within the U.S. customs jurisdiction?
11. a. What will be the role of Northern Marianas' Resident Representative to the United States (Section 901)?
- b. Will the Northern Marianas have a Delegate to the Congress?
12. a. Under Article X, what is the role of the United Nations in the approval process?
- b. Must the U.N. Security Council or the General Assembly approve the document?
  - c. What happened in the other U.N. trusteeships?

Q. Section 103 of the Covenant provides that the people of the Northern Mariana Islands will have the right of self-government and will govern themselves with respect to internal affairs in accordance with a Constitution of their own adoption. Section 105 provides that Article I of the Covenant, which includes Section 103, may be modified only with the consent of the Government of the United States and the Government of the Northern Mariana Islands. Does this mean that federal legislation impinging on local self-government or affecting the internal affairs of the Northern Mariana Islands may be enacted only with the mutual consent of the United States and the Northern Mariana Islands?

A. This definitely is not the import of the Covenant. Most acts of Congress affect the internal affairs or the right to self-government of the States to a greater or lesser extent. Sections 103 and 105 are not designed to prevent Congress from passing with respect to the Northern Mariana Islands laws which it could enact with respect to the several States. This follows from Sections 101 and 102 of the Covenant (Federal Sovereignty and Supremacy). Indeed Section 105 of the Covenant makes it clear that Congress has the power to pass legislation applicable to the Northern Mariana Islands which it could not make applicable to the States. This follows from the language of the first sentence of Section 105 and is underlined by the report of the Drafting Committee which states that the authority of the United States to legislate for the Northern Mariana Islands includes Article IV, Section 3, Clause 2 of the Constitution

pursuant to which Congress has a legislative power over the territories far broader than over the States.

The mutual consent requirement of Section 105, pursuant to its own language, prohibits the modification of Section 103, which provides for local self-government and government with respect to local affairs under a Constitution adopted by the people of the Northern Mariana Islands. To that extent it is basically an institutional guaranty. It does not, however, preclude the normal impact of federal legislation on local government and internal affairs.