

N. Mariano

Oct 11, 1977

BEFORE THE JUDICIARY
COMMITTEE OF THE UNITED STATES
SENATE

JOINT STATEMENT OF C. BREWSTER CHAPMAN, JR., FOR THE DEPARTMENT OF THE INTERIOR, HERMAN MARCUSE FOR THE DEPARTMENT OF JUSTICE, AND STAFFORD D. RITCHIE, II, FOR THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS AND FOR THE COMMITTEE ON PACIFIC TERRITORIES, JUDICIAL CONFERENCE OF THE UNITED STATES, IN SUPPORT OF S. 2149 - A BILL TO CREATE THE DISTRICT COURT FOR THE NORTHERN MARIANA ISLANDS IMPLEMENTING ARTICLE IV OF THE COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IN POLITICAL UNION WITH THE UNITED STATES OF AMERICA

Mr. Chairman, we are pleased to appear here today to testify in support of S. 2149, a bill to create the District Court for the Northern Mariana Islands.

This bill is necessitated by the fact that Article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (H.J. Res. 549, Public Law 94-241, 90 Stat. 266) provides that "The United States will establish for and within the Northern Mariana Islands a court of record to be known as the 'District Court for the Northern Mariana Islands'."

In accordance with the provisions of Article IV this District Court will have the jurisdiction of a district court of the United States except that in all causes arising under the Constitution, treaties or laws of the United States it shall have jurisdiction regardless of the amount in controversy. In addition, it will have original jurisdiction in all causes in the Northern Mariana Islands jurisdiction over which is not vested by the Constitution or laws of the Northern Mariana Islands in a court or courts of the Northern Mariana Islands. Finally, the District Court will have such appellate jurisdiction as the Constitution or laws of the Northern Mariana Islands may provide.

The Covenant represents the culmination of over twenty years of efforts by the people of the Northern Mariana Islands to achieve official recognition and acceptance of their repeatedly expressed desires to become a part of the United States. It is the product of careful and serious negotiations between the people of the Northern Mariana Islands and the United States. It has been approved by the Congress and the President of the United States. It is now the law of the land, and its provisions are mutually binding on the parties.

In accordance with Article II of the Covenant the people of the Northern Mariana Islands have framed and approved a constitution for the Northern Mariana Islands, and have submitted it to the United States Government for approval. In accordance with the provisions of Article II of the Covenant, the constitution will be deemed to have been approved on October 22, 1977, unless earlier approved or disapproved. Thus the constitution could become effective as early as January 9, 1978, in accordance with Article X of the Covenant.

Article IV of this constitution provides for the establishment of the judicial branch of the local government. It calls for the creation by the legislature of a Commonwealth trial court with original jurisdiction over, among others, civil actions where the amount in controversy is five thousand dollars or less and criminal actions where the fine is five thousand dollars or less or the imprisonment is for no more than five years. It also permits the establishment of an appeals court after the constitution has been in effect for five years. In the event, no

District Court for the Northern Mariana Islands is available under Article IV of the Covenant, the legislature is authorized to expand the civil and criminal jurisdiction of the Commonwealth trial court and establish an appeals court without reference to the five year waiting period.

The legislature of the Northern Mariana Islands will have no authority to act until the Constitution of the Northern Mariana Islands has become effective. After the constitution becomes effective, it will take the legislature an undetermined amount of time to create the court authorized by Article IV of the constitution and to establish it as functioning branch of the local government. Transitional provisions of the constitution will enable the current, local courts to hear and determine cases that will be within the limited jurisdiction of the Commonwealth trial court. However, unless the District Court for the Northern Mariana Islands is established by S. 2149 in this session of Congress, there will be no court in the Northern Mariana Islands to hear serious criminal and important civil cases, arising under local law. Moreover, there would be no court to hear causes involving Federal questions or Federal crimes, and there would be no appellate tribunal.

The urgent need for enactment of S. 2149 in this session of the Congress is readily apparent. If action on the bill is deferred until the next session of the Congress there could be an unacceptable void in the judicial functions of the new government for the Northern Mariana Islands.

The language of S. 2149 follows closely the corresponding provisions of the Organic Act of Guam (48 USC 1424 and 1424b), and Article IV of the Covenant which was approved by the Congress a year and a half ago.

In closing we would like to thank the Committee for its prompt action on this matter and especially the members of the Committee's staff for their outstanding cooperation and assistance in expediting the presentation of S. 2149 both in the Senate and before this Committee.

M. M...

Sept 1970

ANTICIPATED CASELOAD OF PROPOSED DISTRICT COURT, N.M.I.

CRIMINAL CASES:

From January 1, 1976 to September 1, 1977, there were filed in the High Court in the Mariana Islands, 121 criminal cases or an average of 10 cases per month. The jurisdiction of the High Court in criminal cases is essentially that which will exist for the District Court. A large majority of the cases are jury cases and a good percentage (50% or more) go to trial. Interpretation is required in over 75% of all cases and therefore the time to hear each case runs about one and a half times normal estimates.

In addition to the anticipated 10 local criminal cases per month, the District Court will be vested with jurisdiction to hear all criminal cases filed by the United States Attorney under the various federal criminal statutes which will be applicable to the Northern Marianas. It is not possible to estimate these case filings at this time.

CIVIL CASES:

From January 1, 1976 to September 1, 1977, there were filed in the High Court in the Mariana Islands approximately 544 civil cases. The jurisdiction of the High Court includes land disputes as well as all cases where the amount in controversy exceeds \$1,000. The District Court will have jurisdiction over cases where the amount in controversy exceeds \$5,000 and will not include land cases. Of the 544 cases filed in the last 20 months, it is estimated that 270 of them would have been within the jurisdiction of the District Court. It is therefore anticipated that 13 to 14 civil cases will be filed per month in the District Court. Almost all of these cases require some interpretation which extends trial time.

In addition to the above, the District Court will hear types of cases not previously allowed in the Northern Mariana Islands such as bankruptcy cases or causes of actions allowed under applicable federal civil statutes. It is not possible, at this time, to predict the number of these cases.

Under the covenant, the District Court will hear all cases arising under the Constitution, treaties or laws of the United States regardless of the sum or value of the matter in controversy. It is anticipated that several suits will be filed over the interpretation, effect and legality of the Constitution for the Northern Mariana Islands. However, it is not possible, at this time, to predict the number of these types of cases.

Pursuant to the provisions of the covenant and the Constitution for the Northern Mariana Islands, the District Court shall have an Appellate Division to hear appeals from Commonwealth Court decisions. In the last twenty months, approximately two appeals per month have been taken from High Court decisions in the Marianas. However, it is anticipated that this number will increase significantly because of the increased jurisdiction of the Commonwealth Court and due to the fact that the Constitution of the Northern Mariana Islands does not require the Commonwealth judges to be attorneys at law, and some of the judges are expected to be lay judges.