



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

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Honorable Walter F. Mondale
President
U. S. Senate
Washington, D. C. 20510

SEP 26 1977

Dear Mr. President:

Enclosed is a bill to implement 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, P. L. 94-241, 90 Stat. 266). This legislation is necessary so that the provisions of Article IV of the Covenant which call for the establishment of a District Court for the Northern Mariana Islands can be implemented in a timely fashion. As you know, the President must issue a proclamation before the Northern Mariana Islands Constitution can become effective and it along with several articles and sections of the Covenant including Article IV can gain the full force of law. The people of the Northern Mariana Islands strongly desire that the District Court be established by that time or very soon thereafter.

Section 1 of the enclosed bill would provide in subsection (a) for the establishment of the District Court. Subsection (b)(1) would authorize the President to appoint, with the advice and consent of the Senate, a judge for the District Court and would set the judge's salary. Subsection (b)(2) of the bill authorizes the Chief Judge of the Ninth Judicial Circuit to assign a judge to the District Court of the Northern Mariana Islands for a period of time should such prove necessary for the Court to carry out its functions. It also provides that such an assigned judge may appoint statutory Court officers if necessary. Subsection (b)(3) makes provision for Presidential appointment of statutory Court officers and subsection (b)(4) establishes the terms of office of such officers and the judge in the case that these persons are also serving in like capacities in another judicial district. Subsection (c) provides that certain rules promulgated by the Supreme Court and certain provisions of law will apply to the District Court and to appeals therefrom.

Section 2 of the bill implements Section 402(c) of the Covenant and provides for an appeals mechanism in the District Court. Section 3 of the bill relates to the bill's effective date. Under this language, this bill, if approved, would in no case come into effect prior to the date on which the Northern Mariana Islands Constitution becomes effective.

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It is anticipated that once the District Court is established, it will not lack for work. The Northern Mariana Islands are in the midst of their transition to United States territorial status and important questions relating to the interpretation of the Covenant and those federal laws to be applicable there will need to be addressed by the Court almost from its inception. If the establishment of the District Court is delayed, these questions will remain unanswered and several of the programs and benefits provided in the Covenant may also be delayed. I therefore urge your speedy and favorable consideration of this measure.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

(Sgd) James A. Joseph

Under SECRETARY

Enclosure

cc:
 Secretary's File
 SOL Reading File
 DOTA
 Div Chron (2)
 Subj File
 Reading File
 CBChapmanJr.

SOL:GL:CBChapmanJr:vph:9/23/77:5216

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To implement Article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America.

Whereas Section 401 of the Covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved by Section 1 of the Joint Resolution of March 26, 1976, Public Law 94-241, 90 Stat. 266, provides that the United States will establish a District Court for the Northern Mariana Islands, the following implementing provisions are hereby enacted:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby established for and within the Northern Mariana Islands a court of record to be know as the "District Court for the Northern Mariana Islands." The Northern Mariana Islands shall constitute a part of the same judicial circuit of the United States as Guam.

(b)(1). The President shall, by and with the advice and consent of the Senate, appoint a judge for the District Court for the Northern Mariana Islands who shall hold office for the term of eight years and until his successor is chosen and qualified, unless sooner removed by the President for cause. The judge shall receive a salary payable by the United States which shall be at the rate prescribed for judges of the United States district courts.

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(b)(2). The Chief Judge of the Ninth Judicial Circuit of the United States may assign justices of the High Court of the Trust Territory of the Pacific Islands or judges of courts of record of the Northern Mariana Islands who are licensed attorneys in good standing or a circuit or district judge of the Ninth Circuit, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit to serve temporarily as a judge in the District Court for the Northern Mariana Islands whenever such an assignment is necessary for the proper dispatch of the business of the court. Such judges shall have all the powers of a judge of the District Court for the Northern Mariana Islands, including the power to appoint any person to a statutory position, or to designate a depository of funds or a newspaper for publication of legal notices.

(b)(3). The President shall appoint, by and with the advice and consent of the Senate, a United States attorney and United States marshal for the Northern Mariana Islands to whose offices the provisions of chapters 35 and 37 of title 28, respectively, United States Code, shall apply.

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(b)(4). If the President appoints a judge for the District Court for the Northern Mariana Islands or a United States attorney or a United States marshal for the Northern Mariana Islands who at that time is serving in the same capacity in another district, the appointment shall, without prejudice to a subsequent appointment, be for the unexpired term of such judge or officer.

(c). The provisions of chapters 43 and 49 of title 28, United States Code, and the rules heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18, 28, United States Code, shall apply to the District Court for the Northern Mariana Islands and appeals therefrom where appropriate, except as otherwise provided in Articles IV and V. The terms "attorney for the government" and "United States Attorney" as used in the Federal Rules of Criminal Procedure (Rule, 54(c)) shall, when applicable to cases arising under the laws of the Northern Mariana Islands, mean the Attorney General of the Northern Mariana Islands or any other person or persons as may be authorized by the laws of the Northern Marianas to act therein.

Section 2. The District Court shall have such appellate jurisdiction as the Constitution and laws of the Northern

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Mariana Islands provide. Appeals to the District Court shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The judge appointed for the court by the President shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges assigned to the court from time to time pursuant to subsection 1(b)(2), provided, however, that only one of them shall be a judge of a court of record of the Northern Mariana Islands. The concurrence of two judges shall be necessary to any decision by the District Court on the merits of an appeal but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

Section 3. This Act shall come into force upon its approval or at the time proclaimed by the President for the Constitution of the Northern Mariana Islands to become effective, whichever is the later date.

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