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95TH CONGRESS
1ST SESSION

S. 2149

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 27 (legislative day, SEPTEMBER 22), 1977

Mr. EASTLAND introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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.

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: Now, therefore,

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That (a) there is hereby established for and within the
- 4 Northern Mariana Islands a court of record to be known as

1 the District Court for the Northern Mariana Islands. The
2 Northern Mariana Islands shall constitute a part of the same
3 judicial circuit of the United States as Guam. Terms of court
4 shall be held on Saipan and at such other places and at such
5 times as the court may designate by rule or order.

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

14 (2) The Chief Judge of the Ninth Judicial Circuit of
15 the United States may assign justices of the High Court of
16 the Trust Territory of the Pacific Islands or judges of courts
17 of record of the Northern Mariana Islands who are licensed
18 attorneys in good standing or a circuit or district judge of
19 the ninth circuit, or the Chief Justice of the United States
20 may assign any other United States circuit or district judge
21 with the consent of the judge so assigned and of the chief
22 judge of his circuit to serve temporarily as a judge in the
23 District Court for the Northern Mariana Islands whenever
24 such an assignment is necessary for the proper dispatch of
25 the business of the court. Such judges shall have all the

1 powers of a judge of the District Court for the Northern
2 Mariana Islands, including the power to appoint any person
3 to a statutory position, or to designate a depository of funds
4 or a newspaper for publication of legal notices.

5 (3) The President shall appoint, by and with the ad-
6 vice and consent of the Senate, a United States attorney and
7 United States marshal for the Northern Mariana Islands to
8 whose offices the provisions of chapters 35 and 37 of title 28,
9 respectively, United States Code, shall apply.

10 (4) If the President appoints a judge for the District
11 Court for the Northern Mariana Islands or a United States
12 attorney or a United States marshal for the Northern Mari-
13 ana Islands who at that time is serving in the same capacity
14 in another district, the appointment shall, without preju-
15 dice to a subsequent appointment, be for the unexpired
16 term of such judge or officer.

17 (c) The provisions of chapters 43 and 49 of title 28,
18 United States Code, and the rules heretofore or hereafter
19 promulgated and made effective by the Congress or the
20 Supreme Court of the United States pursuant to titles 11,
21 18, 28, United States Code, shall apply to the District Court
22 for the Northern Mariana Islands and appeals therefrom
23 where appropriate, except as otherwise provided in articles
24 IV and V. The terms "attorney for the government" and
25 "United States attorney" as used in the Federal Rules of

1 Criminal Procedure (rule 54(c)) shall, when applicable
2 to cases arising under the laws of the Northern Mariana
3 Islands, include the attorney general of the Northern Mari-
4 ana Islands or any other person or persons as may be au-
5 thorized by the laws of the Northern Marianas to act therein.

6 SEC. 2. (a) The District Court for the Northern Mariana
7 Islands shall have the jurisdiction of a district court of the
8 United States, except that in all causes arising under the
9 Constitution, treaties, or laws of the United States, it shall
10 have jurisdiction regardless of the sum or value of the mat-
11 ter in controversy.

12 (b) The district court shall have original jurisdiction in
13 all causes in the Northern Mariana Islands not described
14 in subsection (a) jurisdiction over which is not vested by
15 the Constitution or laws of the Northern Mariana Islands
16 in a court or courts of the Northern Mariana Islands. In
17 causes brought in the district court solely on the basis of
18 this subsection, the district court shall be considered a court
19 of the Northern Mariana Islands for the purposes of deter-
20 mining the requirements of indictment by grand jury or
21 trial by jury.

22 SEC. 3. The district court shall have such appellate juris-
23 diction as the Constitution and laws of the Northern Mariana
24 Islands provide. Appeals to the district court shall be heard
25 and determined by an appellate division of the court consist-

1 ing of three judges, of whom two shall constitute a quorum.
2 The judge appointed for the court by the President shall
3 be the presiding judge of the appellate division and shall
4 preside therein unless disqualified or otherwise unable to
5 act. The other judges who are to sit in the appellate division
6 at any session shall be designated by the presiding judge
7 from among the judges assigned to the court from time to
8 time pursuant to subsection 1 (b) (2) : *Provided, however,*
9 That only one of them shall be a judge of a court of record
10 of the Northern Mariana Islands. The concurrence of two
11 judges shall be necessary to any decision by the district
12 court on the merits of an appeal but the presiding judge
13 alone may make any appropriate orders with respect to
14 an appeal prior to the hearing and determination thereof
15 on the merits and may dismiss an appeal for want of juris-
16 diction or failure to take or prosecute it in accordance with
17 the applicable law or rules of procedure.

18 SEC. 4. (a) The relations between the courts established
19 by the Constitution or laws of the United States and the
20 courts of the Northern Mariana Islands with respect to ap-
21 peals, certiorari, removal of causes, the issuance of writs of
22 habeas corpus, and other matters or proceedings shall be
23 governed by the laws of the United States pertaining to the
24 relations between the courts of the United States and the
25 courts of the several States in such matters and proceedings,

1 except as otherwise provided in article IV of the covenant:
2 *Provided*, That for the first fifteen years following the estab-
3 lishment of an appellate court of the Northern Mariana Is-
4 lands the United States court of appeals for the judicial circuit
5 which includes the Northern Mariana Islands shall have juris-
6 diction of appeals from all final decisions of the highest court
7 of the Northern Mariana Islands from which a decision could
8 be had in all cases involving the Constitution, treaties, or
9 laws of the United States, or any authority exercised there-
10 under, unless those cases are reviewable in the District Court
11 for the Northern Mariana Islands pursuant to section 3 of
12 this Act.

13 (b) Those portions of title 28 of the United States Code
14 which apply to Guam or the District Court of Guam shall be
15 applicable to the Northern Mariana Islands or the District
16 Court for the Northern Mariana Islands, respectively, except
17 as otherwise provided in article IV of the covenant.

18 SEC. 5. This Act shall come into force upon its approval
19 or at the time proclaimed by the President for the Constitu-
20 tion of the Northern Mariana Islands to become effective,
21 whichever is the later date.