

**A BRIEF HISTORY**  
**OF THE**  
**DISTRICT COURT OF GUAM**

By The Honorable Cristobal C. Duenas, Chief Judge

Guam became a possession of the United States by virtue of cession under provisions of the Treaty of Peace between the United States and Spain, signed at Paris on December 10, 1898.

To govern Guam, President William McKinley promulgated Executive Order No. 108-A on December 23, 1898, placing the administration of the island upon the Secretary of the Navy. Pursuant to this authority, the Navy Secretary created the Naval Government of Guam which, from its inception, was headed by a naval officer attaining the rank of a commander or a captain. Such officer served in dual capacity of Governor and Commandant of the naval station.

The Naval Government continued to exist up to December 10, 1941, when Guam surrendered to the invading armed forces of the Imperial Government of Japan. The island was retaken by American armed forces on July 21, 1944 and the Naval Government was reestablished.

By virtue of Executive Order No. 10077, dated September 7, 1949, and as amended by Executive Order No. 10137, dated June 30, 1950, Executive Order No. 108-A was revoked and the administration of the island of Guam was transferred from the Secretary of the Navy to the Secretary of the Interior.

Public Law 630, (81<sup>st</sup> Congress), 64 Stat. 384, was enacted on August 1, 1950, and codified under Title 48, U.S.C., Sections 1421(a), et seq. This law, more commonly known as

the Organic Act of Guam, established a civil government for Guam with the three traditional branches of government: the executive, legislative, and judiciary.

The judicial structure of the newly formed civil government for the unincorporated territory of Guam is contained in Section 1424 of Title 48, U.S.C.

Section 1424(a), as amended, created the District Court of Guam, and the judicial authority of Guam became vested in the District Court of Guam, and in such court or courts as may have been or may thereafter be established by the laws of Guam.

The District Court of Guam was given the jurisdiction of a district court of the United States in all causes arising under the Constitution, treaties, and laws of the United States, and original jurisdiction in all causes in Guam, jurisdiction over which has not been transferred by the legislature to other court or courts established by it. The District Court was also vested with appellate jurisdiction.

Section 1424(b), Title 48, U.S.C., made applicable to the District Court of Guam, the Federal Rules of Criminal Procedure, the Federal Rules of Civil Procedure, Admiralty Rules, and rules under the Bankruptcy Act.

For the first 24 years of its existence, the District Court of Guam has been the court of general jurisdiction in Guam. At its inception, it was the only court vested with complete and exclusive jurisdiction until the enactment of Public Law 17, First Guam Legislature, on August 9, 1951.

By virtue of Public Law 17, the legislature created the Island Court of Guam and vested it with jurisdiction of local misdemeanor offenses and all actions at law wherein the claim, exclusive of interest and costs, does not exceed the sum of \$2,000 [subsequently increased to

\$5,000]. The Island Court was also vested with jurisdiction on certain proceedings such as divorce, adoption, probate matters, and guardianship, among others. This continued to exist until the so-called Court Reorganization Act, Public Law 12-85, 12<sup>th</sup> Guam Legislature, enlarged the original jurisdiction of the Island Court which was renamed the Superior Court of Guam, by conferring on said Superior Court jurisdiction of all matters of local application. This Act also abolished the Appellate Division of the District Court of Guam, and created a Supreme Court of Guam.

When the District Court of Guam was officially opened sometime in 1950, all those land condemnation cases filed in the then Superior Court of Guam by the Naval Government of Guam on behalf of the United States of America were transferred to the District Court of Guam. From that date in late 1950 and up to sometime in 1973 or 1974, the District Court of Guam was never without any pending federal land condemnation cases. Presently, the court still retains those land condemnation cases filed by the Government of Guam and Guam Housing and Urban Renewal Authority prior to July 1, 1974.

In the span of its quarter of a century's existence, the District Court was confronted with legal issues involving rights conferred by the Organic Act of Guam and interpretation of some of the provisions of said Organic Act.

Highlighting some of these issues are the right of jury trial in criminal and civil cases, and the right of a defendant to be prosecuted by indictment rather than by information on felony cases.

In Hatchett v. Government of Guam, (1954), 212 F.2d 767, certiorari dismissed, 75 S.Ct. 17, 348 U.S. 801. The court held that the 6<sup>th</sup> Amendment to the United States Constitution

requiring trial by jury in criminal prosecutions is not applicable to Guam because such island has been declared an unincorporated territory of the United States; likewise in American Pacific Dairy Products, Inc. v. Siciliano, the 9<sup>th</sup> Circuit Court of Appeals held that the Federal Constitution does not require jury trial in the District Court of Guam.

On right to be proceeded against in criminal prosecution by indictment, certain convictions in the District Court based on information were reversed by the 9<sup>th</sup> Circuit. The Appellate Court held that the District Court of Guam has no power under this section [Sec. 1424(b), Title 48, U.S.C.], to adjudge conviction, in prosecution based on information. Putty v. U. S., C.A., Guam, (1955), 220 F.2d 473, cert. den., 76 S.Ct. 46, 350 U.S. 821, 100 L.Ed. 734.

Since this section [Sec. 1424(b), Title 48, U.S.C.], makes applicable to Guam Rule 7, Federal Rules of Criminal Procedure, creating the right of an indictment, a defendant who is accused of a felony has right to indictment.

These decisions confronted the District Court of Guam with the situation as to the status of those defendants, convicted on prosecutions based on information, prior to these appellate decisions.

To remedy the situation, Chapter 1017, Public Law 679, was enacted by the U.S. Congress, on August 27, 1954, amending Subsection (b) of Section 1424 of Title 48, U.S.C., by adding the provisions that trial by jury or the prosecution of offenses by indictment by a grand jury instead of by information shall not be required in the District Court of Guam until so required by laws enacted by the Legislature of Guam. The Act also provided that all those prior convictions based on information, or tried without a jury shall not be reversed. The legislature then saw fit to have trial by jury and prosecution by indictment, and legislation to effectuate this

end was enacted.

In the early years of the District Court's existence, the manifest precedence of Federal Rules in the District Court over provisions of the Code of Civil Procedure was brought to proper focus in a contempt proceeding against a member of the bar. The Court of Appeals in reversing a District Court decision, held that Federal Rules of Criminal Procedure, setting forth procedures to be followed in contempt cases in all district courts is applicable to the District Court of Guam; hence, the District Court erred in using provisions of the Code of Civil Procedure of Guam relating to contempt in view of Section 1424(b) of Title 48, U.S.C., specifically stating that the District Court of Guam was to follow Federal Rules of Criminal Procedure.

By virtue of the income tax section of the Organic Act, Guam experienced for the first time in its history the collection of income taxes. Who really had the responsibility to enforce and effectuate the collection of such income taxes? Shall residents of Guam like other citizens in the United States pay their taxes to the United States, or should such taxes be paid to the newly created Government of Guam. This and other basic issues confronted the District Court in the early years of its existence. These were cases of first impression.

The District Court did determine that Sections 1421(I) and 1421(h) of Title 48, U.S.C., (Organic Act), providing that Federal income taxes derived from Guam shall be covered into the treasury of Guam, and shall be expended for the benefit of the Government of Guam, in accordance with annual budgets and providing that the income tax laws in force in the United States and those which may hereafter be enacted shall be in force in Guam, impose a territorial tax to be collected by the proper officials of the Government of Guam. This decision was upheld by the United States Court of Appeals for the Ninth Circuit. Laguana v. Ansell, D.C.

Guam, (1952), 102 F.Supp. 919, affirmed, 212 F.2d. 207, cert. den., 73 S.Ct. 51, 348 U.S. 830, 99 L.Ed. 654.

This was followed by hosts of cases calling for legal interpretation of diverse provisions of the United States Internal Revenue Code made applicable to Guam, as well as determinations of whether certain sections in the United States Internal Revenue Code are applicable to Guam. Litigations continue to arise. Where shall a taxpayer file his petition for redetermination of his income tax assessment? How could the District Court assume jurisdiction of local tax matters similar to that vested exclusively in the Tax Court of the United States. Enactment by the Guam Legislature of Section 19700, Title XX, of the Government Code of Guam, was the basis of the District Court's jurisdiction on tax matters similarly handled by the United States Tax Court. District Court decisions validating this jurisdiction conferred by the legislature were affirmed by the 9<sup>th</sup> Circuit Court of Appeals.

Because Congressional amendment to the Organic Act vested exclusive jurisdiction in the District Court on all matters of income tax enforcement, civil and criminal, notwithstanding any other provisions of the said Organic Act, the District Court of Guam continue to have jurisdiction on territorial income tax enforcement in both civil and criminal actions, in spite of the local Court Reorganization Act which became effective on July 1, 1974. It was only in recent years that criminal prosecution for violation of income tax laws became a reality.

Ensuing World War II, the vase reconstruction program confronting Guam necessitated the importation of alien labor to fill the manpower requirements. Thousands of Filipino nationals came to Guam; great numbers of such later qualifying for American citizenship. Hence, naturalization proceedings became an added responsibility of the District Court of Guam.

Because of its proximity to the Far East, the District Court also handled the naturalization of hundreds of non-citizen servicemen stationed in the Philippines, Korea, Japan, Taiwan, Okinawa, South Vietnam, Thailand and other areas in that part of the world. These servicemen were flown to Guam by military authorities, and one day a month had been set aside by the court to handle the situation. This had been going on for many years, reaching its greatest numbers at the height of the Vietnam crisis.

Occasions had arisen where the court was called upon to resolve admiralty matters. Maritime commerce had not yet reached such proportion in Guam which would give rise to a great number of admiralty suits.

The great economic progress and industrial development of Japan and surrounding countries in the sixties and early seventies affected Guam. Tourism entered the commercial stream of Guam; Japanese and Hong Kong capital built many high-rise hotels; more airlines commenced operations in Guam. Business really boomed in Guam.

Then came the world recession. Guam began to feel its impact; business conditions worsened and the economy reached a standstill.

The Bankruptcy Law, Title 11, U. S. C., which had been more a mere matter of academic pursuit in Guam, now received a more realistic scrutiny. Bankruptcy petitions, voluntary and involuntary, have been filed. Straight bankruptcy, Chapter 10 Corporate Reorganizations and Chapter 11 Arrangements are now added curriculums to the local legal profession and to the court.

This, in a nutshell, is the history of the District Court of Guam, since its creation in 1950.

