



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

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Memorandum

To: The Secretary
From: Acting Director of Territorial Affairs
Subject: Appointment of a Micronesian to the High Court of the Trust Territory of the Pacific Islands

You have recently appointed a new associate justice for the High Court of the Trust Territory of the Pacific Islands. That action is attached along with a draft press release for your approval announcing this action.

We are faced with the prospect of yet another vacancy on the High Court sometime this summer. The purpose of this memorandum is to seek your concurrence to the nomination of a Micronesian to that vacancy.

Background

The judicial authority of the government of the Trust Territory of the Pacific Islands is vested in the High Court of the Trust Territory as established pursuant to Secretarial Order No. 2918, Part IV of December 27, 1968. Additionally, Chapter 3 of Title 5 of the Trust Territory Code provides, inter alia, for the existence of a Trial Division and an Appellate Division within the High Court, for the original jurisdiction of the Trial Division as to all civil and criminal causes and for the jurisdiction and review of the Appellate Division. The Chief Justice of the High Court and the Associate Justices are appointed by the Secretary of the Interior. With your soon to be announced appointment of Mr. Robert A. Hefner, the High Court will consist of three Associate Justices and the Chief Justice. Every Justice who has served on the High Court has been a United States citizen and a trained lawyer.

Present situation

Although the High Court has, in balance, performed exemplary work and has managed to maintain its status as a separate but equal branch of an often fluid territorial government, several factors militate for your consideration of the appointment of a Micronesian when the next Associate Justice vacancy occurs:

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1. Influential Micronesian leaders have increasingly voiced dissatisfaction, not totally unjustified, with some of our appointees in recent years, expressing their concern with the quality and competency of these men.
2. The heavy case load of the High Court was a major factor in your appointment of a third associate justice. The workload of the Court will enlarge significantly with the full implementation of your Public Land Transfer Policy Paper of November 2, 1973. With the administration and Congress increasingly dependent upon the High Court for decisions on complex legal matters involving local customs, we have a proportionately greater need for Justices who have more than just a training in American jurisprudence.
3. There is now, for the first time, a small number of Micronesians with sufficient court background and American legal training who would adequately handle the responsibilities of the High Court.
4. From a political standpoint, the U.S. has been under considerable pressure to open the High Court to the appointment of Micronesians. The Congress has several times pointed out that the High Court is one of the last segments of the Trust Territory government lacking Micronesians. As recent as March 4 of this year, the Congress passed a joint resolution "requesting the United States to grant greater administrative control and political autonomy to the people and government of Micronesia." Among other things, the resolution called for appointment of the Justices of the High Court upon approval of the Congress.
5. Chief Justice Harold Burnett has advised the Department that he would not object to the appointment of a Micronesian to an associate justiceship. He would want the appointee to perhaps have some additional training in the U.S. prior to assuming his new duties and would also carefully schedule his workload to allow sufficient additional on the job training for the initial period.
6. The Department continues to support the program of placing qualified Micronesians in responsible government positions. In your message to Micronesia in January, you reaffirmed this policy and were quoted in the Congress resolution mentioned above as saying:

"You, the people of Micronesia are moving toward an era of political self-reliance and increased economic self-sufficiency.

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You must be ready to accept the responsibilities that will come with these developments. At the same time, the government of the United States must and will do everything possible to provide you with the tools and skills to help you in assuming these responsibilities and in chartering a new course of a self-governing people."

Options

1. Continue our policy of appointing only U.S. citizens with formal legal training to the High Court.
2. Make an internal determination that the next associate justice vacancy shall be filled by a Micronesian but make no public announcement at this time.
3. Announce your intention to appoint a Micronesian to the High Court when the next vacancy occurs when you announce the appointment of Hefner.

RECOMMENDATION

1. That you approve, in principle, the selection of a Micronesian to fill the next associate justice vacancy on the High Court of the Trust Territory.

Approved John F. Reilly Date 3-21-77

Disapproved _____ Date _____

2. That this policy be stated in the press release attached announcing the appointment of Mr. Hefner

Approved _____ Date _____

Disapproved John F. Reilly Date 3-21-77

[Signature]
Acting Director of Territorial Affairs

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