

7/8/95

MEMORANDUM FOR MR. BRILL:

Thanks for your reappointment memo and your quick turn around time. It was very responsive. One question: I am surprised at the applicability of the Davis case to these circumstances. Remember that any complaint about the appointment of the lower house will come from the Saipan voters, who will claim that their representatives speak for , say, 2000 voters each whereas the single representatives from each of Tinian and Rota speak for less (say 1500). There was no intent to discriminate against anyone, and the Saipan majority has always allowed this kind of apportionment to permit each of the others islands to have their own spokesman. Does this change your view?

sending by OHL

As to the broader issue, I am ~~enclosing~~ ^{sending by OHL} a copy of the brief I filed as amicus in the Supreme Court a week or so ago on the constitutionality under the 14th Amendment of Section 203(c)'s effort to malapportion the senate here. Some of the counsel for the appellees did try to argue that the 14th didn't apply, or that the Covenant controlled, etc. I have for years rejected these efforts as unsupportable -- and certainly the Ninth Circuit in Atalig and Wabol make this clear. The argument was last Thursday; I was given 10 minutes and took 40 in response to questions as I got carried away in the rhetoric of the moment and the drama of our client 20 plus years ago exercising the right of self determination for the first time in recorded history. After you and Reg take a look at it , please give it to Mike Helfer so he can have a trip down memory lane in the midst of his new management responsibilities.

Regards,

