

STANDING COMMITTEE REPORT NO. 14-41

RE: C.B. NO. 14-17/JGO

SUBJECT: ELIMINATION OF NATIONAL COURT DIVERSITY
JURISDICTION OVER LAND AND WATER CASES

SEPTEMBER 19, 2005

The Honorable Peter M. Christian
Speaker, Fourteenth Congress
Federated States of Micronesia
Second Regular Session, 2005

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations ("J&GO"), to which was referred C.B. No. 14-17 entitled:

"A BILL FOR AN ACT TO PROPOSE AN AMENDMENT TO SECTION 6 OF ARTICLE XI OF THE CONSTITUTION OF THE FEDERATED STATES OF MICRONESIA FOR THE PURPOSE OF ELIMINATING DIVERSITY JURISDICTION IN THE NATIONAL COURTS OF CASES IN WHICH THE OWNERSHIP OF LAND OR WATERS IS AT ISSUE, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

The intent and purpose of the bill are expressed in its title. As indicated by that title, C.B. No. 14-17 proposes to amend the Constitution to eliminate national court diversity jurisdiction over cases in which the ownership of land or waters is at issue.

The question of jurisdiction over such cases potentially brings into conflict two important principles of our federal system: (1) that the states shall have dominion over their own lands and waters, and (2) that every citizen shall have access to the national courts to resolve disputes with citizens of another state. The Constitution currently resolves that conflict by granting diversity jurisdiction to the national courts even in land and water disputes. Your committee believes, however, that, with the passage of time since adoption of the Constitution, the people of the FSM have come to feel increasingly strongly that issues surrounding the ownership of land and waters within any state should be left entirely to the government and citizens of that state. It is appropriate, therefore, that the granting to the national courts of jurisdiction over such issues should be reviewed and that the people should have an opportunity to amend this provision. Your committee notes that this proposed amendment was put to a vote of the people at the March, 2005 election and did not receive a sufficient number of votes for adoption. It did, however, receive a substantial majority the votes---65%---and we

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believe that, with further review and discussion by the voters, it may be approved if placed on the ballot again.

Thus, your Committee on Judiciary and Governmental Operations is in accord with the intent and purpose of C.B. No. 14-16 and recommends its passage on First Reading, and that it be placed on the Calendar for Second and Final Reading.

Respectfully submitted,

Dohsis Halbert, chairman

Roosevelt D. Kansou, vice
chairman

Alik L. Alik, member

Moses A. Nelson, member

Peter M. Christian, member

Ramon Peyal, member

Tiwiter Aritos, member