

STANDING COMMITTEE REPORT NO. 16-77

RE: C.R. NO. 16-87

SUBJECT: REVOKING DECLARATION OF EMERGENCY

MAY 24, 2010

The Honorable Isaac V. Figir
Speaker, Sixteenth Congress
Federated States of Micronesia
Fourth Regular Session, 2010

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations, to which was referred C.R. No. 16-87, entitled:

"A RESOLUTION REVOKING THE DECLARATION OF EMERGENCY DECLARED BY THE PRESIDENT OF THE FEDERATED STATES OF MICRONESIA ON MAY 11, 2010.",

begs leave to report as follows:

This resolution was introduced as a result of the declaration of emergency of May 11, 2010, by the President of the Federated States of Micronesia. The state of emergency was declared in order to allow the President to reprogram some funds to perform urgently needed repair on a patrol boat.

A declaration of emergency is not a small matter. It allows the President to suspend, as he wishes, the laws of the nation and govern by decree. Since it is an exception to the commonly prevailing Rule of Law, it is an extraordinary remedy to be handled with care and used only under extraordinary circumstances.

The FSM Constitution in article X, section 9 lists the requirements for a declaration of emergency:

If required to preserve public peace, health, and safety, at a time of extreme emergency caused by civil disturbance, natural disaster, or immediate threat of war, or insurrection, the President may declare a state of emergency and issue appropriate decrees.

FSM Const. Art X, Sec. 9(a).

We are talking about an extreme emergency, something really drastic like war or disturbance or-- most often in the FSM - natural disaster. By no stretch of the imagination would reprogramming funds fall under the constitutional categories

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for a declaration of emergency. The need for repair may be urgent but Congress can readily accommodate any appropriation request within a few days through the normal legislative process without the need to suspend any law.

The Constitution also assigns a role to Congress.

Within 30 days after the declaration of emergency, the Congress of the Federated States of Micronesia shall convene at the call of its presiding officer or the President to consider revocation, amendment, or extension of the declaration [...]
FSM Const. Art X, Sec. 9(c).

It so happens that Congress is in the middle of its Fourth Regular Session and can fulfill its constitutional role to review the declaration of emergency. Mindful of its role to protect the Rule of Law and considering that the stated grounds for the declaration of a state of emergency do not rise to the legal requirements for such a declaration, your Committee believes that the declaration of emergency was not well founded and must be revoked.

Your Committee on Judiciary & Governmental Operations is in agreement with C.R. No. 16-87 and urges its adoption in the form attached hereto as C.R. No. 16-87.

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Respectfully submitted,

/s/ Peter Sitan

Peter Sitan, chairman

/s/ Tiwiter Aritos

Tiwiter Aritos, vice chairman

Dohsis Halbert, member

Roger S. Mori, member

/s/ Fredrico O. Primo

Fredrico O. Primo, member

/s/ Isaac V. Figir

Isaac V. Figir, member

/s/ Palik K. Welly

Paliknoa K. Welly, member