

COMMITTEE
ON
GOVERNMENTAL STRUCTURES AND FUNCTIONS
THIRD CHUUK STATE CONSTITUTIONAL CONVENTION

SCR NO : 3-05
COMMITTEE : GS & F
DATE : 7/01/04
REF. DP.NO. 3-20/3-50

The Honorable Camillo Noket
President
Third Constitutional Convention
Chuuk State Government
Weno, Chuuk State, FM 96942

Re: DP No. 3-20 and DP No. 3-50

Dear President Noket:

Your Committee on Governmental Structures and Functions to which was assigned Delegate Proposal No. 3-50 relating to amendment of section 2(b) and 7 of Article VI of the Chuuk State Constitution, respectively entitled:

"Section 2 of Article VII.

(b) The Governor may, with the advice and consent of a majority of all the members of the ~~Senate~~ Legislature, appoint the Chief Justice and Associate Justices of the Supreme Court, the principal officers of the executive offices and departments in the State Government, and the principal advisors to the Governor. The principal officers and advisors serve during the current term of the appointing Governor unless sooner removed by the Governor with good cause, subject to the approval of a majority of all the members of the Legislature.

"Section 7 of Article VII, The Governor and the Lieutenant Governor shall be elected ~~jointly on a single~~ separately on two tickets at a general election. The candidates for the two offices on the tickets receiving the majority of votes cast shall be elected. If a majority is

not received, a runoff election for each of the candidates on the tickets receiving the two pluralities shall be held on the fourth Tuesday following the general election, as prescribed by statute

Begs leave to report as follows:

I. RECOMMENDATIONS

Your Committee recommends adoption of this report with the committee proposal.

II. Analysis.

A. Purpose

The intents of DP 3-20 and DP 3-50 are two folds. First purpose is to give the Legislature an opportunity to give approval to removal of principal advisors and officers of the Executive Branch by the Governor. This is shown by the amendment requiring that such removal be with **good cause, subject to approval of a majority of all members of the Legislature.**

Second consideration is the **separation** of candidates on tickets to the offices of Governor and Lieutenant Governor on the day of election.

B. History.

Delegate Proposal No. 3-20 was introduced by Delegate Keiwo William on February 4, 2004. Delegate Proposal No. 3-50 was introduced by Delegate Singkoro Harper during plenary session of the Third Constitutional Convention on February 6, 2004 and

A public hearing was subsequently conducted in the afternoon of February 16, 2004, at the convention Chamber, Iras, Weno Island. Appearing were State officials and lawyers. Maketo Robert, Ira E. Akapito, John Sound, Kius Sananap, Kent R. Cheipot, Akostin Takashy, Nakama Sana, Ysam Hilario, and Wesly Simina.

C. Findings.

Regarding amendments to Section 2(b) of Article VII, Chuuk State constitution adding the amendment "with good cause, subject to approval of a majority of members of the Legislature" of most importance is the lack of a definition to the term "with good cause" which, standing by itself, is up to the Governor to define it before removing one of the subjects in the proposal. As for the appointment of Chief and Associate Justices, there is no difficulty with that. Involving the Legislature in the removal of principal advisors and officers of the Executive Branch is an intrusion into the executive authority or the separation of powers between the existing branches. It was further brought up to the attention of the Committee that others prefer the status quo. In addition, the purpose of having principal officers and advisors serve at the pleasure of a sitting governor is to emphasize cooperation and loyalty within the Executive Branch so that their performances are in accordance with set policies, rules and regulations as set by the current governor. Furthermore, the proposal tends to upset the concept of check and balance existing between the Executive Branch and Legislative Branch.

On the other hand, opposing views indicated there fear that the Governor can terminate a principal officer or advisor to him without any good cause. Here the concept of one advisor being terminated because of political reasons was brought up. It is only proper that the Legislature is involved in the determination of "good cause" as set by the Governor. The Legislature is involved in giving its advice and consent to principal officers or advisors nominated by the Governor. Why not, when it comes to terminating one of those, involving the Legislature also. The legislature is to play a major role in determining 'good cause' as given by the Governor. Recently, principal officers or advisors were removed from office because they not on the side of the Governor in office. It is the strong belief that the Legislature is faithful in executing its part in the termination

process, meaning, when the Governor is well justified in his action, the Legislature would uphold such decision or action. It would not act on something contrary to that decision, if well justified. A terminated principal officer or advisor by the Governor should not take guarantee that he be reinstated just because a legislative approval is included in the process.

"Section 7 of Article VII Amendment. Governor and Lieutenant Governor on separate tickets."

Witnesses called in testify on this particular proposal, referred back to the time when the former Governors and Lieutenant governors were not elected jointly but separately. Witnesses recalled the circumstances in which the governor and the Lt. Governor often times did not cooperate and it affected greatly the Executive Branch. Whereas, today, the present system is the total opposite which tend to matrimonize the two together like day and night, inseparable. In the old system, when the Governor would be absent, the Lieutenant Governor took up initiatives which amounted to the power and authority of a governor. Normally, the Lieutenant Governor felt he has the same power and authority because he was also equally elected by the people, but as lieutenant governor. The intention of the change, Governor and Lieutenant Governor on a joint ticket, was to ensure that they work cooperatively while in office.

On the other hand, the proposal are very clear. First, and uppermost, is that it gives the people their right to choose their leaders in office. This is to advocate "the right to vote" as a right of a person to vote in the State of Chuuk. In addition, to preserve public peace and order among the people who are usually fragmented during an election must be given prior consideration. It is for this reason that such proposal was being introduced as some people in Chuuk State demand to put leaders in office according to their choice.

The current set up, unfortunately, is indirectly forcing a voter for someone not of his choice because he pairs up with another that the voter prefers. In the end, the voter is not fully exercising his rights to vote according to his own free choice.

D. Amendments.

The only amendment adopted by Committee regarding both DP 3-20 and DP No. 3-50 is reflected below.

"Section 7 of Article VII. The Governor and the Lieutenant Governor shall be elected **separately on two tickets** at a general election. The candidates for the two offices on the tickets receiving the majority of votes cast shall be elected. If a majority is not received, a runoff election for each of the candidates on the tickets receiving the two pluralities shall be held on the fourth Tuesday following the general election, as prescribed by statute."

The amended is hereby submitted as committee proposal attached to this report.

III. Conclusion.

Your Committee respectfully recommends adoption of this consolidated report with the committee proposal.

Respectfully submitted:

COMMITTEE ON
GOVERNMENTAL STRUCTURES AND FUNCTIONS

/S/
Del. Nelson Stephen, Chairman

/S/
Del. Tuter Sirom, V. Chairman

/S/
Del. Jack Fritz, Member

/S/
Del. Freddie Nifon, Member

Del. Camillo Noket, Member

/S/

Del. Mino Mori, Member

Del. Tony Rosokow, Member