SEPARATION OF POWERS

When Congress has passed a statute, executive branch and judiciary branch members may not decide among themselves to reassign the decision-making responsibilities set forth in the statute. Suldan v. FSM (I), 1 FSM R. 201, 205 (Pon. 1982).

While the Judiciary must resolve disputes legitimately placed before it, it may not usurp legislative functions by making declarations of policy or law beyond those necessary to resolve disputes nor undertake administrative functions of the kind normally consigned to the Executive Branch where this is not necessary to carry out the judicial function. In re Sproat, 2 FSM R. 1, 4 (Pon. 1985).

One reason the judicial power is limited to cases or disputes is to prevent the Judiciary from intruding into areas committed to other branches of government. In re Sproat, 2 FSM R. 1, 7 (Pon. 1985).

Although the internal management of a jail or prison is, subject to compliance with constitutional requirements, a function of the executive branch, the legislature controls the overall sentencing scheme through statute. Soares v. FSM, 4 FSM R. 78, 82 (App. 1989).

In the absence of legislative action saying otherwise, it is the sentencing order, not the jailer or any member of the executive branch, which determines whether the prisoner is to be confined, and for how long. Soares v. FSM, 4 FSM R. 78, 82 (App. 1989).

A national senator has no power to release national prisoners confined for violation of laws enacted by the national Congress. Soares v. FSM, 4 FSM R. 78, 83 (App. 1989).

The Joint Law Enforcement Agreement between the State of Truk and the national government in no way affects the ability of a national court to require a jailer who has accepted custody of a prisoner to act in conformity with the sentencing order governing the confinement of the prisoner. Soares v. FSM, 4 FSM R. 78, 84 (App. 1989).

To the extent that Secretarial Order 3039 can be read as permitting the Trust Territory High Court to continue, after the FSM Supreme Court had begun functioning, to control cases assigned by the FSM Constitution to the FSM Supreme Court, that exercise by Congress of the transitional power under the Constitution could run counter to other specific provisions of the Constitution, especially the judiciary article, and to fundamental principles of the separation of powers; any extension by the Trust Territory High Court of the powers assigned to it under Secretarial Order 3039 would violate those same constitutional provisions and principles. United Church of Christ v. Hamo, 4 FSM R. 95, 106 (App. 1989).

The power of the President to appoint executive branch officers is not absolute, but is subject to check by the advice and consent of Congress. Sohl v. FSM, 4 FSM R. 186, 197 (Pon. 1990).

The determination of whether stockholders and directors should be protected at the expense of the general public and the employees of the corporation is, at the bottom, a policy choice of the kind that legislatures are better equipped than courts to make. Mid-Pac Constr. Co. v. Senda, 4 FSM R. 376, 385 (Pon. 1990).

Where the record fails to reflect that the functions of the judiciary have been prevented or substantially impaired by the financial management and fiscal powers exercised by the Secretary of Finance, the judiciary has not been deprived of its essential role and constitutional independence. Mackenzie v. Tuuth, 5 FSM R. 78, 84 (Pon. 1991).

The Constitution mandates that the Chief Justice by rule may govern the admission to practice of attorneys, but a rule which differentiates between FSM citizens and noncitizens inherently relates to the regulation of immigration and foreign relations which are powers expressly delegated to the other two branches of government. Berman v. Pohnpei, 5 FSM R. 303, 305 (Pon. 1992).

The Chief Justice has the constitutional authority to make rules for the appointment of special judges, and Congress has the constitutional authority to amend them. Congress has provided the Chief Justice with the statutory authority to appoint temporary justices. Where Congress has acted pursuant to its constitutional authority to provide statutory authority to the court, the court need not have exercised its concurrent rule-making authority. Jano v. King, 5 FSM R. 326, 331 (App. 1992).

Congress and the President respectively have the power to regulate immigration and conduct foreign affairs while the Chief Justice may make rules governing the admission of attorneys. Therefore a rule of admission that treats aliens unequally promulgated by the Chief Justice implicates powers expressly delegated to other branches. Berman v. FSM Supreme Court (I), 5 FSM R. 364, 366 (Pon. 1992).

Without a rational valid basis for the rule limiting the number of times an alien may take the bar exam it will be held unconstitutional even if it would be constitutional if the regulation were made by Congress or the President. Berman v. FSM Supreme Court (I), 5 FSM R. 364, 367 (Pon. 1992).

Conduct of foreign affairs and the implementation of international agreements are properly left to the non-judicial branches of government. The judicial branch has the power to interpret treaties. In re Extradition of Jano, 6 FSM R. 93, 103 (App. 1993).

Where there is in the Constitution a textually demonstrable commitment of the issue to a coordinate branch of government, such as Congress being the sole judge of the elections of its members, it is a nonjusticiable political question not to be decided by the court because of the separation of powers provided for in the Constitution. Aten v. National Election Comm'r (III), 6 FSM R. 143, 145 (App. 1993).

In order for a Congressional statute to give the court valid authority in those areas which the Constitution grants the Chief Justice rule-making powers the Chief Justice does not first have to promulgate a rule before Congress may legislate on the same subject. Hartman v. FSM, 6 FSM R. 293, 297 (App. 1993).

Congress, not the FSM Supreme Court, has the constitutional power to make persons granted a pardon of a felony conviction eligible for election to Congress. The court cannot exercise a power reserved to Congress. Robert v. Mori, 6 FSM R. 394, 401 (App. 1994).

Courts and administrative agencies alike may not encroach upon the lawmaking responsibility reserved to the legislature. Klavasru v. Kosrae, 7 FSM R. 86, 91 (Kos. 1995).

Congress has not unconstitutionally delegated its authority to define crimes by delegating to an executive agency the power to enter into fishing agreements because congressional approval is needed for these agreements to take effect. FSM v. Cheng Chia-W (I), 7 FSM R. 124, 127 (Pon. 1995).

When Congress has specifically given Social Security, not the courts, the discretion to levy a penalty and limited that discretion to $1,000 a quarter and Social Security has exercised its discretion by levying a penalty less than that allowed by the statute, the court is generally bound to enforce it. The courts cannot usurp the power Congress granted to another governmental body. FSM Social Sec. Admin. v. Kingtex (FSM) Inc., 8 FSM R. 129, 133 (App. 1997).

The determination of whether Tonga and its agents are immune from suit is a decision that is better made by the FSM government's executive branch because the FSM Constitution expressly delegates the power to conduct foreign affairs to the President and because whether a party claiming immunity from suit has the status of a foreign sovereign is a matter for the executive branch's determination and is outside the competence of the courts. Kosrae v. M/V Voea Lomipeau, 9 FSM R. 366, 373 (Kos. 2000).

When a Senator tells a public agency what projects are approved and the agency then carries out his decisions, it is Congress, not the executive, that is executing and implementing the public law. Udot Municipality v. FSM, 9 FSM R. 418, 420 (Chk. 2000).

Specific powers are given to each branch of the government. When Congress is executing and implementing a national law, a power expressly delegated to the executive branch, it abridges the executive's power to execute and implement national laws. Udot Municipality v. FSM, 9 FSM R. 418, 420 (Chk. 2000).

While FSM Supreme Court may determine the constitutionality under the FSM Constitution of a specific legislative act, there is no authority where a court has either ordered a legislative body to perform a specified legislative function, or held such a body in contempt for not performing that function. Davis v. Kutta, 10 FSM R. 98, 99 (Chk. 2001).

One of the rationales for limiting a court's power to deciding the cases before it is to prevent the court from intruding into areas committed to the executive or legislative branches. Davis v. Kutta, 10 FSM R. 98, 99 (Chk. 2001).

A court has the power to issue an order to a state official to perform a purely ministerial act – the issuance of a check – in order to cause the state to conform its conduct to the requirements of both the FSM Constitution and the national statute at issue, 11 F.S.M.C. 701. Davis v. Kutta, 10 FSM R. 98, 99 (Chk. 2001).

Specific powers are given to each branch of the government and a public law that abridges the executive's power to execute and implement national laws may be enjoined. Udot Municipality v. FSM, 10 FSM R. 354, 357 (Chk. 2001).

Because Congress has the statutory authority to name allottees other than the President or his designee, the court will deny a request for an order prohibiting defendants from ever again being allottees of FSM money. Udot Municipality v. FSM, 10 FSM R. 354, 359 (Chk. 2001).

The constitutional principle of separation of powers is still violated when the public law only requires that those seeking funds for improvement projects must consult with the relevant congressman before the funds are obligated instead of requiring consultation and approval by the congressman. Udot Municipality v. FSM, 10 FSM R. 354, 359 (Chk. 2001).

Congress can give as much guidance as it wishes in the appropriation legislation about which projects will be funded, and much of this guidance will, no doubt, be the product of individual congressmen's consultation with their constituents. But this consultation takes place before the appropriation bill becomes law, not afterwards. After the appropriation bill has become law, it is the duty of those who execute the law and administer the funds to follow the guidance Congress has given them by consulting the language Congress put in the public law, and any applicable regulations, not by consulting individual congressmen. Udot Municipality v. FSM, 10 FSM R. 354, 359-60 (Chk. 2001).

Fund categories that were formulated as the result of an unconstitutional "consultation" process with congressmen may effectively be disregarded whenever a new process is implemented to determine in a constitutionally proper manner where, how, and what to spend the improvement project money on. Udot Municipality v. FSM, 10 FSM R. 354, 360 (Chk. 2001).

As a matter of law, some official government action is required before a violation of the doctrine of separation of powers can occur. Pohnpei Cmty. Action Agency v. Christian, 10 FSM R. 623, 630 (Pon. 2002).

The concept of separation of powers is inherent in the FSM Constitution's structure. Each branch of the FSM government has specific powers and duties enumerated in the Constitution's text. Thus, each branch should restrain itself to exercise only those powers which the people of the FSM have granted to it in the Constitution: any power exercised by a branch of the government that is beyond that which the Constitution granted to that branch violates the Constitution and is null and void. Pohnpei Cmty. Action Agency v. Christian, 10 FSM R. 623, 630 (Pon. 2002).

Any attempt by one branch to usurp the powers that the FSM Constitution explicitly grants to another branch violates the FSM Constitution and is invalid. Pohnpei Cmty. Action Agency v. Christian, 10 FSM R. 623, 631 (Pon. 2002).

The essence of the separation of powers concept is that each branch, acting within the sphere of its defined powers and subject to the distinct institutional responsibilities of the others, is essential to the liberty and security of the people. Pohnpei Cmty. Action Agency v. Christian, 10 FSM R. 623, 631 (Pon. 2002).

The separation of powers among the three branches is intended to be a self-executing safeguard against the encroachment or aggrandizement of one branch at the expense of another. Pohnpei Cmty. Action Agency v. Christian, 10 FSM R. 623, 631 (Pon. 2002).

Acts of individual senators can result in a public law being declared unconstitutional in its application. However, at a minimum, the acts of individual senators must be acts done in their official capacities as senators to establish any constitutional violation. Pohnpei Cmty. Action Agency v. Christian, 10 FSM R. 623, 631 (Pon. 2002).

The doctrine of separation of powers is not violated every time a person, who happens to be a senator, allegedly misuses property that is traceable to an appropriation made under national law. If a senator takes a car, boat, desk, computer, or pen that rightfully is in the possession of another person or entity, he should bear the same responsibility and consequences as any other person: he could be charged criminally, or sued in a civil action by the rightful owner for conversion of that property. Pohnpei Cmty. Action Agency v. Christian, 10 FSM R. 623, 632 (Pon. 2002).

The separation of powers doctrine provides that in the tripartite government structure – i.e., the legislative, executive, and judiciary branches – that prevails at the state and national levels in the FSM, each branch may exercise only the particular powers with which it has been constitutionally endowed. Through history and practice, this has meant that the legislature enacts the laws, the executive executes or enforces the laws, and the judiciary, by resolving disputes that come before it in specific cases, interprets the laws. Sigrah v. Speaker, 11 FSM R. 258, 260 (Kos. S. Ct. Tr. 2002).

The separation of powers doctrine fortifies the government's constitutional makeup by requiring that each government branch exercise its assigned powers independently of the other two branches. Sigrah v. Speaker, 11 FSM R. 258, 260 (Kos. S. Ct. Tr. 2002).

While the naked right to legislate may not be delegated, the power to enforce legislation and to enlarge on standards defined in a statute can be delegated if the statute contains reasonable guidance and reasonable definition of the standards to be employed and the matter that is to be regulated. In order for the delegation of legislative authority to pass constitutional muster, there must be a delineation of policy, a designation of the agency to implement it, and a statement of the outer boundaries of the authority delegated. Sigrah v. Speaker, 11 FSM R. 258, 261 (Kos. S. Ct. Tr. 2002).

Our Constitution commits to the executive branch the conduct of foreign affairs, just as it vests the judicial power in the Supreme Court and such other courts as may be established by statute. Although these powers are categorically assigned, they are not in their exercise subject to the same degree of precision. Foreign sovereign immunity is inescapably a part of foreign affairs, but it can be offered as a defense in a lawsuit. Inter-branch comity is the means by which these parallel, if not competing, concerns are recognized and integrated. McIlrath v. Amaraich, 11 FSM R. 502, 506 (App. 2003).

Interbranch comity may manifest itself in the judicial branch's deference to the executive branch on the issue of foreign sovereign immunity. Some mechanism must be available to implement this procedure. The appellate division is disinclined to view the trial court's language that "ordered" the Department of Foreign Affairs to file the amicus curiae brief as transforming comity into a coercion that divested the Department of its discretion. McIlrath v. Amaraich, 11 FSM R. 502, 506-07 (App. 2003).

When all that the order required was that the Department of Foreign Affairs file an amicus curiae brief, it did not require the Department to decide the issue one way or another, or for any opinion at all. But what it did do was elicit a minimal degree of interaction between the two branches involved so that the executive branch's position, or even lack of one, would become known to the judicial branch. McIlrath v. Amaraich, 11 FSM R. 502, 507 (App. 2003).

Inter-branch comity is a two-way street. Just as the trial court's order recognized that the question of the foreign sovereign immunity putatively enjoyed by the defendants in the underlying case was appropriately decided by the executive branch's Department of Foreign Affairs, so the executive branch should participate in this process by giving its opinion on the matter, even if this means stating that it has no opinion. McIlrath v. Amaraich, 11 FSM R. 502, 507 (App. 2003).

The doctrine of separation of powers among the three branches of the national government is built into the Constitution by its very structure and the explicit language in Articles IX, X, and XI. These articles provide each branch its own specific powers and this structure provides for the independence of each branch in a system of checks and balances wherein no one branch of government may encroach upon another's domain. FSM v. Udot Municipality, 12 FSM R. 29, 48 (App. 2003).

On its most fundamental plane, the separation of powers doctrine protects the whole constitutional structure by requiring that each branch retain its essential powers and independence. FSM v. Udot Municipality, 12 FSM R. 29, 48 (App. 2003).

The standard for determining whether there is an improper interference with or delegation of the independent power of a branch is whether the alteration prevents or substantially impairs performance by the branch of its essential role in the constitutional system. FSM v. Udot Municipality, 12 FSM R. 29, 48 (App. 2003).

Once a public law is enacted, the responsibility for the execution and implementation of the law rests with those who have a duty to execute and administer the law, and Senators can have no further role in its execution. FSM v. Udot Municipality, 12 FSM R. 29, 49 (App. 2003).

The execution and implementation of the laws is an executive rather than a legislative function. FSM v. Udot Municipality, 12 FSM R. 29, 50 (App. 2003).

A public law that specifically provides that a Congressional delegation must be consulted on the most appropriate usage of the funds before an obligation could occur runs afoul of the Constitution because it empowers the Congressional delegation to engage in an executive function by formally involving itself in executing and implementing the appropriation. Congress cannot pass laws and vest in itself or its members the power to control how that law is executed. FSM v. Udot Municipality, 12 FSM R. 29, 50 (App. 2003).

The constitutional demarcation of powers to the three branches of the national government was established with deliberate design and purpose. The intended effect was to create a system of checks and balances between the national government's branches such that no one branch could encroach upon the power of another branch and thereby dominate the others. FSM v. Udot Municipality, 12 FSM R. 29, 51 (App. 2003).

The standard for determining whether there is an improper interference with the independent power of a branch of government is whether the action of one branch substantially impairs another branch's performance of its essential role in the constitutional system. FSM v. Udot Municipality, 12 FSM R. 29, 51 (App. 2003).

Congress's enactment preventing obligation of funds unless and until the allottees engaged in "consultation" with the relevant Congressional delegation, substantially impaired the allottees'

performance in executing and implementing the law, which is the executive's essential and exclusive role under our Constitution. By legislating "consultation" before obligation requirement into the law, the Congress encroached upon an executive function and assumed more power than it is allowed in our constitutional system of checks and balances, thus violating the separation of powers doctrine. FSM v. Udot Municipality, 12 FSM R. 29, 51 (App. 2003).

A President's reason for vetoing the bills passed during the Fourteenth Congress's Second Special Session is a non-justiciable issue because when the Constitution has a textually demonstrable commitment of an issue to a coordinate branch of government, it is a nonjusticiable political question not to be decided by the court because of the separation of powers provided for in the Constitution. Christian v. Urusemal, 14 FSM R. 291, 294 (App. 2006).

The Constitution does not limit the grounds upon which the President can veto bills. The President can veto any bill for any reason he chooses. The Constitution requires the President to return to Congress, within ten days, a bill he has vetoed along with his objections. Congress then makes its own determination of whether those objections will stand by either overriding or sustaining the veto. Invalidation or nullification of a Presidential veto is textually committed by the Constitution to Congress because the power to override a Presidential veto is expressly delegated to Congress. Christian v. Urusemal, 14 FSM R. 291, 294 (App. 2006).

The President's reasons for vetoing a bill cannot be questioned in the judicial branch. The court has no jurisdiction to grant the relief of declaring the President's vetoes void regardless of what the President's objections were. Christian v. Urusemal, 14 FSM R. 291, 294 (App. 2006).

The Constitution permits the Chief Justice to promulgate civil procedure rules, which Congress may amend by statute. Since Congress has the authority to amend or create procedural rules by statute, when Congress has enacted a procedural rule, it is valid. The Chief Justice does not have the authority to amend Congressionally-enacted statutes. Therefore, if the statute applies and the statute and the rule conflict, the statute must prevail. Tipingeni v. Chuuk, 14 FSM R. 539, 542 n.1 (Chk. 2007).

Presentment to, that is transmittal to, the mayor is a prerequisite for a bill to become an ordinance, either by the mayor then signing it, or vetoing it and having his veto overridden, or by the mayor's failure to act within the prescribed time period. Thus, no bill can become law without first being transmitted to the mayor for his possible action. Esa v. Elimo, 15 FSM R. 198, 203 n.2 (Chk. 2007).

The Tolensom Constitution does not grant the Tolensom Legislature the power to create a method to "appoint" persons to the offices of mayor and assistant mayor. Those offices can be filled in only one way – by vote of the Tolensom electorate, that is, by the people of Tolensom. The only exception to that is when the mayoral office becomes vacant with less than a year left in the mayor's term, the assistant mayor assumes the office for the rest of the term. It was the Tolensom Constitution's framers' clearly expressed will that the mayor and assistant mayor be elected by the voters and not appointed by someone else. Esa v. Elimo, 15 FSM R. 198, 204 (Chk. 2007).

When the Tolensom Legislature elected in 2004 would have been the sole judge of the election of its members elected in that year and that Legislature already judged the four-year

members elected, the Legislature elected in 2006 cannot be the judge of the members elected in 2004. The Legislature elected in 2006 can only be the judge of the election of the members elected in 2006. It cannot be otherwise. A later legislature cannot re-examine a four-year member's election at its whim after the mid-term election because that would make a nullity and a mockery of the provision that four at-large seats would have four year terms, not two year terms. The framers' intent is obvious. They wanted the four year seat holders to be held over throughout the term of the Legislature elected at the mid-term election, to provide a certain continuity. Esa v. Elimo, 15 FSM R. 198, 204 (Chk. 2007).

A court exercising only its inherent power would need a very extraordinary and compelling case to expunge or seal not only the judicial branch's conviction records but also the arrest records maintained by the executive branch since that would implicate separation of powers concerns. FSM v. Erwin, 16 FSM R. 42, 44 (Chk. 2008).

The legal principles of justiciability, separation of powers, the political question doctrine do not apply to a case that, at its core, is one in which each party alleges the other breached a contract, and in which the defendant also counterclaims for civil rights violation, abuse of process, civil conspiracy, intentional interference with contractual relations, libel, and slander. FSM v. GMP Hawaii, Inc., 16 FSM R. 479, 484 (Pon. 2009).

The concept of separation of powers is inherent in the FSM Constitution's structure. FSM v. GMP Hawaii, Inc., 16 FSM R. 508, 512 (Pon. 2009).

The FSM Constitution's separation-of-powers structure is derived from that in the U.S. Constitution. The similarities of the FSM and the U.S. Constitutions mandate that the FSM Supreme Court will give particular consideration to U.S. constitutional analysis, especially at the time of the Micronesian Constitutional Convention and of the Constitution's adoption. FSM v. GMP Hawaii, Inc., 16 FSM R. 508, 512 n.1 (Pon. 2009).

State policy-making and legislating are functions of the political branches of state government. Narruhn v. Chuuk, 16 FSM R. 558, 563 (Chk. 2009).

When the Constitution contains a textually demonstrable commitment of an issue to a coordinate branch of government, it is a nonjusticiable political question not to be decided by the court because of the Constitution's requirements for the separation of powers. Pacific Foods & Servs., Inc. v. National Oceanic Res. Mgt. Auth., 17 FSM R. 181, 186 (Pon. 2010).

The separation-of-powers concept is inherent in the FSM Constitution's structure and any power exercised by a government branch that is beyond that which the Constitution grants to that branch violates the Constitution and is null and void. Pacific Foods & Servs., Inc. v. National Oceanic Res. Mgt. Auth., 17 FSM R. 181, 189 (Pon. 2010).

The concept of separation of powers is inherent in the FSM Constitution's structure, and any power exercised by a government branch that is beyond that which the Constitution grants to that branch violates the Constitution and is null and void. Congress v. Pacific Food & Servs., Inc., 17 FSM R. 542, 548 (App. 2011).

Articles IX, X, and XI of the Constitution provide each branch of the national government with its own specific powers and this structure provides for each branch's independence in a system of checks and balances wherein no one branch may encroach upon another's domain.

Dison v. Bank of Hawaii, 19 FSM R. 157, 161 n.2 (App. 2013).

If the trial court had taken the large step of making U.S. military retirement and U.S. social security benefits paid to FSM citizens in the FSM exempt from all legal process, that would be a judicial encroachment on Congress's power to enact laws and set public policy because those recipients would then (along with U.S. veterans) have greater judicial protection than Congress has legislated for persons (regardless of citizenship) who receive FSM social security benefits. Whether foreign retirement benefits should carry equal or greater protection from legal process than FSM social security benefits is a public policy decision to be made by the people's elected representatives in Congress, not by the unelected court. Dison v. Bank of Hawaii, 19 FSM R. 157, 161-62 (App. 2013).

When the legislature, by enacting a statute, declares the public policy, the judicial branch must defer to that pronouncement. Thus, when the legislature has declared, by law, the public policy, the judicial department must remain silent, and if a modification or change in such policy is desired the law-making department must be applied to, not the judiciary whose function is to declare the law but not to make it. Esiel v. FSM Dep't of Fin., 19 FSM R. 590, 594 (App. 2014).

– Chuuk

A Chuuk state statute authorizing Chuuk state senators to designate the particular projects to be financed from state funds for their own election districts was violative of the separation of powers between the executive and legislative branches of the state government, and of the right of municipalities to select their own development projects, all as provided in the Chuuk Constitution. Akapito v. Doone, 4 FSM R. 285, 286 (Chk. S. Ct. Tr. 1990).

The ultimate interpretation of any provisions of the Chuuk State Constitution is within the sole authority of the Chuuk State Supreme Court, as the ultimate interpreter of the Constitution, and that includes the authority to interpret the meaning of whether a matter has been committed by the Constitution to another branch of government, or whether the action of that branch exceeds its authority. Robert v. Chuuk State House of Representatives, 6 FSM R. 260, 264 (Chk. S. Ct. Tr. 1993).

The constitutional provision making the House the sole judge of the qualification of its members does not automatically preclude the Chuuk State Supreme Court from having jurisdiction to decide if a member-elect of the legislature has been excluded from membership on unconstitutional grounds; nor is the court's jurisdiction over alleged unconstitutional applications of the Legislature's powers necessarily precluded by the political question doctrine. The court ultimately has the power to determine if the Legislature has exercised its powers in an unconstitutional and invalid manner. Robert v. Chuuk State House of Representatives, 6 FSM R. 260, 264-65 (Chk. S. Ct. Tr. 1993).

Policy determinations by other branches of the government are always to be given wide latitude when under judicial review, and policy determinations within the constitution itself must therefore receive the widest possible latitude when under review. Robert v. Chuuk State House of Representatives, 6 FSM R. 260, 269 (Chk. S. Ct. Tr. 1993).

Courts will not attempt to interfere with or control the exercise of discretionary powers, in the absence of any controlling provisions in the law conferring the power. The fact that the exercise

of a power may be abused is not a sufficient reason for denying its existence. Thus, it is a firmly established rule that the judiciary will not interfere with executive officers in the performance of duties which are discretionary in their nature or involve the exercise of judgment. Chipen v. Reynold, 9 FSM R. 148, 150 (Chk. S. Ct. Tr. 1999).

The principle of avoiding constitutional questions was conceived out of considerations of sound judicial administration and is in accord with the principle of separation of powers of government. Pacific Coast Enterprises v. Chuuk, 9 FSM R. 543, 545 (Chk. S. Ct. Tr. 2000).

Neither the Director of Treasury nor the Governor may use or direct the use of monies appropriated to pay judgments against the state for any purpose other than to pay judgments. Narruhn v. Chuuk, 11 FSM R. 48, 54 (Chk. S. Ct. Tr. 2002).

Money appropriated to pay judgments against the state may not be used to pay "settlements" or "claims" against the state which have not been reduced to judgment. Narruhn v. Chuuk, 11 FSM R. 48, 54 (Chk. S. Ct. Tr. 2002).

The separation of powers doctrine precludes the Chuuk State Supreme Court from exercising jurisdiction over the claims that the plaintiff should be speaker of a municipal legislature and will dismiss the action. Anopad v. Eko, 11 FSM R. 287, 290 (Chk. S. Ct. Tr. 2002).

Whether sufficient funds are already appropriated to conduct a runoff election is not a ground to deny the petition. The lack of funds to perform a required duty is a problem to be solved by the political branches of government, not the court. Narruhn v. Chuuk State Election Comm'n, 18 FSM R. 16, 20 (Chk. S. Ct. Tr. 2011).

The political authority of Chuuk is divided into legislative, executive, and judicial powers. The powers delegated to the three branches are functionally identifiable, distinct, and definable. These three powers must be separate and acting independently with the intent being to prevent the concentration of power and provide for checks and balances. Kama v. Chuuk, 18 FSM R. 326, 332 (Chk. S. Ct. Tr. 2012).

The legislative branch is responsible for enacting the laws of the state and appropriating the money necessary to operate the government; the executive branch is responsible for implementing and administering the public policy enacted and funded by the legislative branch while the judicial branch is responsible for interpreting the constitution and laws and applying those interpretations to controversies brought before it. Kama v. Chuuk, 18 FSM R. 326, 332 (Chk. S. Ct. Tr. 2012).

Since the court, adhering to the authority vested in the judicial branch, should only interpret the laws regarding property in Chuuk and should not take over the legislative branch's role, when there has been no legislative intent shown of a specific desire to ascribe a property right to judgments, therefore, absent a specific Chuuk State legislation creating a specific property right, such a right cannot be ascribed to judgments. Kama v. Chuuk, 18 FSM R. 326, 332 (Chk. S. Ct. Tr. 2012).

The Legislature raises funds by enacting tax legislation and the executive collects those funds. Under the Chuuk Constitution's separation of powers scheme, the executive branch, the Governor, proposes the state's budget and how to spend the state's money, and the Legislature

appropriates the funds that were or will be raised and directs the executive how to spend the appropriated funds. Kama v. Chuuk, 20 FSM R. 522, 530 (Chk. S. Ct. App. 2016).

Since the principle that funds appropriated for other purposes cannot be redirected to pay judgments is inherent in the separation-of-powers scheme in the Chuuk Constitution, the Chuuk State Supreme Court cannot levy any writs on Chuuk state funds because those writs would be levied on money that the Chuuk Legislature has already appropriated for another purpose. Kama v. Chuuk, 20 FSM R. 522, 531 (Chk. S. Ct. App. 2016).

Chuuk State Law No. 190-08, § 4 does not bar the issuance of an order in aid of judgment addressed to the state, but does bar the issuance of any order in aid of judgment that acts as an attachment, execution, or garnishment of public property. The general rule is that statutes (and case law) barring the issuance of such writs against public property are a constitutionally valid expression of the separation of powers doctrine recognizing the legislative branch's power to appropriate funds and the judicial branch's lack of power to appropriate funds. Kama v. Chuuk, 20 FSM R. 522, 531 (Chk. S. Ct. App. 2016).

The judicial branch can, consistent with the state's waiver of sovereign immunity, declare the amount of the state's liability, but while the Chuuk State Supreme Court is empowered to declare the rights as between a judgment creditor and the government, it cannot enforce payment of the judgment absent legislative appropriation. Kama v. Chuuk, 20 FSM R. 522, 531 (Chk. S. Ct. App. 2016).

Even when a state consents to be sued, its waiver of sovereign immunity does not allow its courts to force it to make an appropriation to satisfy a judgment in the absence of consent to the appropriation. When a money judgment has been rendered, the state's liability has been ascertained, but then the court's power ends. Kama v. Chuuk, 20 FSM R. 522, 531-32 (Chk. S. Ct. App. 2016).

When Chuuk not only has not expressly waived its sovereign immunity to writs of attachment, execution, and garnishment, but has also gone further and affirmatively enacted legislation emphatically notifying the public and potential litigants that it has not waived its immunity to those writs, that statute is a valid expression of the separation of powers doctrine enshrined in the Chuuk Constitution. Kama v. Chuuk, 20 FSM R. 522, 532 (Chk. S. Ct. App. 2016).

– Chuuk – Executive Powers

The governor does not have free rein to use the Attorney General's Office to litigate private matters outside the scope of his duties as governor, but until such time as he ceases to be able to act as governor pursuant to a bill of impeachment or other constitutional process he may utilize that office's services to litigate such matters as concern his acts as governor. In re Legislative Subpoena, 7 FSM R. 259, 261 (Chk. S. Ct. Tr. 1995).

For the Chuuk Governor to veto a bill he must both disapprove it and return it to the house in the legislature in which it originated within ten days of it being presented to him. Otherwise it becomes law in like manner as if he had signed it. Chuuk State Supreme Court v. Umwech (I), 7 FSM R. 600, 601 (Chk. S. Ct. Tr. 1996).

The Chuuk Governor's constitutional power to declare an emergency is discretionary. Whether an abuse exists is determined by an "arbitrary and capricious" standard. Aizawa v. Chuuk State Election Comm'r, 8 FSM R. 275, 280 (Chk. S. Ct. Tr. 1998).

The validity of the action taken following the declaration of emergency is determined by whether it was taken in good faith and in the honest belief of its necessity. Aizawa v. Chuuk State Election Comm'r, 8 FSM R. 275, 280 (Chk. S. Ct. Tr. 1998).

Executive orders must meet constitutional standards the same as acts of legislative bodies. Lokopwe v. Walter, 10 FSM R. 303, 306 (Chk. S. Ct. Tr. 2001).

While the principal officers and advisors serve during the current term of the appointing Governor unless sooner removed by the Governor, the dismissal of non-policy making employees from public employment solely on the ground of political affiliation is not permissible. Lokopwe v. Walter, 10 FSM R. 303, 306 (Chk. S. Ct. Tr. 2001).

The executive policy requiring resignation before running for a seat in the Chuuk Legislature adds a qualification prohibited by the Chuuk Constitution and is void, and therefore, the plaintiffs' forced resignation pursuant to the Governor's Executive Order or policy is unconstitutional and beyond his power. Lokopwe v. Walter, 10 FSM R. 303, 306 (Chk. S. Ct. Tr. 2001).

The executive power is the power to execute, or carry the laws into effect, as distinguished from the power to make the laws and the power to judge them. All executive power is granted by the constitution, and the executive branch can exercise no power not derived from it. Lokopwe v. Walter, 10 FSM R. 303, 307 (Chk. S. Ct. Tr. 2001).

A governor has only a delegated power and a limited sphere of action, and the Chuuk Constitution does not give the Governor the power to add qualifications, that a person must not be a state employee, to be a candidate for a seat in the Chuuk Legislature. Lokopwe v. Walter, 10 FSM R. 303, 307 (Chk. S. Ct. Tr. 2001).

Neither the Director of Treasury nor the Governor may use or direct the use of monies appropriated to pay judgments against the state for any purpose other than to pay judgments. Narruhn v. Chuuk, 11 FSM R. 48, 54 (Chk. S. Ct. Tr. 2002).

Money appropriated to pay judgments against the state may not be used to pay "settlements" or "claims" against the state which have not been reduced to judgment. Narruhn v. Chuuk, 11 FSM R. 48, 54 (Chk. S. Ct. Tr. 2002).

Neither the Legislature, nor the Governor, may add qualifications for public office beyond those qualifications provided in the Chuuk Constitution. It matters not whether the employee in question is an "exempt" employee, or one covered by the Public Service Act. All government employees, with the express exception of the Governor's principal officers and advisors (who serve at the Governor's pleasure), are protected in their political activities from the Governor's interference with their employment. Tomy v. Walter, 12 FSM R. 266, 271 (Chk. S. Ct. Tr. 2003).

Neither the constitutional nor the statutory provision directs the Governor to implement the provisions that each municipality adopt its own constitution. The direction is aimed at the others

– the municipalities and the Legislature. Buruta v. Walter, 12 FSM R. 289, 294 (Chk. 2004).

No authority, constitutional or statutory, grants the Governor the power to appoint (or to remove) municipal officials. Executive orders must meet constitutional standards, the same as acts of legislative bodies. Buruta v. Walter, 12 FSM R. 289, 294 (Chk. 2004).

The Chuuk Governor's constitutional power to declare an emergency is discretionary. Whether an abuse of discretion exists is determined by the arbitrary and capricious standard. The validity of an action taken following the declaration of emergency is determined by whether it was taken in good faith and in the honest belief of its necessity. Buruta v. Walter, 12 FSM R. 289, 294 (Chk. 2004).

A Governor's proclamation that finds that it was the intentional failure of the incumbent mayor and council that caused the lack of a municipal constitution and funding for the 2003 municipal election, but which continues those officials in office indefinitely until a constitution is adopted and an election is held but with no incentive to do either of those things and with every incentive not to, can only be termed arbitrary and capricious. Since the proclamation is arbitrary and capricious and exercises powers for which the Governor has no apparent authority, it is void. Buruta v. Walter, 12 FSM R. 289, 294 (Chk. 2004).

A Governor's proclamation that continues municipal officials in office indefinitely, violates the people's rights to substantive due process, in that they have no say in their municipal government since all of its officials are now appointed by and now hold office due to the Governor; and to equal protection of the laws, in that the municipal citizens are treated differently based on their ancestry (they and their ancestors are from Romalum) from citizens of other Chuuk municipalities in not being allowed an elected municipal government. Buruta v. Walter, 12 FSM R. 289, 295 (Chk. 2004).

The Governor's constitutional power to declare an emergency may be exercised only at a time of extreme emergency caused by civil disturbance, natural disaster, or immediate threat of war or insurrection and to issue appropriate decrees. This power is discretionary and whether the Governor (or the Lieutenant Governor acting as Governor) abused his discretion is determined by an "arbitrary and capricious" standard. Esa v. Elimo, 14 FSM R. 262, 265 (Chk. 2006).

The court cannot conclude that the Lieutenant Governor's declaration of an emergency was invalid in itself. It is within the Governor's constitutional power to determine whether there is a civil disturbance creating an extreme emergency. The court cannot question that. It is his, not a court's, power to determine. Esa v. Elimo, 14 FSM R. 262, 265 (Chk. 2006).

The second aspect of the issue is the propriety of the actions which the Lieutenant Governor's proclamation directed to be taken, or, stated another way, whether the Lieutenant Governor issued appropriate decrees. The validity of the action taken following the declaration of emergency is determined by whether it was taken in good faith and in the honest belief of its necessity. Esa v. Elimo, 14 FSM R. 262, 265 (Chk. 2006).

The Lieutenant Governor's proclamation was not an appropriate decree because it could not have been taken in good faith and with the honest belief of its necessity since, having determined that an emergency existed because of civil disturbances caused by disputes

"between the Party of Kisauo Esa and the Party of Amando [sic] Marsolo," the proclamation then removed Esa from office and installed Marsolo. If civil disturbances between the two parties was causing an extreme emergency, this was an arbitrary and capricious method to address the emergency and cannot be an act taken in good faith that it would prevent further civil disturbance. Esa v. Elimo, 14 FSM R. 262, 265-66 (Chk. 2006).

An emergency proclamation that orders the Chuuk Division of Finance to identify and locate funds to fund an election and to obligate those funds for that purpose would have been an inappropriate decree if it involved the expenditure of unappropriated funds and was not approved by the Chuuk Legislature because the Chuuk Constitution provides that a gubernatorial emergency decree may not involve the expenditure of unappropriated public funds unless approved by the Legislature. Esa v. Elimo, 14 FSM R. 262, 266 (Chk. 2006).

Within 15 days after the gubernatorial declaration of emergency, the Legislature must convene at the call of the Speaker of the House of Representatives and the President of the Senate or at the Governor's call to consider the declaration's revocation, amendment, or extension. Unless it expires by its own terms or is revoked or extended, a declaration of emergency is effective for 15 days. Esa v. Elimo, 14 FSM R. 262, 266 (Chk. 2006).

When an emergency declaration was never extended and the Chuuk Legislature never met to consider the emergency declaration's revocation, amendment, or extension, although the Governor (and presumably the Lieutenant Governor if he was still Acting Governor) had the power to call the Legislature into session to consider the emergency declaration and to approve the expenditure of funds, the failure to call the Legislature into session raises further doubts that the declaration was made in the honest belief of its necessity. Esa v. Elimo, 14 FSM R. 262, 266 (Chk. 2006).

The Chuuk Constitution is clear and unambiguous that when referring to the Governor's office, a Governor's "term" is a fixed four-year period. Thus, the phrase "current term" clearly means that if a governor is re-elected for a second four-year term, new nominations (or re-nominations) must be submitted to the Senate but otherwise a cabinet official may remain in office for a full four years unless the Governor earlier removes him (or he is impeached or he resigns). But when a new governor fills out the remainder of his predecessor's unexpired term, the new governor may retain the existing cabinet officials and special assistants without submitting their names for reconfirmation. Senate v. Elimo, 18 FSM R. 137, 139-40 (Chk. S. Ct. Tr. 2012).

Since, by statute, a governor must send a nomination to the Senate within 45 days of a vacancy in an office requiring the Senate's advice and consent and since a resignation is an act or an instance of surrendering or relinquishing of an office or a formal notification of relinquishing an office or position, when cabinet officers and special assistants have submitted "courtesy resignations," those offices are vacant and new nominations (or renominations) must be submitted. The court cannot discern any difference (in result) between a "courtesy resignation" and a resignation for other reasons since a resignation is a resignation. Senate v. Elimo, 18 FSM R. 137, 140 (Chk. S. Ct. Tr. 2012).

– Chuuk – Judicial Powers

The Chuuk State Supreme Court has constitutional jurisdiction to review the actions of any

state administrative agency, and decide all relevant questions of law, interpret constitutional and statutory provisions and determine the meaning or applicability of the terms of an agency action. Robert v. Mori, 6 FSM R. 178, 179 (Chk. S. Ct. Tr. 1993).

The ultimate interpretation of any provisions of the Chuuk State Constitution is within the sole authority of the Chuuk State Supreme Court, as the ultimate interpreter of the Constitution, and that includes the authority to interpret the meaning of whether a matter has been committed by the Constitution to another branch of government, or whether the action of that branch exceeds its authority. Robert v. Chuuk State House of Representatives, 6 FSM R. 260, 264 (Chk. S. Ct. Tr. 1993).

The constitutional provision making the House the sole judge of the qualification of its members does not automatically preclude the Chuuk State Supreme Court from having jurisdiction to decide if a member-elect of the legislature has been excluded from membership on unconstitutional grounds; nor is the court's jurisdiction over alleged unconstitutional applications of the Legislature's powers necessarily precluded by the political question doctrine. The court ultimately has the power to determine if the Legislature has exercised its powers in an unconstitutional and invalid manner. Robert v. Chuuk State House of Representatives, 6 FSM R. 260, 264-65 (Chk. S. Ct. Tr. 1993).

The Chuuk State Supreme Court has the subject matter jurisdiction to hear suits alleging that the legislature has exercised its power to be the sole judge of the qualifications of its members in an unconstitutional manner in violation of the constitutional prohibitions against ex post facto laws. Robert v. Chuuk State House of Representatives, 6 FSM R. 260, 265 (Chk. S. Ct. Tr. 1993).

A court should not order a traditional apology, compensation, and settlement when none has been offered voluntarily because traditional settlements are customarily non-adversarial and arrived at without outside coercion and court decisions must be consistent with custom. Alafonso v. Sarep, 7 FSM R. 288, 290-91 (Chk. S. Ct. Tr. 1995).

A party may seek declaratory relief from the Chuuk State Supreme Court even though it may have another available remedy, but there must be an actual controversy between the parties and the matter must be within the court's jurisdiction. The court has discretion to entertain such actions if appropriate. Truk Shipping Co. v. Chuuk, 7 FSM R. 337, 339, 342 (Chk. S. Ct. Tr. 1995).

It is the duty of the court in the proper case to determine whether an act of the government, including acts of the Legislature, is in conformance with the supreme law of the state. Any such act that violates the Chuuk Constitution violates the supreme law of Chuuk and must be treated as null and void. Sauder v. Chuuk State Legislature, 7 FSM R. 358, 361 (Chk. S. Ct. Tr. 1995).

At least three justices hear all appeals in the Chuuk State Supreme Court appellate division with the decision by a concurrence of a majority of the justices sitting on the appellate panel, but a single justice may make necessary orders concerning failure to take or prosecute the appeal in accordance with applicable law and procedure. Wainit v. Weno, 9 FSM R. 160, 162 (App. 1999).

In the Chuuk Constitution there is a distinction between a "decision," which must be by a majority of the appellate justices assigned to hear the case, and "orders," which a single

appellate justice may make. A "decision" means the final determination of the appeal. Wainit v. Weno, 9 FSM R. 160, 162 (App. 1999).

An action of a Chuuk State Supreme Court single appellate justice may be reviewed by the court. This provides a means whereby a single justice "order" may become the appellate panel's dispositive "decision." Wainit v. Weno, 9 FSM R. 160, 162-63 (App. 1999).

The court lacks jurisdiction over the subject matter or the complaint does not state a claim or cause of action upon which relief can be granted when it asks the court to hold the removal of the Speaker and Vice-Speaker null and void. Christlib v. House of Representatives, 9 FSM R. 503, 506-07 (Chk. S. Ct. Tr. 2000).

No branch of the Chuuk state government is supreme, but it is the duty of the court in each case to determine if the powers of any branch of the government have been exercised in conformity with the constitution, and if they have not, to treat their acts as null and void. Udot Municipality v. Chuuk, 9 FSM R. 586, 588 (Chk. S. Ct. Tr. 2000).

Because the constitutional provision states that only one Chuuk State Supreme Court justice may hear or decide an appeal, and because "may" is permissive, not mandatory language, the Constitution contemplates that there may be an occasion when no Chuuk State Supreme Court justice would hear an appeal. Cholymay v. Chuuk State Election Comm'n, 10 FSM R. 145, 151 (Chk. S. Ct. App. 2001).

In determining the extent of the powers of the judiciary under a state constitution, the rule is that the state constitution confers on the judicial department all the authority necessary to exercise powers as a co-ordinate department of the government. Kupenes v. Ungeni, 12 FSM R. 252, 262 (Chk. S. Ct. Tr. 2003).

With regard to grants of legislative and judicial power by state constitutions, and especially regarding the principle barring implied limitations on such powers, the whole of such legislative and judicial power reposing in the sovereignty is granted to those bodies, except as it may be restricted in the same instrument. Thus the state courts have and should maintain vigorously all the inherent and implied powers necessary to function properly and effectively as a separate department in the scheme of government. Kupenes v. Ungeni, 12 FSM R. 252, 262-63 (Chk. S. Ct. Tr. 2003).

Since the constitution must be interpreted in such a way as to carry out is purposes and since the purpose of the unified judiciary must be to ensure that fair and impartial justice be provided to every citizen of Chuuk, in a case where all sitting justices are disqualified, unavailable, or have recused themselves, fair and impartial justice will be unavailable unless the Chief Justice has some method available to ensure a fair and impartial hearing. Kupenes v. Ungeni, 12 FSM R. 252, 263 (Chk. S. Ct. Tr. 2003).

Since the constitution must be liberally, not restrictively, construed, any attempt to place limitations on the Chief Justice's power, where no words of limitation appear, would require a restrictive interpretation of the constitution, and would violate the rules of interpretation as applied to judiciaries. Kupenes v. Ungeni, 12 FSM R. 252, 263 (Chk. S. Ct. Tr. 2003).

Interpreting the Chief Justice's rule-making authority and his authority to "appoint and prescribe duties of other officers and employees, as prohibiting the appointment of a special trial

justice unless the appointee meets the Article VII, § 9 qualifications of associate justices, would invite invalidity and chaos. Instead, the principle of acquiescence controls. Kupenes v. Ungeni, 12 FSM R. 252, 263-64 (Chk. S. Ct. Tr. 2003).

A gubernatorial emergency declaration is free from judicial interference for fifteen days after it is made. Esa v. Elimo, 14 FSM R. 262, 266 n.3 (Chk. 2006).

The Legislature is a co-equal branch of government and the court does not have the authority or power to order it to take a discretionary act of appropriating funds. Narruhn v. Chuuk State Election Comm'n, 18 FSM R. 16, 20 (Chk. S. Ct. Tr. 2011).

The judiciary cannot usurp the other branches' powers by appropriating and spending the state's money without any regard to the Chuuk Constitution's separation of powers. Kama v. Chuuk, 20 FSM R. 522, 530 (Chk. S. Ct. App. 2016).

The Chuuk State Supreme Court cannot issue an order directing the payment of money by Chuuk State absent an appropriation therefor. Kama v. Chuuk, 20 FSM R. 522, 530 (Chk. S. Ct. App. 2016).

The judicial branch does not have the power to appropriate money. The judicial branch cannot enact statutes or prescribe by statute. The Legislature is a co-equal branch of government and the court does not have the authority or power to order it to appropriate funds. Kama v. Chuuk, 20 FSM R. 522, 531 (Chk. S. Ct. App. 2016).

For a money judgment against the state to be paid there must be an appropriation by the Legislature and the courts have no power to compel an appropriation. Kama v. Chuuk, 20 FSM R. 522, 532 (Chk. S. Ct. App. 2016).

– Chuuk – Legislative Powers

The Chuuk State Legislature is limited to judging only those qualifications of its elected members that are explicitly listed within the Chuuk State Constitution. Robert v. Chuuk State House of Representatives, 6 FSM R. 260, 264 (Chk. S. Ct. Tr. 1993).

Each house of the Chuuk State Legislature may exercise its power as the sole judge of the qualifications of its members so long as it is done in a manner that is rationally and reasonably related to the plain ordinary meaning of the text in order to comply with the state and federal requirements of due process, and not in any arbitrary or capricious manner, or in any other manner that would otherwise violate the state or national constitutions. This power may be exercised only in regard to the qualifications that explicitly appear in the constitution itself. Robert v. Chuuk State House of Representatives, 6 FSM R. 260, 266 (Chk. S. Ct. Tr. 1993).

No house of the legislature is bound by the decisions or determinations of a previous house. One duly elected legislature's determination of a member-elect's constitutional qualifications or disqualification to sit is not binding as legal precedent on any subsequently and duly elected legislatures, and each newly elected legislature is free to determine the meaning of constitutional qualifications and apply it in a manner that is different from that of previous legislatures, so long as its application is in conformity with the state and national constitutions. Robert v. Chuuk State House of Representatives, 6 FSM R. 260, 272 (Chk. S. Ct. Tr. 1993).

The power to investigate and issue subpoenas is expressly granted the legislature by the constitution. In re Legislative Subpoena, 7 FSM R. 261, 265 (Chk. S. Ct. Tr. 1995).

In determining whether the Legislature has the power to subpoena personal financial records of a public official in a legislative investigation, a court must consider the right to privacy as it specifically applies to a public official. In re Legislative Subpoena, 7 FSM R. 261, 265 (Chk. S. Ct. Tr. 1995).

The power to investigate has historically been found to be an inherent power of the legislative process and a power that is very broad. It comprehends probes into departments of the government to expose corruption, inefficiency or waste, and may not be unduly hampered. In re Legislative Subpoena, 7 FSM R. 261, 265 (Chk. S. Ct. Tr. 1995).

The legislative power to investigate is not unlimited. There is no general authority to expose the private affairs of individuals without justification in terms of the functions of the legislature, and the right to privacy embodied in Article III, section 3 of the Chuuk Constitution is a restraint on the investigative power of the legislature. In re Legislative Subpoena, 7 FSM R. 261, 265 (Chk. S. Ct. Tr. 1995).

The legislature's investigative powers are greatest when it is inquiring into and publicizing corruption, maladministration or inefficiency in the agencies or branches of government. In re Legislative Subpoena, 7 FSM R. 261, 265 (Chk. S. Ct. Tr. 1995).

The Chuuk House of Representatives possesses the sole authority and power to pass a Bill of Impeachment seeking to remove those state officials responsible for misfeasance or malfeasance. In re Legislative Subpoena, 7 FSM R. 261, 266 (Chk. S. Ct. Tr. 1995).

The Chuuk House of Representatives has no criminal prosecution function. It is limited to passing laws and under the proper circumstance bringing bills of impeachment, which are not criminal in nature. In re Legislative Subpoena, 7 FSM R. 261, 266 (Chk. S. Ct. Tr. 1995).

The Chuuk State Legislature has the express constitutional power to conduct investigations and to issue subpoenas in aid of an investigation. Each house has all the authority and attributes inherent in legislative assemblies. In re Legislative Subpoena, 7 FSM R. 328, 331 (Chk. S. Ct. App. 1995).

Constitutional protections are a restraint on legislative investigations. In re Legislative Subpoena, 7 FSM R. 328, 331 (Chk. S. Ct. App. 1995).

Any committee formed by a house of the legislature is restricted to the missions delegated to it, i.e., to acquire certain data to be used in coping with a problem that falls within the house's legislative sphere. This jurisdictional concept requires that material sought by the committee be pertinent or relevant to this function in order to compel disclosure from an unwilling witness. In re Legislative Subpoena, 7 FSM R. 328, 332 (Chk. S. Ct. App. 1995).

A court must presume that an action of a legislative body was taken with a legitimate object if it is capable of being so construed, and has no right to assume that the contrary was intended. In re Legislative Subpoena, 7 FSM R. 328, 332-33 (Chk. S. Ct. App. 1995).

A committee of the legislative house constitutionally charged with the function of

impeachment whose authorizing resolution empowered it to investigate the state's insolvency and the executive branch officers' misfeasance, malfeasance, or failure to carry out their duties and responsibilities, presented with evidence that the governor has illegal sources of income that may involve state funds is seeking relevant material related to its function when it seeks to subpoena the governor's bank records. In re Legislative Subpoena, 7 FSM R. 328, 333 (Chk. S. Ct. App. 1995).

All citizens generally have the duty to, and state officials are obligated by statute to, cooperate with legislative investigations. These obligations of citizenship and public office are linked with the assumption that the legislature will respect individuals' constitutional rights, including the right of privacy. In re Legislative Subpoena, 7 FSM R. 328, 333-34 (Chk. S. Ct. App. 1995).

Once the First Chuuk Legislature has set the salaries of it members by statute, no increase in their salaries is effective until after approval by the voters in a referendum. Sauder v. Chuuk State Legislature, 7 FSM R. 358, 361 (Chk. S. Ct. Tr. 1995).

Expense allowances for a member of the Chuuk Legislature may not exceed 20% of his salary. Sauder v. Chuuk State Legislature, 7 FSM R. 358, 362 (Chk. S. Ct. Tr. 1995).

Salary and expense allowances for members of the Chuuk Legislature cannot exceed ¾ of the equivalent the Governor is entitled to. Sauder v. Chuuk State Legislature, 7 FSM R. 358, 362-63 (Chk. S. Ct. Tr. 1995).

Any form of legislative remuneration, compensation or reimbursement for Chuuk legislators is limited to 1/5 of a legislator's salary. An unrestricted "representation allowance" is an unconstitutional form of compensation. Sauder v. Chuuk State Legislature, 7 FSM R. 358, 364 (Chk. S. Ct. Tr. 1995).

Even in the absence of a general reduction of the pay of all state employees which would allow the Chuuk Legislature to reduce the pay of judges, the legislature has authority to reduce the pay of other judiciary employees. When there is no general reduction of salaries, a law reducing the Chuuk State Supreme Court justices' salaries is invalid. Chuuk State Supreme Court v. Umwech (II), 7 FSM R. 630, 632 (Chk. S. Ct. Tr. 1996).

Reading the constitutional provision barring impairment of contracts in harmony with the provision allowing general reduction of salaries, the exclusion of contract employees does not preclude the Chuuk Legislature from enacting a general reduction of salaries. Chuuk State Supreme Court v. Umwech (II), 7 FSM R. 630, 632 (Chk. S. Ct. Tr. 1996).

Because the provision permitting an automatic increase back to their former salaries by the Governor, Lieutenant Governor, and the members of the legislature, is severable, it thus may be ruled unconstitutional without affecting the validity of the rest of the statute. Chuuk State Supreme Court v. Umwech (II), 7 FSM R. 630, 632 (Chk. S. Ct. Tr. 1996).

A state legislative body has the power to choose its own speaker from its own members and to appoint its own officers. Christlib v. House of Representatives, 9 FSM R. 503, 505 (Chk. S. Ct. Tr. 2000).

A state legislative body, having the power to choose its own speaker from its own members,

also has the inherent power to remove such officer at its will or pleasure. Christlib v. House of Representatives, 9 FSM R. 503, 506 (Chk. S. Ct. Tr. 2000).

The Chuuk Constitution requires that every 2 years when a new Legislature convenes, each house shall organize by the election of one of its members as presiding officer, but it does not require that he remain in office throughout his term. Christlib v. House of Representatives, 9 FSM R. 503, 507 (Chk. S. Ct. Tr. 2000).

When a constitution establishes specific eligibility requirements for a particular constitutional office, the legislature is without power to require different qualifications and when there is no direct authority in the constitution for the legislature to establish qualifications for office in excess of those imposed by the constitution, such extra qualifications are unconstitutional. Olap v. Chuuk State Election Comm'n, 9 FSM R. 531, 533 (Chk. S. Ct. Tr. 2000).

The Chuuk Constitution does not, either expressly or by implication, give the Legislature any authority whatsoever, to add qualifications for persons seeking a legislative office beyond those in the Constitution. Olap v. Chuuk State Election Comm'n, 9 FSM R. 531, 533 (Chk. S. Ct. Tr. 2000).

It is beyond the power of the Legislature to enact a law to prohibit government employees from becoming candidates for legislative service. Olap v. Chuuk State Election Comm'n, 9 FSM R. 531, 534 (Chk. S. Ct. Tr. 2000).

Even if the purported enactment of the education qualifications for mayor and assistant mayor were unquestionably enacted, the municipal council is without authority to add qualifications to those set out in the municipal constitution unless the constitution so authorizes the council. Chipen v. Election Comm'r of Losap, 10 FSM R. 15, 17-18 (Chk. 2001).

Temporary Chuuk State Supreme Court justices, appointed for the limited purpose of hearing the appeal, may be a justice of the FSM Supreme Court, a judge of a court of another FSM state, or a qualified attorney in the State of Chuuk. FSM citizenship is not a constitutional requirement to be a temporary Chuuk State Supreme Court appellate justice and the Legislature cannot add it by statute. Cholymay v. Chuuk State Election Comm'n, 10 FSM R. 145, 152 (Chk. S. Ct. App. 2001).

When the Constitution sets forth the requirements for office and does not authorize the Legislature to add further requirements, it is barred from doing so. Cholymay v. Chuuk State Election Comm'n, 10 FSM R. 145, 152 (Chk. S. Ct. App. 2001).

Legislative houses are the final judges of their memberships and under the Chuuk Constitution each house is the sole judge of the election and qualification of its members. This does not make an election case about a member-elect non-justiciable until such time as the house has taken its final action. Cholymay v. Chuuk State Election Comm'n, 10 FSM R. 145, 153 (Chk. S. Ct. App. 2001).

The Legislature has, under its power to prescribe by statute for the regulation of the certification of elections and under its power to provide by law for review of administrative agency decisions, the power to place the jurisdiction to review Election Commission decisions in the Chuuk State Supreme Court appellate division rather than in the trial division. Cholymay v. Chuuk State Election Comm'n, 10 FSM R. 145, 155 (Chk. S. Ct. App. 2001).

An order to show cause to the entire Chuuk Legislature requiring it to demonstrate why it should not be held in contempt for failing to pay the judgment will not be issued because it is not for the court to intrude in this manner into areas committed to the province of the state legislature. Estate of Mori v. Chuuk, 11 FSM R. 535, 540 (Chk. 2003).

The Chuuk state government's legislative power is vested in the Legislature, and extends to all rightful subjects of legislation not inconsistent with the Chuuk or FSM Constitutions. Ceasar v. Uman Municipality, 12 FSM R. 354, 357 n.1 (Chk. S. Ct. Tr. 2004).

All public expenditures are required to be for a defined public purpose and the procedures for demonstrating entitlement to public expenditures are implemented through the Financial Management Act. Chuuk v. Robert, 16 FSM R. 73, 79 & n.5 (Chk. S. Ct. Tr. 2008).

Funds appropriated under the Speaker and Staff Travel Fund Act provide for the official travel of the Speaker and Legislature employees and enable members to attend various public functions, as specified in the act. The Speaker administers the fund and authorizes selected persons to receive monies, subject to the act's limitations and appropriations to carry out the purposes of the act are authorized from the General Fund. Chuuk v. Robert, 16 FSM R. 73, 79 (Chk. S. Ct. Tr. 2008).

The Legislature is a co-equal branch of government and the court does not have the authority or power to order it to take a discretionary act of appropriating funds. Narruhn v. Chuuk State Election Comm'n, 18 FSM R. 16, 20 (Chk. S. Ct. Tr. 2011).

The legislative branch's filing of a lawsuit is not an attempt to execute a statute when the lawsuit attempts to obtain a judicial interpretation of the statute's effect or meaning. Mailo v. Chuuk Health Care Plan, 18 FSM R. 501, 505 (Chk. 2013).

The judicial branch does not have the power to appropriate money. The judicial branch cannot enact statutes or prescribe by statute. The Legislature is a co-equal branch of government and the court does not have the authority or power to order it to appropriate funds. Kama v. Chuuk, 20 FSM R. 522, 531 (Chk. S. Ct. App. 2016).

– Executive Powers

Under our Constitution the Executive Branch is expressly delegated the power to faithfully execute and implement all national laws. Udot Municipality v. FSM, 9 FSM R. 418, 420 (Chk. 2000).

Specific powers are given to each branch of the government. When Congress is executing and implementing a national law, a power expressly delegated to the executive branch, it abridges the executive's power to execute and implement national laws. Udot Municipality v. FSM, 9 FSM R. 418, 420 (Chk. 2000).

The Constitution gives Congress the authority to appropriate public funds, but the Executive Branch is expressly delegated the power to faithfully execute and implement all national laws and a public law that appropriates public funds is a national law. Udot Municipality v. FSM, 10 FSM R. 354, 357 (Chk. 2001).

The national government's executive power is vested in the President of the Federated States of Micronesia and expressly includes the power to faithfully execute and implement the provisions of the Constitution and all national laws. FSM v. Udot Municipality, 12 FSM R. 29, 48 (App. 2003).

Congress has its constitutional role of carrying out its legislative power by enacting national laws. Once national laws are enacted, the Executive Branch then has its constitutional role of carrying out its executive power by seeing to the execution and implementation of these laws. FSM v. Udot Municipality, 12 FSM R. 29, 51 (App. 2003).

Allottees, either specifically designated in an appropriations law or in the Financial Management Act, have their role in administering the law. Allottees' role in the execution, implementation, and administration of the law is executive in nature and must be considered as such. FSM v. Udot Municipality, 12 FSM R. 29, 51 (App. 2003).

The power to faithfully execute and implement the Constitution's provisions and all national laws is expressly delegated to the President. Urusemal v. Capelle, 12 FSM R. 577, 583 (App. 2004).

Although it may be true in the general case that when the FSM is claiming executive privilege it has an initial duty to provide a sworn declaration demonstrating that the discovery at issue is privileged, but when discovery is sought from a president, no such declaration will be required since presidential communications are "presumptively privileged." This is because a court is not required to proceed against the president as against an ordinary individual. FSM v. GMP Hawaii, Inc., 16 FSM R. 508, 511 (Pon. 2009).

The FSM president is not only the head of a co-equal branch of government, but is also both the FSM's head of state and head of government. The vice president functions either as an acting president or as one in waiting, who is keeping himself informed and prepared should some unfortunate event occur that would require him to act as president. FSM v. GMP Hawaii, Inc., 16 FSM R. 508, 511 (Pon. 2009).

Although a former president may not retain the capacity to either assert or waive an executive privilege, an incumbent president can claim the privilege on his predecessor's behalf. FSM v. GMP Hawaii, Inc., 16 FSM R. 508, 511 (Pon. 2009).

The presidential executive privilege is rooted in the separation of powers doctrine and in the principle that confidentiality in communications between the president and his advisors should enhance the quality of discussion and government decisions. However, this presumptive privilege is not absolute and must be considered in the light of the rule of law. FSM v. GMP Hawaii, Inc., 16 FSM R. 508, 512 (Pon. 2009).

A party seeking discovery, who is confronted with an executive privilege claim, may overcome that claim if the discovery would 1) lead to admissible evidence; 2) is essential to the party's case; 3) is not available through any alternative source or less burdensome means; and 4) will not significantly interfere with the official's ability to perform his governmental duties. FSM v. GMP Hawaii, Inc., 16 FSM R. 508, 512 (Pon. 2009).

When the plaintiff contends that the depositions of the president, vice president, and former

president would yield admissible evidence about the discussions during high-level national-state government meetings on replacing the plaintiff as the Project Management Unit since the presidents and vice president were the only persons present at all of those meetings and should thus have unique, relevant testimony, the plaintiff has not met its burden to show that information about those meetings cannot be obtained through alternative sources or less burdensome means since a number of other persons were present at each of those meetings. FSM v. GMP Hawaii, Inc., 16 FSM R. 508, 512 (Pon. 2009).

Once a public law is enacted, the responsibility for the execution and implementation of the law rests with those who have a duty to execute and administer the law. Pacific Foods & Servs., Inc. v. National Oceanic Res. Mgt. Auth., 17 FSM R. 181, 188 (Pon. 2010).

Once a public law is enacted, the responsibility for the execution and implementation of the law rests with those who have a duty to execute and administer the law, and Senators can have no further role in its execution. The basic constitutional principle involved is that the execution and implementation of the laws is an executive rather than a legislative function. The Constitution affords the Congress great latitude in making policy decisions through the process of enacting legislation, but once Congress enacts legislation, its role ends: Congress can thereafter formally affect the execution of its enactment only by enacting appropriate new legislation. Congress v. Pacific Food & Servs., Inc., 17 FSM R. 542, 548 (App. 2011).

Because an access agreement does not give exclusive rights either to negotiate permits on behalf of all foreign vessels or to exploit the FSM's EEZ, it is more properly a permit or license. Administration of a permit or license scheme is, by its nature, administrative, and thus an executive branch function. Congress v. Pacific Food & Servs., Inc., 17 FSM R. 542, 549 (App. 2011).

The power to appoint and confirm members of the Social Security Board is vested in the national government's Executive and Legislative branches. To halt the Board's function when all vacancies are not filled would adversely affect the Social Security's function as a whole, and would be detrimental to the livelihood of social security benefit recipients. Neth v. FSM Social Sec. Admin., 19 FSM R. 639, 643 (Pon. 2015).

– Judicial Powers

The FSM Supreme Court has broad rule-making powers under the Constitution. FSM Const. art. XI, § 9. FSM v. Albert, 1 FSM R. 14, 17 (Pon. 1981).

The Constitution unmistakably places upon the judicial branch ultimate responsibility for interpretation of the Constitution. Suldan v. FSM (II), 1 FSM R. 339, 343 (Pon. 1983).

By using the United States Constitution as a blueprint, the framers created a presumption that they were adopting such a fundamental American Constitutional principle as judicial review, found to be inherent in the language and very idea of the United States Constitution. Suldan v. FSM (II), 1 FSM R. 339, 348 (Pon. 1983).

The power to issue declaratory judgments is within the judicial power vested in the FSM Supreme Court by article XI, section 1 of the Constitution and confirmed by the Judiciary Act of 1979. The FSM Supreme Court may exercise jurisdiction over an action seeking a declaratory

judgment so long as there is a "case" within the meaning of article XI, section 6(b). Ponape Chamber of Commerce v. Nett Mun. Gov't, 1 FSM R. 389, 400 (Pon. 1984).

An attorney's professional activities are individually subject to regulation by the judiciary, not by the administrators of the Foreign Investment Act. Michelsen v. FSM, 3 FSM R. 416, 427 (Pon. 1988).

The Constitution places control over admission of attorneys to practice before the national courts, and regulation of the professional conduct of the attorneys, in the Chief Justice, as the chief administrator of the national judiciary. Carlos v. FSM, 4 FSM R. 17, 27 (App. 1989).

While the FSM Constitution provides initial access to the FSM Supreme Court for any party in article XI, section 6(b) litigation, the court may, having familiarized itself with the issues, invoke the doctrine of abstention and permit the case to proceed in a state court, since the power to grant abstention is inherent in the jurisdiction of the FSM Supreme Court, and nothing in the FSM Constitution precludes the court from abstaining in cases which fall within its jurisdiction under article XI, section 6(b). Ponape Transfer & Storage, Inc. v. Federated Shipping Co., 4 FSM R. 37, 42-43 (Pon. 1989).

The FSM Constitution provides no authority for any courts to act within the Federated States of Micronesia, other than the FSM Supreme Court, inferior courts to be established by statute, and state or local courts. United Church of Christ v. Hamo, 4 FSM R. 95, 105 (App. 1989).

The provisions of the FSM Constitution spelling out jurisdiction and vesting the entire judicial power of the national government in the FSM Supreme Court are self-executing, and the judicial power of the FSM Supreme Court is not dependent upon congressional action. United Church of Christ v. Hamo, 4 FSM R. 95, 105-06 (App. 1989).

The Supreme Court of the FSM has the constitutional power and obligation to review legislative enactments of Congress and to set aside national statutes to the extent they violate the Constitution. Constitutional Convention 1990 v. President, 4 FSM R. 320, 324 (App. 1990).

Although judiciaries are vested with power to require or authorize initiation of criminal contempt proceedings, and may appoint private counsel to prosecute those proceedings, judiciaries typically attempt to appoint for that purpose government attorneys who are already responsible for public prosecutions. Damarlane v. Pohnpei Transp. Auth., 5 FSM R. 62, 66 (Pon. 1991).

The legislative enactment of the Financial Management Act does not conflict with the constitutional provision stating the Chief Justice is the chief administrator of the national judiciary. Mackenzie v. Tuuth, 5 FSM R. 78, 80 (Pon. 1991).

The constitutional provision making the Chief Justice the chief administrator of the national judiciary was not intended to establish a separate administration of funds allotted to the judiciary; it is not so specific as to overcome the presumption of the constitutionality of the Financial Management Act as it relates to the judiciary. Mackenzie v. Tuuth, 5 FSM R. 78, 82-83 (Pon. 1991).

It is the duty of the FSM Supreme Court to review any national law, including a treaty such as the Compact of Free Association, in response to a claim that the law or treaty violates

constitutional rights, and if any provision of the Compact is contrary to the constitution, which is the supreme law of the land, then that provision must be set aside as without effect. Samuel v. Pryor, 5 FSM R. 91, 98 (Pon. 1991).

The Chief Justice has the constitutional authority to make rules for the appointment of special judges, and Congress has the constitutional authority to amend them. Congress has provided the Chief Justice with the statutory authority to appoint temporary justices. Where Congress has acted pursuant to its constitutional authority to provide statutory authority to the court, the court need not have exercised its concurrent rule-making authority. Jano v. King, 5 FSM R. 326, 331 (App. 1992).

The Chief Justice may appoint an acting chief justice if he is unable to perform his duties. "Unable to perform his duties" refers to a physical or mental disability of some duration, not to the legal inability to act on one particular case. Jano v. King, 5 FSM R. 326, 331 (App. 1992).

The FSM Supreme Court is immune from an award of damages, pursuant to 11 F.S.M.C. 701(3), arising from the performance by the Chief Justice of his constitutionally granted rule-making powers. Berman v. FSM Supreme Court (II), 5 FSM R. 371, 374 (Pon. 1992).

The Chief Justice, in making rules, is performing a legislative function and is immune from an action for damages. Berman v. FSM Supreme Court (II), 5 FSM R. 371, 374 (Pon. 1992).

The grant of immunity to the Chief Justice while performing his rule-making authority is to protect the independence of one exercising a constitutionally granted legislative power. Berman v. FSM Supreme Court (II), 5 FSM R. 371, 374 (Pon. 1992).

Where there is in the Constitution a textually demonstrable commitment of the issue to a coordinate branch of government, such as Congress being the sole judge of the elections of its members, it is a nonjusticiable political question not to be decided by the court because of the separation of powers provided for in the Constitution. Aten v. National Election Comm'r (III), 6 FSM R. 143, 145 (App. 1993).

A judge cannot adopt a procedure not provided for by the rules because the Constitution grants the Chief Justice, and Congress, the power to establish rules of procedure. FSM v. M.T. HL Achiever (II), 7 FSM R. 256, 258 (Chk. 1995).

No court, municipal, state, or otherwise, has the jurisdiction to question the internal workings of a legislative body. Anopad v. Eko, 11 FSM R. 287, 290 (Chk. S. Ct. Tr. 2002).

The Supreme Court has the power to review Congress's legislative enactments and the implementation of those enactments, and it has the responsibility to set aside any national statute to the extent that it violates the Constitution. FSM v. Udot Municipality, 12 FSM R. 29, 47 (App. 2003).

When a party before the court insists that a particular national law contains provisions contrary to the Constitution, the court is required by the Constitution to consider that assertion. If it determines that the statutory provision is indeed repugnant to the Constitution, it may not enforce the statutory provision nor permit its enforcement by others. FSM v. Udot Municipality, 12 FSM R. 29, 47 (App. 2003).

The national government's judicial power is vested in a Supreme Court and inferior courts

established by statute. FSM v. Udot Municipality, 12 FSM R. 29, 48 (App. 2003).

The Constitution permits the Chief Justice to promulgate rules, including criminal procedure rules, which Congress may amend by statute. Congress has the authority to amend or create procedural rules by statute, and when Congress has enacted a procedural rule, it is valid. The Chief Justice does not have the authority to amend Congressionally-enacted statutes. Therefore, if the statute applies and the statute and the rule conflict, the statute must prevail. FSM v. Wainit, 12 FSM R. 376, 383 (Chk. 2004).

The Constitution contemplates that administrative duties are an integral part of the Chief Justice's role, and in this regard they are manifestly judicial. He may delegate those duties pursuant to express constitutional authority, and they do not become nonjudicial because they are performed by the Chief Justice's designee. The contrary is the case, especially in light of the fact that the office of court administrator is one of only a handful of public offices specifically referred to in the Constitution. The administration of the court is an essential activity without which the court cannot function. Urusemal v. Capelle, 12 FSM R. 577, 585 (App. 2004).

If there is a conflict between the Supplemental Admiralty and Maritime Rules and Title 24, then Title 24 must prevail because the Constitution permits the Chief Justice to promulgate procedural rules, which Congress may amend by statute and since Congress has the authority to amend or create procedural rules by statute (and when Congress has enacted a procedural rule, it is valid) and the Chief Justice does not have the authority to amend Congressionally-enacted statutes, if the statute applies and the statute and the rule conflict, the statute must prevail. FSM v. Kana Maru No. 1, 14 FSM R. 365, 367 n.1 (Chk. 2006).

The Constitution unmistakably places upon the judicial branch the ultimate responsibility for interpretation of the Constitution and for determining the constitutionality of statutes. It is the special province and duty of the courts, and the courts alone, to say what the law is and to determine whether a statute is constitutional. Pacific Foods & Servs., Inc. v. National Oceanic Res. Mgt. Auth., 17 FSM R. 181, 187 (Pon. 2010).

While all public officials are sworn to uphold the Constitution, the Constitution places upon the courts the ultimate responsibility for interpreting the Constitution. The court is forsworn by the Supremacy Clause from enforcing national laws or treaties contrary to the Constitution itself. Pacific Foods & Servs., Inc. v. National Oceanic Res. Mgt. Auth., 17 FSM R. 181, 187 (Pon. 2010).

The question of a statute's constitutionality is not a nonjusticiable political question textually reserved to Congress. Pacific Foods & Servs., Inc. v. National Oceanic Res. Mgt. Auth., 17 FSM R. 181, 187 (Pon. 2010).

A statute takes precedence over the procedural rules because while the chief justice has the power to promulgate procedural rules, the rules may be amended by statute, and since the chief justice does not have the power to amend a statute, when Congress has enacted a procedural rule, it is valid. People of Tomil ex rel. Mar v. M/V Mell Sentosa, 17 FSM R. 478, 479 (Yap 2011).

The court may hold the political branches to account for violations of the Constitution, but it cannot force them to choose one constitutional method over another. Damarlane v. Damarlane, 18 FSM R. 177, 180 (Pon. 2012).

It is the special province and duty of the courts, and of the courts alone, to say what the law is and to determine whether a statute is constitutional. Mailo v. Chuuk Health Care Plan, 18 FSM R. 501, 505 (Chk. 2013).

It is within the FSM Supreme Court's province to determine whether a Chuuk statute, as applied, runs afoul of the FSM Constitution. Mailo v. Chuuk Health Care Plan, 18 FSM R. 501, 505 (Chk. 2013).

Congress has the authority to amend or create procedural rules by statute (and when Congress enacts a procedural rule, it is valid) but the Chief Justice does not have the power to amend Congressionally-enacted statutes. Thus, if a statute applies and the statute and the admiralty rule conflict, the statute must prevail. People of Eauripik ex rel. Sarongelfeg v. F/V Teraka No. 168, 18 FSM R. 532, 539 (Yap 2013).

While Congress has the authority to amend rules by statute, the Chief Justice does not have the authority to amend statutes by creating rules. FSM Dev. Bank v. Tropical Waters Kosrae, Inc., 18 FSM R. 590, 595 (Kos. 2013).

The separation-of-powers doctrine enshrined in the Constitution bars the FSM Supreme Court from legislating. The court has the ultimate responsibility in interpreting the law and in deciding what the law is and it has the ability to set aside any statute to the extent that the statute violates the Constitution. Dison v. Bank of Hawaii, 19 FSM R. 157, 161 (App. 2013).

The FSM Supreme Court lacks the power to make persons granted a pardon of a felony conviction eligible for election to Congress because the Constitution reserves that power to Congress, and the court cannot exercise a power that only Congress has. FSM v. Innocenti, 20 FSM R. 293, 296 (Pon. 2016).

The Supreme Court has the power to review legislative enactments of the Congress, and the implementation of those enactments, and it has the responsibility to set aside any national statute to the extent that it violates the Constitution. Linter v. FSM, 20 FSM R. 553, 560 (Pon. 2016).

The court should not and cannot make choices that the Constitution assigns to Congress. FSM v. Fritz, 20 FSM R. 596, 600 (Chk. 2016).

A statute takes precedence over the procedural rules because, while the Chief Justice can promulgate procedural rules, the rules may be amended by statute, and because the Chief Justice does not have the power to amend a statute, a Congressionally enacted procedural rule is valid. Setik v. Mendiola, 21 FSM R. 537, 550 (App. 2018).

A court cannot strike down or enjoin statutes merely because they might be unwise and some other course of action is better. In re Constitutionality of Chuuk State Law No. 14-18-23, 22 FSM R. 258, 267 (Chk. 2019).

Courts have no responsibility for the justice or wisdom of legislation, and no duty except to enforce the law as it is written, unless it is clearly beyond the lawmaking body's constitutional power. FSM v. Kuo Rong 113, 22 FSM R. 515, 526 (App. 2020).

– Kosrae

The doctrine of separation of powers does not prevent courts from modifying sentences even though the effect of modification may be the same as commuting the sentence. Kosrae v. Mongkeya, 3 FSM R. 262, 263-64 (Kos. S. Ct. Tr. 1987).

The executive authority to grant clemency is a function of the separation of powers between the executive and the judiciary to check sometimes mechanical jurisprudence which might work harsh results in individual cases. Kosrae v. Mongkeya, 3 FSM R. 262, 264 (Kos. S. Ct. Tr. 1987).

It is an inconsistency and a conflict with the legislative role in the Kosrae government when a member of the Legislature is made an allottee of funds for a purpose other than the operation of the legislature. Siba v. Sigrah, 4 FSM R. 329, 339 (Kos. S. Ct. Tr. 1990).

The legislature has some discretion as to who it may make an allottee and complete discretion as to the purpose and policies behind the allotment, but the function of the allottee is definitely not legislative in character. Siba v. Sigrah, 4 FSM R. 329, 340 (Kos. S. Ct. Tr. 1990).

The Legislature may make a delegation of power to specified officials, or administrative agencies within the executive branch. This necessarily includes the Governor, and such a delegation is appropriate because a proper, limited delegation of power confers on the delegatee the power to bring about a result that has already been legislated. Sigrah v. Speaker, 11 FSM R. 258, 261 (Kos. S. Ct. Tr. 2002).

A delegation of power that passes constitutional muster confers specified powers on the executive to execute and enforce the law. This is the executive branch's acknowledged role, and the governor's inclusion on a board that promulgates Public Service System rules and regulations confers on him specific powers to facilitate what is already the Governor's province to do, i.e., to execute and enforce state laws. Thus the governor's inclusion as a member of the board does not, per se, give rise to a constitutional infirmity. Sigrah v. Speaker, 11 FSM R. 258, 261 (Kos. S. Ct. Tr. 2002).

The Legislature may not by legislative act create a board to implement the Kosrae Public Service System and at the same time retain a degree of control over the board by appointing the Speaker as one of its members. Delegation of legislative authority may not proceed by half measures. To do so is to violate the separation of powers doctrine. Sigrah v. Speaker, 11 FSM R. 258, 261-62 (Kos. S. Ct. Tr. 2002).

The inclusion of the Kosrae State Court Chief Justice and the Kosrae Legislature Speaker on the Kosrae Public Service System Oversight Board is an impermissible delegation of legislative authority, violating the separation of powers doctrine. The Governor's inclusion on the board does not per se contravene that same principle. Sigrah v. Speaker, 11 FSM R. 258, 262 (Kos. S. Ct. Tr. 2002).

– Kosrae – Executive Powers

If required to preserve the public peace, health, or safety, at a time of extreme emergency caused by civil disturbance, natural disaster, or immediate threat of war or insurrection, the

Governor may declare a state of emergency and issue appropriate decrees. Although a declaration of emergency may not impair the power of the judiciary, it may impair a civil right to the extent actually required for the preservation of peace, health, or safety. Unless it expires by its own terms, is revoked or extended, a declaration of emergency is effective for thirty days. Kosrae v. Nena, 13 FSM R. 63, 66 (Kos. S. Ct. Tr. 2004).

– Kosrae – Judicial Powers

A fundamental precept of judicial independence is that the judiciary must not be dependent upon other branches of government in order to carry out judicial responsibilities. Article VI, section 8 of the Kosrae Constitution expressly confirms that the judicial branch is to control its own administration. Heirs of Mongkeya v. Heirs of Mackwelung, 3 FSM R. 92, 96 (Kos. S. Ct. Tr. 1987).

The Kosrae Constitution contemplates that justices of the FSM Supreme Court may decide cases which arise within Kosrae and fall under the original jurisdiction of the Kosrae State Court. In addition, the Kosrae Constitution vests in the Kosrae Chief Justice the power to include the resources and justices of the FSM Supreme Court as resources of the Kosrae State Court, insofar as that is consistent with the duties of the FSM Supreme Court under the FSM Constitution. Heirs of Mongkeya v. Heirs of Mackwelung, 3 FSM R. 92, 97 (Kos. S. Ct. Tr. 1987).

– Kosrae – Legislative Powers

The power of the legislature is to decide what the law shall be, to determine public policy and to frame the laws to reflect that public policy. Siba v. Sigrah, 4 FSM R. 329, 336 (Kos. S. Ct. Tr. 1990).

It is an inconsistency and a conflict with the legislative role in the Kosrae government when a member of the Legislature is made an allottee of funds for a purpose other than the operation of the legislature. Siba v. Sigrah, 4 FSM R. 329, 339 (Kos. S. Ct. Tr. 1990).

The legislature has some discretion as to who it may make an allottee and complete discretion as to the purpose and policies behind the allotment, but the function of the allottee is definitely not legislative in character. Siba v. Sigrah, 4 FSM R. 329, 340 (Kos. S. Ct. Tr. 1990).

Kosrae state legislators are, in all cases except felony or breach of peace, privileged from arrest during their attendance at sessions or committee meetings of the Legislature, and in going to and returning from the same. Kosrae v. Sigrah, 11 FSM R. 249, 253 (Kos. S. Ct. Tr. 2002).

A practice which has been engaged in by a government for a significant period of time is entitled to great weight in establishing the constitutionality of that practice. Thus, when the licensing of vehicle operators and that the license be in the immediate possession of the driver has been required for at nearly forty years, this significant period of time and therefore the licensing and possession requirement is entitled to great weight in establishing the constitutionality of that practice. Kosrae v. Sigrah, 11 FSM R. 249, 256 (Kos. S. Ct. Tr. 2002).

Passage of a legislative resolution that submits a request to the Governor which the

Governor may or may not carry out at his discretion creates no legally enforceable rights by which the Kosrae Legislature may compel the Governor's compliance, especially when the Governor is not a party to the action. Eighth Kosrae Legislature v. FSM Dev. Bank, 11 FSM R. 491, 499 (Kos. 2003).

A law enacted by the Kosrae Legislature is the highest form of setting forth the legislature's policy decisions and such laws can create legal rights that may be enforceable in the courts. But when the subject bill is not yet law, having been vetoed by the Governor, and the bill requires action by the Governor who is not a party to the action, there is no injury to the plaintiff created from noncompliance with the bill's provisions. Eighth Kosrae Legislature v. FSM Dev. Bank, 11 FSM R. 491, 499 (Kos. 2003).

Within thirty days after the declaration of emergency, the Legislature must convene at the call of the Speaker or the Governor to consider revocation, amendment or extension of the declaration. Kosrae v. Nena, 13 FSM R. 63, 66 (Kos. S. Ct. Tr. 2004).

A declaration of a state of emergency requires a time of "extreme emergency" caused by civil disturbance, natural disaster or immediate threat of war or insurrection. The word "emergency" is a sudden unexpected happening or an unforeseen occurrence or condition. Kosrae v. Nena, 13 FSM R. 63, 66 (Kos. S. Ct. Tr. 2004).

A civil disturbance or civil disorder is a public disturbance involving acts of violence by a group of three or more persons, which causes an immediate danger of or results in damage or injury to the property or person of any other individual. Suicides and suicide attempts, as they have occurred in Kosrae State during 2003 and 2004, do not rise to the level of a civil disturbance or civil disorder. Kosrae v. Nena, 13 FSM R. 63, 66 (Kos. S. Ct. Tr. 2004).

A nuisance is an activity which arises from unreasonable or unlawful use by a person of his own property, and that disturbs another in possession of his property, or an offensive, unpleasant, or obnoxious thing or practice, especially a continuing or repeated invasion or disturbance of another's right. While it is undisputed that suicides and suicide attempts are events which disturb others, particularly family members and friends, and possibly a large number of persons in the community on a small island such as Kosrae, these events cannot be classified as public nuisances. Kosrae v. Nena, 13 FSM R. 63, 66-67 (Kos. S. Ct. Tr. 2004).

The issuance of an Executive Decree, pursuant to Kosrae Constitution, Article V, section 13, is an extraordinary power which may be applied only in extreme emergency situations. The issuance of an Executive Decree may not be utilized as a tool to remedy a state of affairs which does not meet the definition of extreme emergency, and which may be addressed by legislation. Kosrae v. Nena, 13 FSM R. 63, 67 (Kos. S. Ct. Tr. 2004).

The Governor's issuance of Declaration of Temporary State of Emergency and the Executive Decree, which prohibited the issuance of drinking permits, possession and consumption of alcoholic drinks by persons under the age of 35 and revoked drinking permits which had been issued to persons under the age of 35, exceeded the authority granted to him by the Kosrae Constitution, Article V, Section 13 because there was no civil disturbance, riot, typhoon, natural disaster or immediate threat of war or insurrection which constituted an "extreme emergency" and the Decree was therefore unconstitutional and void. Any criminal charges which have been based upon violation of the Executive Decree must be dismissed. Kosrae v. Nena, 13 FSM R. 63, 67 (Kos. S. Ct. Tr. 2004).

– Legislative Powers

It is doubtful that Congress would have the power to require that all criminal prosecutions be in the name of the Federated States of Micronesia. FSM v. Boaz (II), 1 FSM R. 28, 31 (Pon. 1981).

The Seaman's Protection Act, originally enacted for the entire Trust Territory by the Congress of Micronesia, relates to matters that now fall within the legislative powers of the national government under article IX, section 2 of the Constitution, and has therefore become a national law of the Federated States of Micronesia under article XV. That being so, a claim asserting rights under the Act falls within the FSM Supreme Court's jurisdiction under article XI, section 6(b) of the Constitution as a case arising under national law. 19 F.S.M.C. 401-437. Lonno v. Trust Territory (I), 1 FSM R. 53, 72 (Kos. 1982).

The tax on gross revenues falls squarely within the constitutional authorization given to Congress by article IX, section 2(e) to tax income. Ponape Federation of Coop. Ass'ns v. FSM, 2 FSM R. 124, 126 (Pon. 1985).

That Congress may tax "gross income" is plainly and unmistakably provided for in the words of article IX, section 2(e) of the Constitution. Ponape Federation of Coop. Ass'ns v. FSM, 2 FSM R. 124, 127 (Pon. 1985).

Congress enacted Public Law No. 1-72 and confirmed the legislative power of state governments to supersede Trust Territory statutes within the scope of their exclusive powers. Pohnpei v. Mack, 3 FSM R. 45, 54 (Pon. S. Ct. Tr. 1987).

While Congress may have the power to prohibit the taking of and killing of turtles within the twelve mile area as a matter of national law, it should lie with Congress, and not the court, to determine whether the power should be exercised. FSM v. Oliver, 3 FSM R. 469, 480 (Pon. 1988).

Once Congress has set a policy direction, barring constitutional violation, it is the duty of this court to ascertain and follow that guidance. In re Cantero, 3 FSM R. 481, 484 (Pon. 1988).

Primary responsibility, perhaps even sole responsibility, for affirmative implementation of the Professional Services Clause, FSM Const. art. XIII, § 1, must lie with Congress. Carlos v. FSM, 4 FSM R. 17, 29 (App. 1989).

The fixing of voting requirements is a uniquely political task and falls within the purview of the political arms of the government, so long as no legal rights are violated by a particular method selected. Constitutional Convention 1990 v. President, 4 FSM R. 320, 324 (App. 1990).

The nature of a constitutional convention as authorized by the FSM Constitution, with direct control of the people over the identity of convention delegates, and ultimate acceptance of the products of the convention's efforts, and the fact that the framers views a constitutional convention as a standard and preferred amendment mechanism, preclude congressional control over the convention's decision-making. Constitutional Convention 1990 v. President, 4 FSM R. 320, 327 (App. 1990).

Congress has no power to specify voting requirements for the Constitutional Convention and therefore any attempt to exercise this power so as to uphold tradition is also outside the powers of Congress under article V, section 2 of the Constitution, which is not an independent source of congressional power but which merely confirms the power of Congress, in exercising national legislative powers, to make special provisions for Micronesian tradition. Constitutional Convention 1990 v. President, 4 FSM R. 320, 328 (App. 1990).

The legislative enactment of the Financial Management Act does not conflict with the constitutional provision stating the Chief Justice is the chief administrator of the national judiciary. Mackenzie v. Tuuth, 5 FSM R. 78, 80 (Pon. 1991).

The legislative passage of the Financial Management Act rests upon the provisions of the Constitution, pursuant to which the Department of Finance and the General Fund were established to oversee the national administration and management of public money. Mackenzie v. Tuuth, 5 FSM R. 78, 81 (Pon. 1991).

Historically the concept of a single, general fund administered by one person is found in laws enacted by the Congress of Micronesia. The enactment of the Financial Management Act reflects a continuity of purpose and statutory consistency. Mackenzie v. Tuuth, 5 FSM R. 78, 82 (Pon. 1991).

Where there is in the Constitution a textually demonstrable commitment of the issue to a coordinate branch of government, such as Congress being the sole judge of the elections of its members, it is a nonjusticiable political question not to be decided by the court because of the separation of powers provided for in the Constitution. Aten v. National Election Comm'r (III), 6 FSM R. 143, 145 (App. 1993).

While the Constitution makes ineligible for election to Congress persons convicted of felonies in FSM courts, the Constitution gives to Congress the power to modify that ineligibility by statute. Robert v. Mori, 6 FSM R. 394, 398 (App. 1994).

Congress has the Constitutional power to prescribe, by statute, additional qualifications for eligibility for election to Congress beyond those found in the Constitution. Such additional qualifications must be consistent with the rest of the Constitution. Knowledge of English may not be a qualification. Robert v. Mori, 6 FSM R. 394, 399 (App. 1994).

Congress, not the FSM Supreme Court, has the constitutional power to make persons granted a pardon of a felony conviction eligible for election to Congress. The court cannot exercise a power reserved to Congress. Robert v. Mori, 6 FSM R. 394, 401 (App. 1994).

In the absence of any authority or compelling policy arguments the court cannot conclude that a law, the enforcement of which entails a harsh result, is unconstitutional, and can only note that the creation of potentially harsh results is well within the province of the nation's constitutionally empowered legislators. Mid-Pacific Constr. Co. v. Semes, 7 FSM R. 102, 104 (Pon. 1995).

Congress has not unconstitutionally delegated its authority to define crimes by delegating to an executive agency the power to enter into fishing agreements because congressional approval is needed for these agreements to take effect. FSM v. Cheng Chia-W (I), 7 FSM R.

124, 127 (Pon. 1995).

Congress has the sole power to legislate the regulation of natural resources in the marine space of the Federated States of Micronesia beyond 12 miles from island baselines, and the states have the constitutional power to legislate the regulation of natural resources within that twelve miles of sea. Congress may also legislate concerning navigation and shipping within the twelve-mile limit except within lagoons, lakes, and rivers. M/V Hai Hsiang #36 v. Pohnpei, 7 FSM R. 456, 459 (App. 1996).

The Constitution gives Congress the authority to appropriate public funds. Udot Municipality v. FSM, 9 FSM R. 418, 420 (Chk. 2000).

The national government is free to distribute or disburse its fishing fee revenues through its normal legislative process. Chuuk v. Secretary of Finance, 9 FSM R. 424, 436 (App. 2000).

The Constitution gives Congress the authority to appropriate public funds, but the Executive Branch is expressly delegated the power to faithfully execute and implement all national laws and a public law that appropriates public funds is a national law. Udot Municipality v. FSM, 10 FSM R. 354, 357 (Chk. 2001).

Congress can give as much guidance as it wishes in the appropriation legislation about which projects will be funded, and much of this guidance will, no doubt, be the product of individual congressmen's consultation with their constituents. But this consultation takes place before the appropriation bill becomes law, not afterwards. After the appropriation bill has become law, it is the duty of those who execute the law and administer the funds to follow the guidance Congress has given them by consulting the language Congress put in the public law, and any applicable regulations, not by consulting individual congressmen. Udot Municipality v. FSM, 10 FSM R. 354, 359-60 (Chk. 2001).

A lawmaker engages in many activities which are not covered by the legislative privilege, such as a wide range of legitimate errands performed for constituents, making of appointments with government agencies, assistance in securing government contracts, preparing news letters to constituents, news releases, and outside speeches. Such activities, though entirely legitimate, are political in nature rather than legislative, and such political matters do not have speech or debate clause protection. But when a legislator is acting within the legitimate legislative sphere, the speech or debate clause is an absolute bar to interference. AHPW, Inc. v. FSM, 10 FSM R. 420, 424-25 (Pon. 2001).

Legislative privilege should be read broadly to include anything generally done in a session of the legislature by one of its members in relation to the business before it. The ambit of the privilege extends beyond speech and debate per se to cover voting, circulation of information to other legislators, participation in the work of legislative committees, and a host of kindred activities. AHPW, Inc. v. FSM, 10 FSM R. 420, 425 (Pon. 2001).

The legislative privilege doctrine has both substantive and evidentiary aspects. In substance, the doctrine renders legislators immune from civil and criminal liability based on either speech or debate in the course of proceedings in the legislature. From an evidentiary standpoint, a legislator may claim the privilege in declining to answer any questions outside the legislature itself where those questions concern how a legislator voted, acted, or decided on matters within the sphere of legitimate legislative activity. AHPW, Inc. v. FSM, 10 FSM R. 420, 425 (Pon. 2001).

Once the Congress has enacted a law appropriating money for certain purposes, the Congress cannot retain, for itself or for individual senators, the power to determine how that appropriated money is spent, beyond what is spelled out in the law itself, and Congress also does not have the authority to dictate the voting requirements for a Constitutional Convention. Pohnpei Cmty. Action Agency v. Christian, 10 FSM R. 623, 631 (Pon. 2002).

The power to organize is inherent in each legislature or general assembly. This includes the power of selecting its own presiding officer. Observance of a legislative body's rules which regulate the passage of statutes is a matter entirely within legislative control and discretion, not subject to review by the courts. Anopad v. Eko, 11 FSM R. 287, 290 (Chk. S. Ct. Tr. 2002).

Only the legislature has authority over its organization. Its acts in this regard are not subject to review by the courts. Anopad v. Eko, 11 FSM R. 287, 290 (Chk. S. Ct. Tr. 2002).

The remedy for one who believes he was improperly removed as speaker of a municipal legislature is to attend the legislature's next regular session and seek to reorganize the legislature again, and reclaim his position as speaker. Anopad v. Eko, 11 FSM R. 287, 290 (Chk. S. Ct. Tr. 2002).

Just as a legislature has the power to elect its leaders from among the members, it has an equal power to remove its leaders, and to select new leadership, at any time it so chooses. Anopad v. Eko, 11 FSM R. 287, 290 (Chk. S. Ct. Tr. 2002).

It is Congress that determines the qualifications for candidates for membership in that legislative body. Trust Territory v. Edgar, 11 FSM R. 303, 308 (Chk. S. Ct. Tr. 2002).

The Constitution assigns Congress the authority to enact bankruptcy laws and thus to determine when a judgment against an insolvent person should be discharged without either full payment or the parties' agreement. In re Engichy, 11 FSM R. 520, 525-26 (Chk. 2003).

The national government's legislative power is vested in the Congress of the Federated States of Micronesia. FSM v. Udot Municipality, 12 FSM R. 29, 48 (App. 2003).

Once a public law is enacted, the responsibility for the execution and implementation of the law rests with those who have a duty to execute and administer the law, and Senators can have no further role in its execution. FSM v. Udot Municipality, 12 FSM R. 29, 49 (App. 2003).

A public law that specifically provides that a Congressional delegation must be consulted on the most appropriate usage of the funds before an obligation could occur runs afoul of the Constitution because it empowers the Congressional delegation to engage in an executive function by formally involving itself in executing and implementing the appropriation. Congress cannot pass laws and vest in itself or its members the power to control how that law is executed. FSM v. Udot Municipality, 12 FSM R. 29, 50 (App. 2003).

The Constitution affords the Congress great latitude in making policy decisions through the process of enacting legislation. However, once Congress enacts legislation, its role ends: Congress can thereafter formally affect the execution of its enactment only by enacting appropriate new legislation. FSM v. Udot Municipality, 12 FSM R. 29, 50 (App. 2003).

While Congress may inform itself on how legislation is being implemented through the normal means of legislative oversight, public hearing, and investigation, it cannot directly insert a Congressional delegation into the process of executing and implementing the law. FSM v. Udot Municipality, 12 FSM R. 29, 50 (App. 2003).

Making obligation of appropriated funds contingent upon consultation with members of Congress presented some of the same dangers that arose with permitting Congressional member(s) to control the approval of specific projects and the break down of the funding amounts under the line-item involved without going through the constitutional legislative process. The formal legislative process set forth in the Constitution's text requires formulating and introducing an appropriations bill, passing that bill in two separate readings, and then transmitting that bill to the President for approval or veto. To permit congressmen to effectively legislate without following constitutionally mandated procedures eliminates any transparency in the governmental process, and reduces the accountability of the congressmen to those whom they represent. FSM v. Udot Municipality, 12 FSM R. 29, 50-51 (App. 2003).

Congress has its constitutional role of carrying out its legislative power by enacting national laws. Once national laws are enacted, the Executive Branch then has its constitutional role of carrying out its executive power by seeing to the execution and implementation of these laws. FSM v. Udot Municipality, 12 FSM R. 29, 51 (App. 2003).

Congress's enactment preventing obligation of funds unless and until the allottees engaged in "consultation" with the relevant Congressional delegation, substantially impaired the allottees' performance in executing and implementing the law, which is the executive's essential and exclusive role under our Constitution. By legislating "consultation" before obligation requirement into the law, the Congress encroached upon an executive function and assumed more power than it is allowed in our constitutional system of checks and balances, thus violating the separation of powers doctrine. FSM v. Udot Municipality, 12 FSM R. 29, 51 (App. 2003).

The Constitution permits the Chief Justice to promulgate rules, including criminal procedure rules, which Congress may amend by statute. Congress has the authority to amend or create procedural rules by statute, and when Congress has enacted a procedural rule, it is valid. The Chief Justice does not have the authority to amend Congressionally-enacted statutes. Therefore, if the statute applies and the statute and the rule conflict, the statute must prevail. FSM v. Wainit, 12 FSM R. 376, 383 (Chk. 2004).

If a specially assigned justice may be removed for any reason at Congress's discretion after serving 90 days of service in a case, then the justice is not independent. His rulings are subject to the legislative branch's supervision. The Constitution's framers intended to prevent this result by providing that a justice may only be removed for cause under the procedures set out in Article IX, Section 7. Urusemal v. Capelle, 12 FSM R. 577, 587 (App. 2004).

Congress may not remove at its discretion a justice temporarily assigned to a case any time after that justice has served 90 days because any such resolution and the statute upon which it is based, 4 F.S.M.C. 104(2) violate Article IX, Section 7 of the Constitution. Urusemal v. Capelle, 12 FSM R. 577, 587 (App. 2004).

If a congressman has a conflict of interest and did not take steps to avoid that conflict, that is an ethical lapse that Congress, not the court, has the authority to consider and, if proper, impose sanctions or discipline on the congressman. Pacific Foods & Servs., Inc. v. National

Oceanic Res. Mgt. Auth., 17 FSM R. 181, 186 n.2 (Pon. 2010).

When Congress enacted Title 24 and engaged in an executive function by formally inserting itself into the execution and implementation of a portion of that act by vesting in itself the power to control how the law regarding fishing access agreements is executed when more than nine vessels are involved, this was impermissible under the separation of powers doctrine since negotiated access agreements are not approved and licenses are not issued until Congress acts (and the parties to the negotiations presumably know this and adjust their behavior accordingly) and since negotiation and approval of commercial transactions is ordinarily an Executive power. Pacific Foods & Servs., Inc. v. National Oceanic Res. Mgt. Auth., 17 FSM R. 181, 189 (Pon. 2010).

When, if the section of Title 24 requiring congressional approval of access agreements for more than nine vessels is struck down, that section is easily severed from the rest of Title 24, which would function perfectly well without it; that is, it would function just as it already does for access agreements for nine or fewer vessels, then that section is not so vital to the whole Title 24 regulatory scheme that it cannot be severed from the rest of Title 24. Pacific Foods & Servs., Inc. v. National Oceanic Res. Mgt. Auth., 17 FSM R. 181, 189 (Pon. 2010).

If Congress feels that the current Title 24 statutory requirements for access agreements are too loose or are not in the nation's best interests and should be tightened, it can enact further and stricter requirements or it can provide for that review by creating a mechanism for further review in the executive branch, since Congress, through its investigatory powers, can always keep itself informed on the Executive's execution of the laws, and enact remedial legislation when it feels that the Executive needs further guidance in executing national policy that Congress has enacted. But Congress may not execute the laws itself. Pacific Foods & Servs., Inc. v. National Oceanic Res. Mgt. Auth., 17 FSM R. 181, 189 (Pon. 2010).

Since the Constitution specifically delegates to Congress the power to ratify treaties but does not grant Congress the power to approve or reject fishing access agreements, ruling unconstitutional the statute that requires congressional approval for fishing access agreements for more than nine vessels would not impair Congress's ability to ratify treaties and to advise and consent to presidential appointments. Pacific Foods & Servs., Inc. v. National Oceanic Res. Mgt. Auth., 17 FSM R. 181, 190 (Pon. 2010).

The court's conclusion that requiring Congress to approve or reject fishing access agreements is unconstitutional has no effect on Congress's constitutional treaty-ratification and advice and consent powers. Pacific Foods & Servs., Inc. v. National Oceanic Res. Mgt. Auth., 17 FSM R. 181, 190 (Pon. 2010).

A statute takes precedence over the procedural rules because while the chief justice has the power to promulgate procedural rules, the rules may be amended by statute, and since the chief justice does not have the power to amend a statute, when Congress has enacted a procedural rule, it is valid. People of Tomil ex rel. Mar v. M/V Mell Sentosa, 17 FSM R. 478, 479 (Yap 2011).

A statute that purports to allow Congress to step around the bill-making process and approve fishing access agreements by resolution, is surely unconstitutional because under the Constitution, Congress may make law only by statute, and may enact statutes only by bill. Congress v. Pacific Food & Servs., Inc., 17 FSM R. 542, 546 (App. 2011).

Congress's decision to approve or disapprove fishing access agreements is legislation that must be enacted by the bill-making process. Congress v. Pacific Food & Servs., Inc., 17 FSM R. 542, 547 (App. 2011).

Once a public law is enacted, the responsibility for the execution and implementation of the law rests with those who have a duty to execute and administer the law, and Senators can have no further role in its execution. The basic constitutional principle involved is that the execution and implementation of the laws is an executive rather than a legislative function. The Constitution affords the Congress great latitude in making policy decisions through the process of enacting legislation, but once Congress enacts legislation, its role ends: Congress can thereafter formally affect the execution of its enactment only by enacting appropriate new legislation. Congress v. Pacific Food & Servs., Inc., 17 FSM R. 542, 548 (App. 2011).

If Congress is truly concerned by the amount of debt carried by proposed agents, it may be more specific by creating new minimum requirements for eligibility. But once Congress delegates power to the executive, it cannot have it both ways – it cannot then take back that power or modify the extent of that delegation without amending the statute through the bill-making process. Congress v. Pacific Food & Servs., Inc., 17 FSM R. 542, 550 (App. 2011).

Congress has the authority to amend or create procedural rules by statute (and when Congress enacts a procedural rule, it is valid) but the Chief Justice does not have the power to amend Congressionally-enacted statutes. Thus, if a statute applies and the statute and the admiralty rule conflict, the statute must prevail. People of Eauripik ex rel. Sarongelfeg v. F/V Teraka No. 168, 18 FSM R. 532, 539 (Yap 2013).

While Congress has the authority to amend rules by statute, the Chief Justice does not have the authority to amend statutes by creating rules. FSM Dev. Bank v. Tropical Waters Kosrae, Inc., 18 FSM R. 590, 595 (Kos. 2013).

By its nature, a statute is a declaration of public policy. Congress determines and declares public policy by enacting statues. Esiel v. FSM Dep't of Fin., 19 FSM R. 590, 594 (App. 2014).

A majority of the Congress members constitutes a quorum for the transaction of business. Neth v. FSM Social Sec. Admin., 19 FSM R. 639, 642 (Pon. 2015).

The power to appoint and confirm members of the Social Security Board is vested in the national government's Executive and Legislative branches. To halt the Board's function when all vacancies are not filled would adversely affect the Social Security's function as a whole, and would be detrimental to the livelihood of social security benefit recipients. Neth v. FSM Social Sec. Admin., 19 FSM R. 639, 643 (Pon. 2015).

The FSM Supreme Court lacks the power to make persons granted a pardon of a felony conviction eligible for election to Congress because the Constitution reserves that power to Congress, and the court cannot exercise a power that only Congress has. FSM v. Innocenti, 20 FSM R. 293, 296 (Pon. 2016).

The formal involvement by Congress in the implementation and execution of the laws is unconstitutional. Linter v. FSM, 20 FSM R. 553, 561 (Pon. 2016).

The court does not have the constitutional power to make persons granted a pardon of a felony conviction eligible for election to Congress because the Constitution reserves that power to Congress, and the court cannot exercise a power that only Congress has. FSM v. Fritz, 20 FSM R. 596, 600 (Chk. 2016).

The Constitution permits Congress, and only Congress, to change, by statute, the constitutional provision disqualifying a person convicted of a felony from membership in Congress, and Congress so far has not seen fit to alter this qualification. FSM v. Fritz, 20 FSM R. 596, 600 (Chk. 2016).

The court should not and cannot make choices that the Constitution assigns to Congress. FSM v. Fritz, 20 FSM R. 596, 600 (Chk. 2016).

Congress itself always has the final say over the election and qualification of its members, and, unless Congress acts to change the qualifications, a person convicted of a felony and later pardoned is still ineligible for Congress membership. FSM v. Fritz, 20 FSM R. 596, 600-01 (Chk. 2016).

A legislature has furnished a nonpunitive legislative purpose for the statute's enactment when it has relied on its responsibility to control the state's finances and expenditures and to align those expenditures with the state's available revenues. In re Constitutionality of Chuuk State Law No. 14-18-23, 22 FSM R. 258, 265 (Chk. 2019).

The Chuuk Legislature may amend any of its earlier statutes that created a governmental agency, in order to alter, or vary, or eliminate any of that agency's powers or duties. In re Constitutionality of Chuuk State Law No. 14-18-23, 22 FSM R. 258, 266 (Chk. 2019).

The power to amend statutes belongs exclusively to the legislature. Existing legislation is subject to amendment in any manner consistent with constitutional limitations. In re Constitutionality of Chuuk State Law No. 14-18-23, 22 FSM R. 258, 266 (Chk. 2019).

A state agency has only such rights, powers, and duties as the state legislature sees fit to bestow upon it through a duly enacted statute. Thus the legislature may, through another duly enacted statute, alter or may revoke any of those rights, powers, and duties. In re Constitutionality of Chuuk State Law No. 14-18-23, 22 FSM R. 258, 266 (Chk. 2019).

A state legislature that has created a commission by statute can abolish that commission by statute, just as it could, by statute, abolish most any governmental agency that it has created by statute, except those agencies which the state's constitution requires it to create. In re Constitutionality of Chuuk State Law No. 14-18-23, 22 FSM R. 258, 266 & n.8 (Chk. 2019).

The power to legislate is the power to repeal. A legislature may not bind itself or a future legislature by enacting an irrepealable law. In re Constitutionality of Chuuk State Law No. 14-18-23, 22 FSM R. 258, 266 (Chk. 2019).

If a legislature has the power to abolish an agency, it certainly has the power to exercise a less drastic regulation of the agency's affairs by suspending it. In re Constitutionality of Chuuk State Law No. 14-18-23, 22 FSM R. 258, 267 (Chk. 2019).

A court cannot strike down or enjoin statutes merely because they might be unwise and some other course of action is better. In re Constitutionality of Chuuk State Law No. 14-18-23, 22 FSM R. 258, 267 (Chk. 2019).

Congress may discipline, suspend, or expel a member. Panuelo v. FSM, 22 FSM R. 498, 510-11 (Pon. 2020).

Whether Congress should discipline, or should have disciplined, a member is nonjusticiable – it is a political question that is beyond the court's power or authority. This is because when there is in the Constitution a textually demonstrable commitment of an issue to a coordinate branch of government, it is a nonjusticiable political question not to be decided by a court because of the separation of powers provided for in the Constitution, and the question of disciplining Congress members is textually and demonstrably committed to a coordinate branch of government – Congress itself. Panuelo v. FSM, 22 FSM R. 498, 511 (Pon. 2020).

Congress may discipline a member, and may suspend or expel a member. Since "may" is a term that usually denotes discretion, the Constitution thus gives Congress the discretion to decide when, or if, and under what circumstances, it will discipline a member. Panuelo v. FSM, 22 FSM R. 498, 511 (Pon. 2020).

The decision whether to discipline a member is a nonjusticiable political question left to Congress's discretion. Panuelo v. FSM, 22 FSM R. 498, 511 (Pon. 2020).

Lawmakers have wide latitude to declare an offense and to exclude elements of knowledge and diligence from its definition. FSM v. Kuo Rong 113, 22 FSM R. 515, 525 (App. 2020).

Congress may enact a strict liability statute that penalizes multiple violations without any finding of overt acts to justify continuing violations. FSM v. Kuo Rong 113, 22 FSM R. 515, 526 (App. 2020).

– Pohnpei

After the executive branch has declared a candidate to have won an election, that winner has the right to hold office, subject only to the legislative branch's power to judge the qualifications of its members. Daniel v. Moses, 3 FSM R. 1, 4 (Pon. S. Ct. Tr. 1985).

A characteristic feature, and one of the cardinal and fundamental principles of the Pohnpei State Constitutional system, is that the governmental powers are divided among the three departments of this government, the legislative, executive, and judicial, and that each of these is separate from the others. People of Kapingamarangi v. Pohnpei Legislature, 3 FSM R. 5, 9 (Pon. S. Ct. Tr. 1985).

Pohnpei Utility Corporation is not part of the executive branch of the Pohnpei state government or part of either of the other two branches. It is an independent agency not subject to or under any of the three branches of government. Perman v. Ehsa, 18 FSM R. 432, 440 (Pon. 2012).

– Pohnpei – Executive Powers

When the Pohnpei Legislature, exercising its power under Pohnpei Constitution Article 13, § 9(3), revoked Emergency Executive Order 01-12 in its entirety and retroactive to September 3, 2012, because the situation stated in the Emergency Executive Order did not rise to the level of an emergency as defined in the Pohnpei Constitution Article 13, § 9(1), Emergency Executive Order 01-12 and all later acts done pursuant to it became nullities. Perman v. Ehsa, 18 FSM R. 432, 436 (Pon. 2012).

Only the PUC Board of Directors can terminate PUC's general manager. The Governor has no such power under any circumstance. If the PUC Board lacks a quorum, the Governor's power extends only to nominating new Board members who, if confirmed, would allow the Board to have a quorum and thus to transact business. Perman v. Ehsa, 18 FSM R. 432, 438 (Pon. 2012).

The Pohnpei Governor has neither the power nor the authority to exercise any of the powers vested exclusively in the PUC Board. Perman v. Ehsa, 18 FSM R. 432, 438 (Pon. 2012).

– Pohnpei – Judicial Powers

Under the system of constitutional government of the State of Pohnpei, among the most important functions entrusted to the judiciary are the duty to interpret the State's Constitution and the closely connected duty to determine whether or not laws and acts of the state legislature are contrary to the State Constitution. People of Kapingamarangi v. Pohnpei Legislature, 3 FSM R. 5, 10 (Pon. S. Ct. Tr. 1985).

When called on to review and control the acts of an officer or a coordinate branch of the government, the court should proceed with extreme caution, and the right to exercise the power must be manifestly clear. People of Kapingamarangi v. Pohnpei Legislature, 3 FSM R. 5, 10 (Pon. S. Ct. Tr. 1985).

It is within the special province and duty of the courts, and the courts alone, to say what the law is and to determine whether a statute or ordinance is constitutional. People of Kapingamarangi v. Pohnpei Legislature, 3 FSM R. 5, 8-9 (Pon. S. Ct. Tr. 1985).

The Pohnpei Constitution provides that single appellate justice orders are subject to review by a full appellate panel of justices hearing the appeal. This constitutional provision is self-executing. Damarlane v. Pohnpei, 9 FSM R. 114, 118 (App. 1999).

A single justice order in the Pohnpei Supreme Court appellate division is not a final decision of the Pohnpei Supreme Court because it is subject to review by a full appellate panel of the Pohnpei Supreme Court. Damarlane v. Pohnpei, 9 FSM R. 114, 118 (App. 1999).

A motion to reconsider a single justice appellate order in the Pohnpei Supreme Court is an application for review by a full appellate panel. Damarlane v. Pohnpei, 9 FSM R. 114, 118 (App. 1999).