

Comm. # 76



OFFICE OF THE ATTORNEY GENERAL

P.O. BOX 890, Majuro, MH96960
REPUBLIC OF THE MARSHALL ISLANDS

February 2nd, 2017

MEMORANDUM

To : The Hon. Daisy Alik Momotaro
Chair, Nitijela Standing Committee on J&GR

From : The Office of the Attorney General

Subject: Comments on the Single Voting Bill

Dear Madam Chair,

As per your request, I hereby provide the following comments in regards to the question of the constitutionality of Nitijela Bill No.62. At the outset, it is my opinion that there are no constitutional issues with Nitijela Bill No.62 and that the Nitijela may proceed to debate the merits of the Bill. This opinion is based largely on the provisions of Article IV Section 2 (2) of the Constitution (the relevant provisions are duplicated herein below for ease of reference) and the objectives of Nitijela Bill No.62.

(2) At any election in any electoral district, every qualified voter shall have the right to vote for as many candidates as there are seats to be filled, and the requisite number of candidates who receive the greatest number of votes, whether or not the number of votes received by any candidate constitutes a majority, shall be the member or members elected to represent that electoral district, and shall be so declared pursuant to law.

My view is that the provisions of Subsection (2) above are more *permissible* than *prohibitive* – of the voters’ choice in exercising his or her right to vote in an election, in electorates with more than one seat. As set out above, a voter shall have the right to vote for as many candidates as there are seats to be filled. This provision in my view does not compel voters to cast a vote for all seats, but merely that a voter shall have the right to vote for as many candidates as there are seats to be filled.


On the other hand, Bill number 62 proposes that a voter be allowed to exercise his or her own choice in casting a ‘single vote’ in an election, rather than compelling voters to cast only one vote in elections for electorates with more than one seat. In this sense, it is my view that the objective of Nitijela Bill No 62 does not infringe upon the exercise a voters right under Article IV Section 2 Subsection (2) above. In fact this will remain the case, even if Bill No. 62 is not enacted into legislation.

Finally, I must also take this opportunity to convey to the Committee and Deputy Kawakami my sincere apologies for not having the opportunity to convey these comments in a clear manner in preparation for

the hearings. I take full responsibility for this oversight, and extend my apologies both to the Committee and Deputy Kawakami. I have consistently relied on the Deputy Kawakami's work, and value his contributions in this context, and will continue to do so. In fact one of the points raised related to the interpretation of the Marshallese version of Subsection (2) as set out above. I am however unfortunately, not qualified to provide an opinion on the Marshallese translation. My views are solely based on my reading of Subsection (2) as set out above.

Please do not hesitate to contact this Office should you have any further questions,

Ilo Kautiej



Dr. Filimon M Manoni
Attorney General

cc: Minister Matthew;
Minister Thomas T Heine;
Chief Electoral Officer;