

KSG v. ROP, 3 ROP Intrm. 127 (1992)
KOROR STATE GOVERNMENT,
Appellant,

v.

REPUBLIC OF PALAU,
Appellee,

SENATE OF THE THIRD OLBIL ERA KELULAU,
Defendant/Intervenor,
Counterclaim Plaintiff/Appellee.

CIVIL APPEAL NO. 23-91
Civil Action No. 438-90

Supreme Court, Appellate Division
Republic of Palau

Appellate decision

Decided: February 21, 1992

Counsel for Appellant: Mark Doran

Counsel for Appellee ROP: Gerald Marugg, III

Counsel for Appellee Senate: Barry Gorelick

BEFORE: MAMORU NAKAMURA, Chief Justice; ARTHUR NGIRAKLSONG, Associate Justice; and ROBERT A. HEFNER, Associate Justice.

PER CURIAM:

At issue in this case is the constitutional authority of the National Government to limit or regulate the taxing power of the state governments of Palau pursuant to Article XI, Section 3 of the Palau Constitution. That section provides, "Subject to laws enacted by the Olbiil Era Kelulau, state legislatures shall have the power to impose taxes which shall be uniformly applied throughout the state."

Appellant filed for injunctive relief to prevent Appellees ¶128 from implementing and enforcing RPPL No. 3-35, which prohibits the state governments "from enacting any taxes or fees on persons, goods, services, sales, income, activities, objects, or other matters already taxed or charged by the national government." Appellee Senate then filed a counterclaim for declaratory judgment as to the constitutionality of RPPL No. 3-35.

In its decision dated June 13, 1991, the Trial Court declared all operative sections of

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RPPL No. 3-35 constitutional, invalidating certain portions of Section 1, the findings section.

As legislative findings are not an operative part of a statute, it was not necessary for the Trial Court to delete the objectionable sentences contained in Section 1 of RPPL No. 3-35. That it chose to do so is not, however, grounds for reversal. *Alaska Airlines v. Brock*, 480 U.S. 678, 107 S.Ct. 1476 (1987); *Velazquez v. Hunter*, 159 F.2d 606, 608, *cert den.* 330 U.S. 846, 67 S.Ct. 1084 (1947); 1A Sands, *Sutherland Statutory Construction*, 20.13.

In all other respects, we concur with the Trial Court's decision. The language of Article XI, Section 3 is a clear pronouncement that the Olbiil Era Kelulau ("OEK") has authority to regulate state taxation. RPPL No. 3-35 was within the OEK's constitutional authority to enact. Appellant has failed to persuade this Court that the Trial Court erred in so ruling.

Appellant's attempts to argue hypothetical invasions of its constitutional authority by the National Government present cases that are not directly before this Court. We decline to enter into **L129** speculative inquiries of matters that lack concrete factual situations, fully developed and properly presented for determination. *See, Electric Bond and Share Co. v. SEC*, 303 U.S. 419, 59 S.Ct. 678, 687 (1938).

The decision and declaratory judgment of the Trial Court is hereby AFFIRMED.