

**RECHEBEI NGIRASMENGESONG (Case No. 141)
and NGIRACHESIMER (Case No. 142), Appellants**

v.

TRUST TERRITORY OF THE PACIFIC ISLANDS, Appellee

Criminal Appeal No. 11

Appellate Division of the High Court

October 16, 1958

See, also, 1 T.T.R. 345

Appeal from judgments of the Trial Division of the High Court, affirming convictions by Palau District Court. Appellants contend that municipal ordinance establishing curfew was a violation of United Nations Charter, Trusteeship Agreement, and Trust Territory Bill of Rights. The Appellate Division of the High Court, Presiding Judge Philip R. Toomin, held that curfew and anti-noise ordinances are within police power of legislature.

Affirmed.

1. Courts—High Court

Appellate Division of the High Court has jurisdiction over questions arising under Trust Territory Bill of Rights. (T.T.C., Sec. 124(b))

2. Police Power—Curfew

Municipal ordinance prohibiting unnecessary noise after midnight and establishing curfew for businesses, pedestrians and drivers is justified application of police power and does not encourage disrespect for human rights and fundamental freedoms under United Nations Charter. (United Nations Charter, Art. 76)

3. Trusteeship—Administering Authority—Powers

Trusteeship Agreement authorizes administering authority to institute regulations necessary to protect inhabitants against social abuses, and this language is designed to encompass complex of protective devices and regulations encompassed within concept of police power. (Trusteeship Agreement, Arts. 6, 7)

4. Police Power—Generally

Proper exercise of police power does not interfere with right to due process of law.

5. Trusteeship—Administering Authority—Powers

Rights arising under United Nations Charter, Trusteeship Agreement and Trust Territory Bill of Rights are all subject to proper exercise of police power, including enactment of curfew and anti-noise laws.

6. Palau Custom—Curfew

Curfew and anti-noise ordinances are not contrary to Palau customary law.

7. Palau Custom—Curfew

Under Palau customary law there are restrictions on movement of people over public roads after dark.

8. Custom—Applicability

When there is conflict between customary law and municipal ordinances, written law prevails. (T.T.C., Secs. 20, 21)

9. Police Power—Curfew

Right to use public highways is a common right inhering in public but is subject to reasonable police regulations.

10. Police Power—Municipal Ordinances

Test of validity of municipal regulation is whether it is reasonable exercise of delegated power under all the circumstances.

11. Police Power—Municipal Ordinances

Courts assume that state and municipal authorities have full knowledge of local conditions and their determination as to necessity and reasonableness of regulation to promote public order, health, morals, safety and general welfare will, upon its face, be regarded by courts as valid.

12. Police Power—Municipal Ordinances

Appropriate means to exercise police power rests within discretion of municipal authorities and courts will not interfere unless means employed amount to unreasonable and oppressive interference with individual and property rights.

13. Police Power—Municipal Ordinances

In determining whether municipal ordinance is reasonable, it is essential to validity to prescribe definite rules of action for guidance of public officials in whom discretion has been vested.

14. Police Power—Municipal Ordinances

It is not necessary for legislature to prescribe specific rules of action in laws where it is difficult or impracticable to lay down definite and comprehensive rules, or where discretion relates to administration of police regulation and is necessary to protect public morals, health, safety or general welfare.

15. Police Power—Curfew

Municipal ordinance regulating use of highways which vests discretionary power in officer to make exceptions which are "reasonably necessary" is not invalid as indefinite standard of police power.

16. Police Power—Curfew

Municipality has regulatory power to eliminate noise disturbance and movement over city streets during quiet hours of early morning.

17. Police Power—Curfew

Municipalities may prohibit violations of peace and quiet on public streets which occur at times when they are most disturbing.

NGIRASMENGESONG v. TRUST TERRITORY

Counsel for Appellant: ROSCOE L. EDWARDS, *Public Defender
and Counselor*
Counsel for Appellee: ALFRED J. GERGELY, *District Attorney*

Before TOOMIN, *Presiding Judge*, SHRIVER and MANI-
BUSAN, *Temporary Judges*

TOOMIN, *Presiding Judge*

OPINION OF THE COURT

[1] This appeal is from a judgment of the Trial Division of this Court affirming sentences against the respective appellants imposed by the District Court of Palau District. This Court has jurisdiction of this appeal pursuant to Section 124(b) of Trust Territory Code, since it involves questions arising under the Bill of Rights of Trust Territory. It is claimed by appellants, among other things, that an ordinance of Koror Municipality in Palau District is void as being in violation of Section 8 of the Bill of Rights, and of certain provisions of the United Nations Charter and the Trusteeship Agreement pursuant to which the Trust Territory of the Pacific Islands is being administered.

The appellants were convicted of violating Section 4 of Article I of the Municipal Ordinance No. 2 of Koror Municipality, dated May 9, 1956, and approved by the District Administrator for the Palau District May 25, 1956. The section in question prohibits pedestrian or vehicle traffic on the roads of the municipality between twelve o'clock midnight and six o'clock in the morning "except for valid demonstrable reason." They were sentenced to serve two months and fifteen days imprisonment, respectively, and pay a fine of \$15.00. The sentences have already been served upon denial of motion to stay execution of sentence.

The points raised by appellants in the appeal below were that the ordinance in question is invalid in that it

violates Chapter XII, Article 76(c) of the United Nations Charter, the Trusteeship Agreement for the former Japanese Mandated Islands, Article 6, subparagraph 3, and Article 7, and Section 8 of the Trust Territory Bill of Rights. In the amended notice of appeal to this court the points raised are (a) that the judgment is contrary to the law, and (b) that it violates well established local customs.

Upon oral argument before this Court, the further point was made that the ordinance is invalid in granting discretionary power to police officers without setting up adequate standards to govern their conduct. While it is questionable whether this latter point is entitled to be presented to this court in the state of the record as above disclosed, the court has decided to consider all of the above points raised by appellants.

The pertinent portions of the ordinance attacked are as follows:

"KOROR MUNICIPALITY

Municipal Ordinance #2

REGULATION FOR THE PRESERVATION OF PUBLIC ORDER

The following regulation shall apply with the force of law to all persons in Koror Municipality.

ARTICLE I RULES

Sec. 1) There shall be no shouting or unnecessary noise making after 12:00 midnight until six (6) o'clock in the morning.

Sec. 2) All places of business shall be closed from 12:00 midnight until six (6) o'clock in the morning except in the case of legitimate emergency.

Sec. 3) Except only as specifically permitted by the Magistrate of Koror, all parties and social gatherings shall terminate at 12:00 midnight and shall not be resumed until after six (6) o'clock the following day.

Sec. 4) There shall be no pedestrian or vehicle traffic on the roads of the municipality between 12:00 midnight and six (6) o'clock in the morning except for valid demonstrable reason.

ARTICLE II PENALTIES

Sec. 1) Whosoever shall violate any of the provisions of Article I of this ordinance shall be guilty of disturbing public order and upon conviction thereof shall be imprisoned for a period of not more than three (3) months or shall be fined not more than fifty (\$50.00) dollars or both.”

Appellants have challenged only Section 4 of Article I since they were charged with and convicted of a violation of that section. The record discloses that they were apprehended on a public road in the Municipality at 3:40 a.m. and admitted to the Constable they were out looking for alcoholic liquor.

In the brief of appellants, the ordinance is referred to as a curfew ordinance, since it is the curfew provisions which are sought to be enforced against appellants. However, it should be noted from its heading and context, that the purpose of the ordinance which is served by the curfew provision, is the assurance of peace and quiet during the hours from midnight to 6:00 a.m., a purpose commending itself to those unfortunate souls who work for a living and thus require a moderate amount of sleep each night.

Analysis of the ordinance indicates that it contains four specific prohibitions against conduct which is defined as constituting a disturbance of public order and thus subject to the penalties prescribed. These prohibitions are (a) no shouting or unnecessary noise between midnight and 6:00 a.m.; (b) no business houses to open for business during those hours, except for emergency; (c) no social gathering or parties during those hours except as permitted by the Magistrate of Koror; and (d) no pedestrian or vehicular traffic on the roads between the stated hours, “except for valid demonstrable reason.”

Thus it is apparent that the curfew provision of the ordinance (Sec. 4) is part and parcel of the legislative

scheme to eliminate all activity and movement in the municipality which might disturb people generally in their enjoyment of peace and quiet during the early morning hours. It would be, therefore, more appropriate to denominate the ordinance as an anti-noise ordinance, rather than a curfew ordinance. Does such an ordinance offend against the constitutional or other objections raised against it by appellants?

In undertaking to find the proper answer to this question, it must first be conceded that the ordinance is obviously an application of the police power to the stated purpose of the ordinance, viz., preservation of public order. The attack, insofar as it is based on the United Nations Charter, the Trusteeship Agreement, and the Trust Territory Bill of Rights, seems to assume that a mere quotation of the provisions thereof are sufficient to demonstrate the invalidity of the provision challenged. Since the attack relies impartially on each and all of the quoted sections of these documents and is general in nature, it is desirable to give joint consideration to the charges leveled.

The quoted section of the United Nations Charter relied on by appellants is as follows:

“ARTICLE 76

“The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be * * *:

c. to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; * * * ”

[2] This court is unable to see how a partial restriction of movement on the public highways for a limited period of time each day encourages disrespect for human rights and fundamental freedoms. There are many similar

restrictions imposed on people living in organized society which are justified as application of the police power, and without them, life would be intolerable. Nothing in the provisions of the above quotation appears to even remotely bear upon the problem here presented.

An even stronger case contra the attack is made by analyzing the quoted sections of the Trusteeship Agreement. These sections are as follows:

“ARTICLE 6

“In discharging its obligations under Article 76(b) of the Charter, the administering authority shall: * * *

3. promote the social advancement of the inhabitants and to this end shall protect the rights and fundamental freedoms of all elements of the population without discrimination; protect the health of the inhabitants; control the traffic in arms and ammunition, opium and other dangerous drugs, and alcoholic and other spiritous beverages; and institute such other regulations as may be necessary to protect the inhabitants against social abuses; and: * * * *”

“ARTICLE 7

“In discharging its obligations under Article 76(c), of the Charter, the administering authority shall guarantee to the inhabitants of the Trust Territory freedom of conscience, and, subject only to the requirements of public order and security, freedom of speech, of the press, and of assembly; freedom of worship, and of religious teaching; and freedom of migration and movement.”

[3] While most of the language quoted from Article 6, Section 3, is general in nature and there is no definition of the rights and fundamental freedoms to be protected by the administering authority, it should be noted that the authority is authorized to institute “such other regulations as may be necessary to protect the inhabitants against social abuses,” plainly calling for application of the police power where deemed to be needed. By “social abuses” we understand is meant those which arise from contact between human beings living in a group as inter-

related and inter-dependent persons. Appellants have failed to indicate what specific language they rely on in the quoted sections of the Trusteeship Agreement as contravened by the challenged portion of the ordinance, nor how their attack squares with the qualification with respect to use of the police power to protect against social abuses. It seems evident that the ordinance seeks to eliminate an abuse arising from social contact, in prohibiting acts considered to constitute disturbance to public order. And in making the guarantee of freedom of migration and movement, subject to the requirements of public order and security, both in the Trusteeship Agreement, Article 7, and also in the Trust Territory Bill of Rights, Section 8, it is clear that the restrictive language so employed was designed to encompass the whole complex of protective devices and regulations embraced within the concept of the police power. The many sided impact of the police power on all human activities within an organized society is well exemplified in Blackstone's definition. He defined it as "the due regulation and domestic order of the kingdom, whereby the individuals of the state, like members of a well-governed family, are bound to conform their general behavior to the rules of propriety, good neighborhood, and good manners, and to be decent, industrious and inoffensive in their respective stations." 11 Am. Jur. 973, Constitutional Law, § 247.

[4] And finally it should be noted that insofar as appellants' attack is predicated upon the deprivation of rights guaranteed under the term "due process of law" as appears in the Constitution of the United States, these rights have been repeatedly held not to interfere with the proper exercise of the police power. 11 Am. Jur. 995, Constitutional Law, § 261.

[5] Accordingly, the court is constrained to hold that the rights arising under the quoted sections of the United

Nations Charter, the Trusteeship Agreement, and the Trust Territory Bill of Rights are all subject to a proper exercise of the police power and are nowhere shown to have been contravened by the ordinance in question.

[6] With respect to the impact of native custom on the challenged ordinance, appellants claim such custom has been violated by the ordinance, but the record is barren of any proof on their part in respect thereto. Their mere assertion of conflict between ordinance and custom without demonstration, either by evidence or other matter of which the court takes judicial notice, is entirely inadequate. Appellee, on the other hand, has filed with the Trial Division certain affidavits which appear in the record and which were received by the court, not as evidence, but as background material with respect to the existence and scope of native custom in the matter of restrictions similar to those at bar.

[7] From these affidavits made by the Magistrate and four councilmen of Koror Municipality, it is indicated that under Palau custom in existence for many years, when it appeared to the ruling chiefs that certain breaches of the peace were occurring on the public roads after nightfall, such as loud shouting, throwing of stones, drunkenness, and abusive language, they would cope with it by declaring a "Bul", which is a restriction on movement of people over the public roads after dark unless accompanied by torchlight, subject to payment of fine in the event of violation. The Trial Division took judicial notice of the difficult law enforcement problems in Koror which gave rise to the adoption of the ordinance here challenged, and the court's comments in regard thereto are found on page 3 of the court's Opinion included in the record on appeal.

[8] From a consideration of the foregoing, there seems no merit whatever to appellants' contention in re-

gard to native custom, and if there were any inconsistency between such custom and a duly enacted municipal ordinance, under Sections 20 and 21 of the Trust Territory Code, the latter would govern.

There remains for consideration appellants' final point presented for the first time on oral argument of this appeal, namely, that the ordinance does not contain standards to guide the discretion granted the enforcing officers, hence is invalid as a violation of common law with relation to exercise of police power.

[9] Our first inquiry must necessarily be to ascertain what test is to be employed in determining whether a municipal enactment measures up to the powers delegated with respect thereto. We have seen that there is adequate basis for adoption of legislation regulating movement over the roads within Trust Territory, and making such movement subject to the requirements of public order and security. It is also clear that while the right to use of the public highways is a common right inhering in all the public as a right recognized by the common law, nevertheless, it is a right which is subject to reasonable police regulations. Thus the right to use of the public roads is not absolute and unrestricted but is always subject to legislative control. Opinion of the Judiciary, Sup. Ct. N.H. 94 N.H. 501, 51 Atl.2d. 836. McQuillin, *The Law of Mun. Corpns.* 3rd Ed., Vol. 7, p. 568 and ffg.

[10-12] The basic requirement which is noted in the authorities as conditioning the validity of a municipal regulation and for which it can be tested, is that it be a reasonable exercise of delegated power under all the circumstances. The rule with respect to the adoption of municipal regulations and the presumption to be raised by the Courts in regard thereto is well stated on page 511 of Volume 6 of McQuillin, *supra*, quoted as follows:

“Courts will assume that state or municipal authorities, as the case may be, have full knowledge of local conditions, and their determination of the necessity and reasonableness of any specific regulation in the light of this knowledge to promote the public order, health, morals, safety, and general welfare, will upon its face be regarded by the courts as valid. It is a general rule, therefore, constantly applied, that appropriate means to the exercise of the police power rests largely within the discretion of municipal authorities and courts will not interpose unless the means employed amount to an unreasonable and oppressive interference with individual and property rights and constitute an abuse rather than a legitimate use of power.” Citing as authority *Standard Oil Co. v. City of Marysville, Kan.* 279 U.S. 582, 49 Sup.Ct. 430, and scores of other cases.

[13] In determining whether an ordinance is reasonable, it is the general rule that it is essential to its validity to prescribe a definite rule of action for the guidance of public officials in whom a discretion has been vested; otherwise, it may be successfully attacked on the ground it confers arbitrary and uncontrolled power.

[14] To this general rule there is a well-recognized exception, that it is not necessary to prescribe specific rules of action in cases where it is difficult or impracticable to lay down a definite comprehensive rule or where the discretion relates to the administration of a police regulation and is necessary to protect the public morals, health, safety or general welfare. *Permenter v. Young*, 31 So.2d, 387. McQuillin, Law of Mun. Corpns., Vol. 5, p. 420. Many of the cases so holding are collected in three annotations under the subject heading “Validity of statutes and ordinances vesting discretion in public officials without prescribing a rule of action”, found in 12 A.L.R. at p. 1447, 54 A.L.R. at p. 1110 and 92 A.L.R. at p. 410.

These cases cover many subjects, ranging from judicial approval of discretion to municipal authorities to determine a “reputable dental college” in issuing licenses to

dental graduates (*Ex Parte Whitley*, 144 Cal. 167, 77 Pac. 879) to issue licenses, (a) to hotels and rooming houses (*Cutsinger v. Atlanta*, 142, Ga. 555, 82 S.E. 263); (b) for the vending of meats (*Buffalo v. Hill*, 79 N.Y. Supp. 449); (c) for the business of junk dealer, licensing persons "deemed to be suitable", (*State v. Cohen*, 73 N.H. 543, 63 Atl. 928); (d) to carry on the business of milk dealers (*People ex rel. Lieberman v. Van De Carr*, 199 U.S. 552, 26 Sup.Ct. Rep. 144).

Under the same exception, the United States Supreme Court in *Engal v. O'Malley*, 219 U.S. 128, 31 Sup.Ct. Rep. 190, upheld a statute of the state of New York regulating the business of private bankers and requiring them to obtain licenses from the State Comptroller, without specifying the standards to be employed by that official in exercising his discretion to issue them. The same theory is the basis for the decision in *Racine v. District Court of 10th Judicial District*, 98 Atl. 97, 39 R.I., 475, upholding an ordinance providing for the licensing of motor cars upon approval of application by the Chief of police, without any standards controlling his discretion; and the decision in *Mehlas v. City of Milwaukee*, 146 N.W. 882, in upholding an ordinance licensing dance halls in the City of Milwaukee and granting police the power to stop the operation thereof in the event of violation of any provision of the licensing ordinance.

The state and municipal control over highways and their right to direct and regulate traffic thereon was the basis for the decision in *City of Chicago v. Marriotto*, 324 Ill. 44, 163 N.E. 369, which upheld an ordinance of the City of Chicago providing regulations for the flow of traffic over city streets in the normal everyday situation, and granting power to the police department to direct traffic in the event of an emergency "as public safety or public convenience may require," thus granting discretionary

power without imposition of specific standards. The control of the community through exercise of the police power over noises considered disturbing to the public peace was upheld by the United States Supreme Court in the Trenton anti-sound truck case, *Kovacs, v. Cooper*, 336 U.S. 77, 69 Sup.Ct. Rep. 448. In that case, the ordinance forbade the use of city streets to trucks containing amplifiers emitting "loud and raucous noises." This language was held to be not too indefinite to fall within the bar of the 14th Amendment with relation to rights encompassed within the term "due process." While there was in fact a standard imposed by the ordinance, indefinite in nature, the court seemed to pay but slight attention to proof of violation of the standard, as there was no other proof than that the defendants had used a sound truck in broadcasting over the city's streets. In fact, the dissenting panel of three judges charged that since there was no proof of violation, the court had eliminated such safeguard as was apparent in the term "loud and raucous noises", and had applied the ordinance to mean an absolute prohibition against the use of sound amplifiers on trucks utilizing the city's streets at any time.

In any event, the Supreme Court held, page 451, that a state or city may lawfully prohibit acts or things reasonably thought to bring evil or harm to its people, and that the police power comprehends the duty within constitutional limits, to protect the well-being and tranquility of a community.

With respect to the right of individuals to use the city's sidewalks for dissemination of pamphlets to dwelling occupants, an ordinance forbidding such use during the hours of twelve noon to 9:00 p.m. was upheld by the Supreme Court of Georgia against the constitutional guarantee of free speech, in *Jones v. City of Moultrie*, 27 S.E.2d 39. Here was an absolute prohibition without discretionary

power to the authorities to alleviate the restriction, a far more extreme case than that at bar, which permits use upon proof of a valid demonstrable reason.

Two additional cases which are relevant to the question here considered and are believed to be significant and authoritative, are *People v. Walton*, 161 Pac. 498 (Cal. 1945), and *City of Portland v. Goodwin*, 210 Pac.2d 577 (Ore. 1949). In the first of these cases was involved the validity of the curfew ordinance of Los Angeles County, prohibiting the presence on the streets from 9:00 p.m. to 4:00 a.m. of persons below the age of eighteen, and imposing penalties on the parents of violators. The saving clause permitted the county sheriff to grant permits to such minors whose presence on the streets was, in his opinion, "reasonably necessary". Against objections to the ordinance on constitutional grounds and to the saving clause on grounds it left the matter of exception to the arbitrary and uncontrolled discretion of the sheriff, the ordinance was sustained, the court noting that the sheriff's action would necessarily have some basis in fact, since an application for a permit was required in each case, setting forth the reasons for the requested permission.

[15] In the case at bar, the language is no less definite than that provided in *People v. Walton*, supra, i.e., "valid demonstrable reason" as against "reasonably necessary". In both cases, the initial determinations were with the officer in whom was vested the discretionary power. The only difference seems to lie in the fact that under the California case the officer would have before him an application in writing setting forth the reason for the exception, while in the Koror case, the requested exemption would be necessarily verbal. Nothing in the Koror ordinance prohibits a citizen from asking the Constabulary in advance where the purpose he seeks to serve by utilizing the public streets after midnight is a valid demonstrable one.

In *City of Portland v. Goodwin*, supra, was involved the validity of an ordinance making it unlawful for any person to roam or be upon city streets between the hours of 1:00 and 5:00 a.m., without disclosing a lawful purpose. Against objections relative to interference with rights guaranteed by the Federal and State Constitutions and the specific objection that enforcement of the ordinance was left to the arbitrary judgment of the police officer as to what constituted a lawful purpose, the ordinance was sustained by the Supreme Court of Oregon. The court conceded the officer would have the duty of determining initially whether the purpose disclosed by the citizen amounted to a lawful one, and that this burden would be on him without the protection of standards from which his duty might more clearly appear. Nevertheless, the court indicated that the officer's determination was not final but was subject to supervision by the courts to whom an aggrieved citizen might resort.

City of Portland v. Goodwin appears to be on all fours with the case at bar. Both cases seem to arise from special problems facing the respective municipalities in that both apparently are plagued with the presence of numerous restless people who cannot or will not spend the early morning hours secure in their beds, but insist on roaming the public streets and becoming a nuisance to their fellow citizens.

[16] To hold that a municipality may lawfully regulate traffic on the public roads and grant police officers power in emergencies to take such action as in their opinion public safety may require; to hold that it may restrain noise from sound trucks which transverse the public streets, upon condition that there be an initial finding by some officer that the noise is loud and raucous; and to permit a prohibition of the distribution of pamphlets over public sidewalks between designated hours, in order to

protect dwellers from disturbance of peace and quiet; yet to deny the power to eliminate noise, disturbance and movement over city streets during the quiet hours of early morning, seems inconsistent and untenable.

[17] If, as is unquestioned, a municipality has power to regulate traffic on the public streets, and if, as seems clear from the decision in *Kovacs v. Cooper*, supra, it may prohibit unreasonably loud noises from vehicles using public streets, no logical reason appears for want of power of prohibiting other violations of peace and quiet on the public streets which occur at times when they may be most disturbing.

Bearing in mind that the ordinance here involved, is an anti-noise ordinance, of which the curfew provision is merely one facet, and granting to the municipality, as this court must, the determination of what problems of the community require solution and the manner of accomplishing it, subject only to the qualification that the solution must, under all the circumstances, be reasonable, this court is unable to say from the record here presented, that the municipality has improperly exercised its police power in adopting the challenged regulation. It does not strike this court that it is unreasonable to deny the use of public streets to persons in need of alcoholic stimulants at 3:40 in the morning.

From the authorities above quoted, it seems clear that a municipality may validly exercise its police power to regulate movement over the public streets, and eliminate noises and other action on the public streets disturbing to the public generally. We have seen that it may confer discretion on its agents to enforce the provisions of an ordinance without setting any standards to guide such discretion, provided the ordinance is a valid exercise of the police power and is required in the interest of the general welfare. If, then, such an ordinance may be adopted

without the imposition of standards binding on the designated officer, it appears that the inclusion of such general language as a standard which leaves much to the discretion of the enforcing officer, ought likewise to be within the constitutional requirements of such an ordinance.

Accordingly, this court is constrained to hold that no fundamental right recognizable at common law, or inhering by virtue of the United Nations Charter, the Trusteeship Agreement, or the Trust Territory Bill of Rights, has been infringed by that part of the Koror anti-noise ordinance here challenged. Since no demonstrable error has occurred in the actions of the Palau District Court in adjudging appellants guilty of violating the ordinance in question, and in the action of the Trial Division in affirming its judgment, the judgment of both courts is affirmed.

RAISMET, Appellant

v.

TRUST TERRITORY OF THE PACIFIC ISLANDS, Appellee

Criminal Appeal No. 15

Appellate Division of the High Court

December 17, 1958

Appeal from judgment of imprisonment in default of payment of fine. In a Per Curiam opinion, the Appellate Division of the High Court held that court could imprison for default in payment of fine at any time until fine is fully paid.

Affirmed.

Contempt—Civil—Failure to Pay Fine

Court may sentence defendant to imprisonment for failure to pay fine and such direction may be given or modified at any time until fine is paid in full or imprisonment served which has been ordered in default of payment, provided accused is given opportunity to be heard before any such direction or order is given or modified, except when direction or order is given at time sentence is imposed. (T.T.C., Sec. 169)