



Trusteeship Council

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COMMUNICATION FROM THE PONAPE DISTRICT LEGISLATURE CONCERNING THE TRUST
TERRITORY OF THE PACIFIC ISLANDS

(Circulated in accordance with rule 24 of the rules of procedure
of the Trusteeship Council)

PONAPE DISTRICT LEGISLATURE
Kolonia, Ponape
Eastern Caroline Islands 96941

FOURTH PONAPE DISTRICT LEGISLATURE

EIGHTH REGULAR SESSION, 1979

2 March 1979

President
United Nations Trusteeship Council
New York

Dear Sir:

I have the honour to transmit herewith a certified copy of Legislature resolution No. 294 which was adopted by the Fourth Ponape District Legislature, eighth regular session, 1979.

Respectfully,

(Signed) Henry O. SAIMON
Legislative Clerk

Encl.

Fourth Ponape District Legislature
Eighth Regular Session, 1979

A RESOLUTION

Expressing deep disappointment over the unilateral action by the High Commissioner of the Trust Territory of the Pacific Islands to amend the Charter of the Ponape District Government.

WHEREAS, on 22 January 1979, Mr. Adrian P. Winkel, High Commissioner of the Trust Territory of the Pacific Islands, on his own initiative and without full consultation with the Legislature of Ponape District, by executive order unilaterally acted to amend the Charter of the Government of Ponape District; and

WHEREAS, the purpose of this purported amendment is to accelerate the elections of the district's Governor and Lieutenant Governor, scheduled by law to be conducted on the second Friday of November, 1979, to take place on 27 March 1979, simultaneously with the elections for members of the new Congress of the Federated States of Micronesia; and

WHEREAS, although said action was predicated on the receipt of a petition delivered 11 days earlier by certain leaders of Ponape District, no apparent attempt was made by the Office of the High Commissioner to research the ascertations of the petition within the district to determine the true will of the people in this regard, nor to research in depth the petition request to determine whether there were any possibilities of political interests involved; and

WHEREAS, said action was taken without regard to the fact that in Ponape District, laws relative to the election of Governor and Lieutenant Governor under the new Charter are yet to be enacted, and without district appropriation to finance incidental expenses incurred in this election or any run-off elections necessitated thereby; and

WHEREAS, by covering letter, the High Commissioner reserved the right to accelerate the election of a new Legislature as well, but at least in this respect recognized the need "to return the process back to the people and their representatives for final determination as they see fit for their special conditions"; and

WHEREAS, by amending certain elections required by the Charter without full consultation and predicating the right to amend other similar elections pending district review, the High Commissioner has injected an element of confusion and instability into the Charter that will seriously affect its function as the basic legal foundation of the laws and governing institutions of the district; and

WHEREAS, the firm and continuing position of the Legislature has been in opposition of any power of the High Commissioner on his own initiative to amend the

Charter, a document which was prepared by representatives of the people of this district, enacted through legislation by the Congress of Micronesia, and subsequently signed into the law of the land by the High Commissioner himself on 1 May 1977; and

WHEREAS, said opposition is premised on the provisions of the United Nations Trusteeship Agreement 1/ mandating the United States to respect and protect the fundamental rights of the people and to promote self-government in the Trust Territory; and

WHEREAS, said opposition is further premised on the basic precepts of Anglo-American law strictly limiting the power of legislative assemblies to delegate law-making authority to administrative officials; and

WHEREAS, the Legislature consented to the Congress of Micronesia adding this provision to the Charter only after receiving assurances from the High Commissioner that he would amend the Charter only when it was absolutely necessary and then only after full consultation with the district; and

WHEREAS, even then, this consent was reluctantly given after ascertaining that the United States of America would defeat through veto the entire chartering process of the district if this provisions were not inserted, thereby seriously jeopardizing this district's efforts to advance toward self-government; and

WHEREAS, although the Charter provides for a democratic means to amend the Charter through general referendum on proposals to the same, the High Commissioner chose to ignore this provision by honouring a petition which avoided the procedure through direct appeal to this Office; and

WHEREAS, it is the sense of the Ponape District Legislature that this political action of the High Commissioner, precipitously taken, sets dangerous precedents for the future self-governing institutions and leaders of these islands, lowering in the minds of the people the respect of general principles of the continuity and integrity of the rule of law, as well as the proper modes by which laws may be modified and changed; and

WHEREAS, said unilateral action to amend the basic law of this district was taken without regard to even the usual requirements of notice and hearing required of administrative action in Title 17 of the Trust Territory Code; now therefore,

BE IT RESOLVED by the Fourth Ponape District Legislature, eighth regular session, 1979, that this body, duly chartered and assembled, hereby expresses its deep disappointment over the High Commissioner's unilateral action to amend the Charter of the Government of Ponape District, and further requests that the High Commissioner cease and desist from undertaking such highly objectionable actions in the remaining years of the Trusteeship Agreement; and

1/ Trusteeship Agreement for the Trust Territory of the Pacific Islands
(United Nations publication, Sales No. 1957.VI.A.1).

BE IT FURTHER RESOLVED that certified copies of this resolution be transmitted to the High Commissioner of the Trust Territory of the Pacific Islands, the President of the United Nations Trusteeship Council, the President of the United States, the Chairman of the United States Senate Committee on Energy and Natural Resources, the Chairman of the United States House Subcommittee on National Parks and Insular Affairs, the United States Secretary of the United States Department of the Interior, the United States Under Secretary of State for Human Rights and the Governor of Ponape District.

ADOPTED BY THE PONAPE DISTRICT LEGISLATURE ON 6 FEBRUARY 1979

(Signed) Edwel SANTOS
Speaker, Ponape District Legislature

(Signed) Henry O. SAIMON
Attested: Legislative Clerk
