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ACTION INT-08

INFO OCT-01 EA-11 IO-14 L-03 PM-07 PA-04 /048 W  
104643

P 241113Z JUL 74 ZNZ1  
FM HICOMTERPACIS SAIPAN MARIANAS ISLANDS  
TO ALDISTADS TERPACIS  
TT LNO GUAM MARIANA ISLANDS  
TT LNO KWAJALEIN MARSHALL ISLANDS  
COMNAV MARIANAS GUAM MARIANAS ISLANDS  
CINCPAC REP GUAM/TTPI GUAM MARIANAS ISLANDS  
CINCPAC HONOLULU HI  
NAVINSERVO GUAM MARIANAS ISLANDS  
COMTWELVE SAN FRANCISCO CA  
RUFHC /SECSTATE WASHINGTON DC  
SECDEF WASHINGTON DC  
JCS WASHINGTON DC  
CNO WASHINGTON DC  
CINCPACFLT MAKALAPA HI  
CINCPACAF HICKAM AFB HI  
CGFMFPAC PEARL HARBOR HI  
COMCBPAC PEARL HARBOR HI  
COMNAV FACENGCOCOM ALEXANDRIA VA  
PACNAV FACENGCOCOM PEARL HARBOR HI  
TT LNO HONOLULU HI

1. Senate Session
2. Marijuana Restrictions
3. Rep. Moses to Tour Australia
4. ESEA Advisory Council Meeting in Bouape
5. Truck Distal Jones District

SAMTEC VANDENBERG AFB CA  
PCDNA-LGA KIRTLAND AFB NM  
CDRUSARBCO MACHINATO JAPAN//TTPI-LNO//

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SECTION 01 OF 03  
COMTWELVE PASS INFO FOR AMB WILLIAMS  
SECSTATE PASS TO DEPT INT/SEC INTERIOR/DOIA OSN  
TTPI NO. 459  
(SENATE SESSION)

SAIPAN, JULY 24 (MNS)---WEDNESDAY'S SENATE SESSION WAS  
A BRIEF ONE. THE ONLY OFFICIAL BUSINESS WAS THE INTRODUCTION

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OF TWO BILLS AND TWO JOINT RESOLUTIONS.

THE BILLS INCLUDE ANOTHER AMENDMENT TO THE CONSTITUTIONAL CONVENTION LAW (SB 351). THE AMENDMENT WOULD PROVIDE THAT THE TRADITIONAL LEADERSHIP DELEGATES TO THE CONVENTION, TWO FROM EACH DISTRICT, WOULD HAVE A VOTE, SOMETHING THEY DO NOT NOW HAVE. THE AMENDMENT ALSO SPELLS OUT MORE CLEARLY THE PROCEDURES FOR A REFERENDUM ON THE CONSTITUTION, PROVIDING THAT IT SHALL NOT BE DEEMED TO HAVE BEEN APPROVED UNLESS IT

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IS APPROVED BY A MAJORITY OF THOSE VOTING IN THE REFERENDUM AND "...BY A MAJORITY OF THOSE VOTING IN AT LEAST FOUR OF THE SIX DISTRICTS OF THE TRUST TERRITORY..." THE BILL ALSO WOULD PROTECT THE INTERESTS OF THE INDIVIDUAL DISTRICTS BY PROVIDING THAT "...THE CONSTITUTION SHALL NOT TAKE EFFECT IN ANY SUCH DISTRICT IF IT IS NOT APPROVED BY THREE-FOURTHS OF THOSE VOTING AT THE REFERENDUM IN THAT DISTRICT."

THE OTHER BILL IS AN APPROPRIATION MEASURE, TO PROVIDE \$143,100 FOR HEALTH SERVICE PERSONNEL, AND \$62,430 FOR THE HOSPITAL FEEDING PROGRAM IN THE TT (SB 350).

ONE OF THE JOINT RESOLUTIONS WOULD URGE THE SECRETARY OF INTERIOR TO REPEAL THAT PORTION OF SECRETARIAL ORDER 2918 WHICH REQUIRES THE REAPPORTIONMENT OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF MICRONESIA (SJR 123). THE MEASURE STATES THAT "...REAPPORTIONMENT AT THE PRESENT TIME WOULD TEND TO HINDER THE EFFECTIVENESS OF THE DELICATE BALANCE OF POWER AND AUTHORITY WHICH PRESENTLY EXISTS WITHIN THE CONGRESS OF MICRONESIA, AND THUS DETRACT FROM ITS COHESIVENESS..."

THE OTHER JOINT RESOLUTION ASKS THE U.S. CONGRESS TO

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AMEND CERTAIN PUBLIC LAWS TO EXTEND PROGRAMS OF FEDERAL ASSISTANCE WITH RESPECT TO FISHERIES TO THE TRUST TERRITORY (SJR 122). THE SAME MEASURE WAS INTRODUCED TUESDAY IN THE HOUSE.

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THE SENATE WILL MEET AGAIN AT 10 THURSDAY MORNING.  
(MARIJUANA RESTRICTIONS REMOVED)

SAIPAN, JULY 24 (MNS)---A RULING BY TRUST TERRITORY  
CHIEF JUSTICE HAROLD W. BURNETT HAS, IN EFFECT, REMOVED  
ANY RESTRICTIONS UPON THE SALE OR POSSESSION OF MARIJUANA.

JUSTICE BURNETT'S ORDER WAS ISSUED FOR THE CASE OF  
THE TRUST TERRITORY OF THE PACIFIC ISLANDS VS. MARIANO  
R. BERMUDES. BERMUDES WAS CHARGED WITH VIOLATING TITLE  
63, SUBCHAPTER 303 OF THE TRUST TERRITORY CODE AND TITLE  
7, PART 162 OF THE TRUST TERRITORY CODE OF PUBLIC  
REGULATIONS. THE CASE WAS HEARD IN SEPTEMBER, 1973.

BOTH REGULATIONS PREVENT INDIVIDUALS FROM IMPORTING,  
USING, OR SELLING DRUGS WHICH THE DIRECTOR OF HEALTH SERVICES  
DEEMS DANGEROUS. PART 161 OF TITLE 7 LISTS MARIJUANA AS  
A DANGEROUS DRUG.

BERMUDES WAS ARRESTED AND CHARGED WITH POSSESSING

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AND SELLING MARIJUANA.

BURNETT'S ORDER HAS INVALIDATED THE REGULATIONS IN  
QUESTION, AND IN ADDITION INVALIDATES SUBCHAPTERS 301 AND  
302 OF TITLE 63. SUBCHAPTER 301 DEFINES WHAT A DRUG IS,  
AND 302 EMPOWERS THE DIRECTOR OF TRUST TERRITORY HEALTH  
SERVICES TO DECIDE WHICH DRUGS HAVE "SUBSTANTIAL POTENTIAL"  
FOR ABUSE.

BY INVALIDATING THE STATUTES IN QUESTION, BURNETT'S  
ORDER MAKES IT IMPOSSIBLE FOR THE TRUST TERRITORY GOVERNMENT  
TO PROSECUTE AN INDIVIDUAL FOR THE SALE OR POSSESSION OF  
MARIJUANA. JUSTICE BURNETT'S RULING DOES NOT EFFECT THE  
STATUTES PROHIBITING THE SALE OR POSSESSION OF HEROIN  
OR OPIUM.

IN HIS ORDER, BURNETT SAID, "WHILE THE DEBILITATIVE  
AND ADDICTIVE EFFECTS OF USING (MARIJUANA) ARE STRONGLY  
DISCOUNTED, THOSE OF (OPIUM OR HEROIN) HAVE BEEN  
CONCLUSIVELY PROVEN AND UNIVERSALLY RECOGNIZED."

THE CHIEF JUSTICE INVALIDATED SUBCHAPTERS 301 THRU  
303 OF TITLE 63 BECAUSE THEY FAILED "TO PROVIDE ...A  
CONSTITUTIONALLY MANDATED STANDARD AND AS SUCH CONSTITUTES

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AN UNLAWFUL DELEGATION OF LEGISLATIVE AUTHORITY."

BURNETT ALSO CRITICIZED THE VAGUE LANGUAGE OF SUBCHAPTER 301 WHICH DEFINES WHAT A DRUG IS. "THE MEANING OF 301, AND WHAT SUBSTANCES ARE INTENDED TO BE INCLUDED WITHIN IT, IS FAR FROM CLEAR," THE ORDER STATED.

SUBCHAPTER 302, IN DELEGATING AUTHORITY TO THE DIRECTOR OF HEALTH SERVICES TO DETERMINE DRUGS ON THE BASIS OF "CURRENT MEDICAL KNOWLEDGE," DOES NOT PROVIDE A "SUFFICIENTLY PRECISE STANDARD UPON WHICH THE DIRECTOR CAN BASE HIS DETERMINATIONS" BURNETT FOUND.

"THE MEDICAL PROFESSION," BURNETT SAID, "IS IN A STATE OF FLUX AS TO ITS APPRAISAL OF MARIJUANA AND IS DUBIOUS ABOUT THE SUBSTANCE'S ROLE IN DRUG ABUSE."

ANOTHER POINT IN QUESTION WAS THE FACT THAT BERMUDES COULD HAVE BEEN GIVEN A STIFFER SENTENCE FOR THE SALE AND POSSESSION OF MARIJUANA, UNDER THE STATUTES MADE INVALID, THAN HE COULD RECEIVE FOR IMPORTING AND SELLING OPIUM OR HEROIN.

BURNETT INDICATED HE DID NOT FEEL THIS WAS RIGHT, AND THIS WAS AN IMPORTANT FACTOR IN HIS INVALIDATING THE

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STATUTES IN QUESTION.

"THE CHALLENGED STATUTE," BURNETT FOUND, "CONSTITUTES AN UNLAWFUL DELEGATION OF THE LEGISLATIVE POWER (AND) IS VIOLATIVE OF THE EQUAL PROTECTION CLAUSE." THE CHIEF JUSTICE DISMISSED THE TRUST TERRITORY COMPLAINT AGAINST BERMUDES.

BERMUDES' ATTORNEY, ASSISTANT PUBLIC DEFENDER BENJAMIN ABRAMS, CALLED BURNETT'S ORDER A "COURAGEOUS AND ENLIGHTENED DECISION."

"THE EFFECT OF JUSTICE BURNETT'S RULING," ABRAMS SAID, "HIGHLIGHTS THE FALLACY OF SO-CALLED VICTIMLESS CRIMES SINCE ANY SELF-RESPECTING DOCTOR KNOWS THAT MARIJUANA PRESENTS NO THREAT TO THE USER OR COMMUNITY. THERE IS NO VICTIM," HE CONTINUED.

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THE TRUST TERRITORY ATTORNEY GENERALS OFFICE HAD  
NO COMMENT ON THE ORDER.

ABRAMS SAID THAT HE HOPES THE CONGRESS OF MICRONESIA AND TRUST  
TERRITORY GOVERNMENT WILL USE THIS "OPPORTUNITY  
TO OBSERVE THE RESULTS OF THIS DECISION BEFORE ANY NEW  
LAWRNMES AFFECTING THE USE OF MARIJUANA ARE ENACTED."

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