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ACTION INT-08

INFO OCT-01 IO-14 EA-11 L-03 PM-07 PA-04 /048 W
121030

P 251100Z JUL 74 ZNZ1
FM HICOMTERPACIS SAIPAN MARIANAS ISLANDS
TO ALDISTADS TERPACIS
TT LNO GUAM MARIANAS ISLANDS
TT LNO KWAJALEIN MARSHALL ISLANDS
COMNAVMARIANAS GUAM MARIANAS ISLANDS
CINCPACREP GUAM/TTPI GUAM MARIANAS ISLANDS
CINCPAC HONOLULU HI
NAVINSERVO GUAM MARIANAS ISLANDS
COMTWELVE SAN FRANCISCO CA
RUPHC /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
COMNAVFACENGCOM ALEXANDRIA VA
PACNAVFACENGCOM PEARL HARBOR HI
TT LNO HONOLULU HI

** Congress third day
Court dismissed
Continental can
3. Con Con Delegation meet
4. EDLF Sean fly lifted
in Marianas
5. Coconut Board members
to be nominated
6. Sen welcomes workshop*

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. 462
(CONGRESS THIRD DAY)

SAIPAN, JULY 26, (MNS)---AT THE END OF THE SENATE MEETING
ON THE THIRD DAY OF THE CURRENT FIFTEEN-DAY SPECIAL SESSION

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OF THE CONGRESS OF MICRONESIA THURSDAY (JULY 25), MARIANAS SENATOR EDWARD PANGELINAN CALLED ON THE CONGRESS LEADERSHIP TO CONSIDER CALLING AN IN-HOUSE MEETING OF CONGRESS MEMBERS TO SET SOME PRIORITIES FOR LEGISLATION TO BE CONSIDERED IN THE NEXT TWELVE DAYS. PANGELINAN SAID HE WAS "CONCERNED" BECAUSE THREE DAYS OF THE SPECIAL SESSION HAD PASSED, AND VIRTUALLY NOTHING HAS BEEN DONE. HE SUGGESTED THAT PRIORITIES BE OUTLINED AND THAT THE AMOUNTS OF MONEY AVAILABLE TO THE

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CONGRESS FOR APPROPRIATION BE MADE KNOWN TO MEMBERS OF THE CONGRESS SO THAT THEY COULD PROCEED WITH THEIR WORK.

IN RESPONSE, SENATE FLOOR LEADER AMBILOS IEHSI, PRESIDING OVER THURSDAY'S SENATE SESSION IN THE ABSENCE OF PRESIDENT TOSIWO NAKAYAMA AND VICE PRESIDENT LAZARUS SALII, ASSURED PANGELINAN THAT THE LEADERSHIP HAD MATTERS UNDER CONTROL.

THE THURSDAY SESSIONS IN BOTH THE SENATE AND THE HOUSE WERE QUITE BRIEF. THE SENATE MOVED PREVIOUSLY INTRODUCED RESOLUTIONS AND BILLS ALONG ON THE CALENDAR, AND A FEW NEW MEASURES WERE RECEIVED FOR CONSIDERATION.

ONE BILL WAS INTRODUCED IN THE HOUSE BY CONGRESSMAN RESIO MOSES OF PONAPE. IT CALLS FOR AN AMENDMENT TO THE TT CODE TO ALLOW DISTRICT LEGISLATURES AND MUNICIPAL GOVERNMENTS TO LEVY INCOME TAXES SIMILAR TO THE TERRITORY-WIDE INCOME TAX NOW IN EFFECT. (HB 248)

IN THE SENATE, TWO BILLS AND A JOINT RESOLUTION WERE OFFERED. ONE MEASURE WOULD ESTABLISH A MINIMUM WAGE FOR EMPLOYEES OF THE TRUST TERRITORY GOVERNMENT UNDER THE PUBLIC SERVICE SYSTEM. (SB 352) THE BILL PROVIDES FOR A MINIMUM WAGE OF EIGHTY CENTS PER HOUR TO BE EFFECTIVE JULY 1, 1975,

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AND FOR THIS TO BE INCREASED TO ONE DOLLAR PER HOUR ON JULY 1, 1976. THE BILL WAS INTRODUCED BY MARIANAS SENATOR OLYMPIO T. BORJA. THE OTHER BILL, INTRODUCED BY SENATOR WILFRED KENDALL OF THE MARSHALLS, CALLS FOR AN APPROPRIATION OF THIRTY-EIGHT THOUSAND DOLLARS TO PAY FOR SALARIES OF HEALTH

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SERVICES PERSONNEL IN THE MARSHALLS DISTRICT WHO ARE OTHERWISE SCHEDULED TO BE TERMINATED IN THE NEXT TWO YEARS BECAUSE OF BUDGET CONSTRAINTS. (SB 353)

THE JOINT RESOLUTION IN THE SENATE, INTRODUCED BY SENATOR PANGELINAN, REQUESTS THE U.S. GOVERNMENT TO CONTINUE FUNDING THE MICRONESIAN LEGAL SERVICES CORPORATION UNTIL THE TERMINATION OF THE U.S. TRUSTEESHIP AGREEMENT. (SJR 124)

BOTH HOUSES ADJOURNED AFTER THURSDAY'S SHORT MEETINGS TO CONVENE AGAIN FRIDAY (JULY 26) AT 10 A.M.

(COURT DISMISSES CONTINENTAL CASE)

SAIPAN, JULY 25, (MNS)--THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT HAS DISMISSED A SUIT BROUGHT BY TEN SAIPAN RESIDENTS AGAINST TRUST TERRITORY HIGH COMMISSIONER EDWARD E. JOHNSTON AND CONTINENTAL AIRLINES AND RETURNED IT TO THE TT HIGH COURT.

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THE TEN HAVE BEEN ATTEMPTING TO STOP CONTINENTAL FROM COMPLETING ITS SAIPAN HOTEL ADJACENT TO MICRO BEACH. THE PLAINTIFFS, WHO INCLUDE HERMAN Q. GUERRERO, LINO M. OLOPAI, AND DAVID T. ALDAN, HAD ORIGINALLY TAKEN THEIR CASE TO THE TRUST TERRITORY HIGH COURT IN 1972. THEY ARE BEING REPRESENTED BY THE MICRONESIAN LEGAL SERVICES.

EDWARD KING, DEPUTY DIRECTOR OF LEGAL SERVICES, SAID, "WE HOPE TO RENEW LEGAL ACTION IN THE HIGH COURT BY THE END OF THE WEEK."

THE HIGH COURT RULED IN 1972 THAT TRUST TERRITORY OFFICIALS WERE NOT SUBJECT TO THE PROVISIONS OF THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) AS THE PLAINTIFFS HAD CONTENDED.

THE NEPA SAYS THAT THE FEDERAL GOVERNMENT MUST ISSUE AN ENVIRONMENTAL AND CULTURAL IMPACT STATEMENT BEFORE ANY MAJOR CONSTRUCTION ACTIVITY BEGINS ON PUBLIC LAND. THE CONTINENTAL HOTEL IS ON PUBLIC LAND, AND HIGH COMMISSIONER JOHNSTON DID NOT ASK FOR AN IMPACT STUDY BEFORE HE SIGNED THE LEASE ALLOWING CONTINENTAL TO BEGIN CONSTRUCTION.

THE PLAINTIFFS TOOK THEIR CASE TO THE UNITED STATES DISTRICT COURT IN HAWAII. THE DISTRICT COURT DISMISSED THE

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CASE ON THE GROUNDS THAT THE TRUST TERRITORY GOVERNMENT IS NOT A U.S. FEDERAL AGENCY AND UPHELD THE TT HIGH COURT'S RULING THAT NEPA REGULATIONS THEREFORE DID NOT APPLY TO TRUST TERRITORY OFFICIALS.

WHEN IT RULED, THE DISTRICT COURT SAID THAT THE U.S. TRUSTEESHIP AGREEMENT, THROUGH WHICH THE UNITED STATES ADMINISTERS MICRONESIA, CANNOT BE USED BY MICRONESIANS TO TAKE EITHER THE TT GOVERNMENT OR THE HIGH COMMISSIONER TO COURT FOR ALLEGED VIOLATIONS OF THAT AGREEMENT.

THE APPEALS COURT, HOWEVER, OVERTURNED THAT RULING AND STATED, "THE TRUSTEESHIP AGREEMENT CAN BE A SOURCE OF RIGHTS ENFORCEABLE BY AN INDIVIDUAL LITIGANT IN A DOMESTIC COURT OF LAW."

THIS MAKES THE TRUSTEESHIP AGREEMENT, IN EFFECT, THE MICRONESIAN CONSTITUTION. AS A RESULT OF THIS RULING MICRONESIANS CAN NOW TAKE THE TRUST TERRITORY GOVERNMENT TO A TT COURT FOR ALLEGED VIOLATIONS OF THE TRUSTEESHIP AGREEMENT.

*// THE APPEALS COURT ALSO HELD THAT A MICRONESIAN CITIZEN MAY, IF ALL LEGAL CHANNELS WITHIN THE TRUST TERRITORY HAVE BEEN EXHAUSTED, TAKE HIS CASE TO A UNITED STATES FEDERAL COURT.

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THIS LEGAL AVENUE, HOWEVER, CAN BE USED ONLY IN CASES INVOLVING VIOLATIONS OF THE TRUSTEESHIP AGREEMENT.

THE TRUST TERRITORY ADMINISTRATION HAD HELD THAT A MICRONESIAN COULD ONLY TAKE CASE INVOLVING VIOLATIONS OF THE TRUSTEESHIP AGREEMENT TO THE UN SECURITY COUNCIL.

THE APPEALS COURT, HOWEVER, FOUND THAT, "THE ALTERNATIVE FORUM, THE SECURITY COUNCIL, WOULD PRESENT TO THE PLAINTIFF OBSTACLES AS TO MAKE THEIR RIGHTS VIRTUALLY UNENFORCEABLE."

IN RETURNING THE CASE TO THE TT HIGH COURT, WHICH HAS HAD TECHNICAL JURISDICTION OVER THE MATTER WHILE AWAITING A FEDERAL COURT RULING, THE APPEALS COURT SAID, "SURELY, THE JUDICIAL BRANCH OF THE TRUST TERRITORY GOVERNMENT HAS THE AUTHORITY TO DETERMINE WHETHER OR NOT THE ACTION OF ITS CHIEF EXECUTIVE COMPLIES WITH A PROVISION IN ITS OWN CONSTITUTIONAL DOCUMENT."

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THE APPEALS COURT RULING ALSO RECOGNIZED THE POSSIBILITY THAT THE TRUST TERRITORY HIGH COURT MAY FIND THAT IT DOES NOT HAVE JURISDICTION TO HEAR THE CASE.

IF THAT OCCURS, THE APPEALS COURT SAID, THE SAIPANESE PLAINTIFFS CAN TAKE THEIR CASE TO THE HAWAII DISTRICT COURT

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