

CN 7929

TBF
File

251438Z SEP 79

TELEGRAM

INDICATE
 COLLECT
 CHARGE TO

FROM AMEMBASSY BUENOS AIRES	CLASSIFICATION CONFIDENTIAL	
<p>12065: E.O. 12812 TAGS: SUBJECT: ACTION:</p> <p>AMB DCM POL 3 POL/R ECOM ICA DAO RF CHRON</p>	<p>GDS 9/25/85 (FRIEDMAN, TOWNSEND B.) OR-P SHUM AR (U) RELEASE AND PROTECTION FOR TIMERMAN</p> <p>SECSTATE WASHDC IMMEDIATE</p> <p>CONFIDENTIAL BUENOS AIRES <u>7929</u></p> <p>REF: STATE 249264</p> <p>1. (C - ENTIRE TEXT.)</p> <p>2. WE HAVE NOW HAD THE OPPORTUNITY TO MEET WITH TIMERMAN'S LAWYER, GENARIO CARRIO WHO SPOKE TO US IN CONFIDENCE.</p> <p>3. THOUGH HE HAS NOT SEEN THE SUPREME COURT DECISION ON TIMERMAN, CARRIO FEELS PRESS REPORTS ABOUT IT ARE PROBABLY CORRECT, AT LEAST SO FAR AS ITS MAJOR THRUST-- THE JUNTA HAS BEEN TOLD BY THE COURT THAT THE CONTINUED DETENTION OF TIMERMAN IS ILLEGAL. MOREOVER, CARRIO BELIEVES THAT IN SHORT ORDER--PROBABLY THIS WEEK-- TIMERMAN WILL PROBABLY BE STRIPPED OF HIS CITIZENSHIP AND EXPELLED FROM THE COUNTRY BY THE JUNTA WHICH WILL TAKE THESE STEPS UNDER THE POWERS IT CONFERRED ON ITSELF WITH THE INSTITUTIONAL ACT OF 1976.</p>	

DRAFTED BY
POL:TBRIEDMAN:JK

DRAFTING DATE
9/25/79

TEL EXT
277

CONTENTS AND CLASSIFICATION APPROVED BY
POLCOUNS:WHHALLMAN

CLEARANCE

DCM:MCHAPLIN

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4. CARRIO STATED TO US THAT HIS PRESENTATION TO
IN TIMERMAN'S BEHALF
THE COURT/HAD TWO THRUSTS:

A) THAT TIMERMAN'S DETENTION UNDER THE INSTITUTIONAL
ACT IS ILLEGAL; AND

B) THAT THE INSTITUTIONAL ACT IN ITSELF IS UNCONSTITI-
TUTIONAL. / HE BELIEVES THAT IN ORDERING TIMERMAN
FREED THE COURT PROBABLY DEALT WITH THE FIRST OF
THESE ARGUMENTS, BECAUSE TO DECLARE THE INSTITUTIONAL
ACT ITSELF UNCONSTITUTIONAL WOULD OPEN UP A PANDORA'S
BOX FOR THE JUNTA, AFFECTING AS IT WOULD THE MANY
PEOPLE BEING HELD OR WHO HAVE BEEN PUNISHED UNDER
THE INSTITUTIONAL ACT.

6. THE BASIC ARGUMENT HE USED TO ATTACK THE LEGALITY,
AS OPPOSED TO ITS CONSTITUTIONALITY, OF TIMERMAN'S
DETENTION WAS NARROWLY AIMED AT PARAGRAPH (E) OF
ARTICLE TWO OF THE ACT WHICH STATES THAT AMONG THE
MEASURES THAT CAN BE APPLIED TO THOSE BEING PUNISHED
UNDER THE BILL IS "DETENTION IN A PLACE DETERMINED
BY THE EXECUTIVE POWER FOR SO LONG AS THE INDIVIDUAL
REMAINS AT THE DISPOSITION OF THE EXECUTIVE POWER...."
THE ARGUMENT OF THE DEFENSE WAS THAT SINCE TIMERMAN'S
DETENTION UNDER THE EXECUTIVE POWER HAS BEEN RULED
ILLEGAL (BY THE COURT LAST YEAR) AND HE IS NO LONGER
AT THE DISPOSITION OF THE EXECUTIVE, HE CAN NO LONGER
BE HELD UNDER THE INSTITUTIONAL ACT.

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7. OTHER THAN RELEASING TIMERMAN, THE JUNTA HAS TWO OTHER OPTIONS: ONE, TO IGNORE THE COURT ORDER; TWO, TO PLACE HIM BACK UNDER PEN. CARRIO ASSERTED THAT NEITHER OF THESE OPTIONS WAS LIKELY--THE FIRST "BECAUSE IT WOULD BE ILLEGAL" AND THE SECOND BECAUSE "IT WOULD MAKE THEM LOOK RIDICULOUS TO THE WORLD."

CASTRO



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