

TELEGRAM

Foreign Service of the
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Recd: July 31, 1963

FROM: RIO DE JANEIRO

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Arrest of journalist Helio Fernandes continues to be potentially explosive issue. As suggested reftel, War Minister Jair left bearing brunt of wide spread criticism, although Justice Minister Jurema reportedly convinced Goulart that Jair acted correctly and within law. Some initial accounts stated that arrest action taken on initiative Crisanto de Miranda Figueiredo, with higher authorities notified after the fact.

Fernandes originally charged with violation national security law, Article 29 of which proscribes "obtaining, transmitting or revealing for purposes political or military espionage any documents which should remain secret". "Espionage" term is open to differing interpretations, Jurema reportedly backing Jairs handling of case based on Art. 42 of law which states military Justice competent these cases "when victim is military authority."

Fernandes held initially incommunicado following transfer to Rio, although his lawyers after some delay permitted to visit him. His privilege interrupted temporarily July 27, but ruling Supreme Court Justice Ribeiro da Costa directed that right be reestablished. Fernandes wife permitted to visit him July 29.

Justice Ribeiro da Costa expects to rule on "habeas corpus" request July 31, directing that Fernandes appear at hearing. War Minister Jair, according July 30 press, "stated that he was author of arrest order, complying with request originated by General Crisanto Miranda de Figueiredo." Press also states that Jair forwarded information to Justice Ribeiro da Costa which says Fernandes "preventative imprisonment" and "military inquiry" being carried out under terms military penal code of military justice. Legal reasoning not clear at this time; however, backdown on issue violation national security law can only further embarrass War Minister.

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Rio Tel 16, July 30, 1963
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Press hints that Goulart may find it difficult to support Jair as War Minister if his authority diminished by granting "habeas corpus" request. There have been rumours that Goulart somewhat dissatisfied with Jairs recent action. If this the case, issue could provide way out, with Jair being sacrificed as scapegoat. In this connection, it interesting to assess current role of Marshal Osvaldo. Jornal do Commercio of July 26 terms Osvaldo "de facto War Minister" stating that Justice Minister Jeremias consulted him first on Fernandes case. Crisanto de Figueiredos handling of case (in light his Osvaldo connections) may also be significant.

Thus is possible there may be some justification for theory (currently being aired by opposition) that leftist elements would like to force removal of Jair with view of leaving Goulart with no other alternative (or perhaps clearing way for) appointment Osvaldo as War Minister. Interesting in this connection that some leftist elements, such as Sergio Magalhães, as well as center and right, have been critical of Jairs handling of case. Jornal do Brasil account of July 27 dinner honoring Osvaldo and newly promoted Generals (reported separately) quotes alleged Goulart statement that Osvaldo "may be summoned at any moment for active service." Osvaldo reportedly stated that he "will not go ~~to Rio~~ (as he had previously planned) ~~to~~ to Rio Grande do Sul."

Whether or not issue part of plot aimed at Jair removal, following comments seem relevant: 1) Jairs authority and prestige somewhat tarnished, mostly due to lack of firm presidential backing; 2) Jair may become what disillusioned and feel that he was "used"; 3) Jair image as "legalist" would suffer should case be resolved in manner which cost him in role as violator basic civil rights; 4) enmity of newspapermen and press, while quite possibly of temporary duration, will make Jairs task doubly difficult.

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