

YOUNG SOCIALIST

EDITORIALS ON: The Coup-conspiracy; The character of the Coup; The causes of the Coup-conspiracy; Necessary preventive and defensive steps; The long term need; The impact of January 27th; The pre-Coup crisis continues; The Criminal Law (Special Provisions) Act; Salute to the strikers; Further militarisation threats; Algeria; Coups all round; The Indian Elections; British Guiana.

The Socio-Economic Foundations of the Early Anuradhapura Kingdom

by LAKSHMAN S. PERERA

The Politics of a Coup d'Etat

by EDMUND SAMRAKKODY

The Criminal Law (Special Provisions) Act

by R. K. W. GUNASEKERA

The Decisive hour of the Algerian Revolution

by MICHAEL PABLO



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YOUNG SOCIALIST

Number 5

April - June 1962

Editorial Notes

THE COUP - CONSPIRACY

THE notes written on 20th January 1962 for the last issue of "*Young Socialist*" took as their point of departure "the continued eruption of the class struggle". This number's notes necessarily take off from "the abortive coup d'etat of 27th January 1962."

With the events of 27th January 1962 the class struggle in Ceylon took a new turn or, if we may revert to the metaphor of the notes in our last issue, erupted from a class direction different from the class direction of the eruption which had been witnessed since November 1961. In the very setting of the great working class strikes described in our last issue and in the very context of advanced preparations by the trade union movement to broaden out the strike struggles and to raise the strike movement itself on to a new and higher plane, a military-police group of direct-actionist conspirators was discovered by Government on the very eve of the intended execution of a plan to seize power. As is now universally acknowledged, the planned stroke was from the Right and reaction; for, if on the one hand "the whole purpose of the coup was undoubtedly to overthrow the Government", it was on the other hand equally "an operation... for the arrest of 'Leftists', 'trouble-makers' and 'disruptive elements'". (We quote from the official "Statement on The Abortive Coup d'etat of 27th January 1962.") "The arrest of Leftists" was admittedly integral to the coup plan in every version of it.

"The process we are witnessing is a kind of cold militarisation of the process and institutions of rule and administration in our country..... It is.... a process of creeping dictatorship which is both more subtle, and also more dangerous because it does not evoke the same sharpness of resistance, than either straight military repression or a military coup d'etat. Governments which rely on the military to the extent of resting upon the use of military force for every day purposes soon fall into the position of being the prisoners of the very forces which they thought to use. And since this resort to the military is to protect themselves against the popular masses, when the crisis in their own relations with the military comes they cannot resort to the masses for defence against the military.

* * *

There are three co-existent and merging crises in the country today. These are the financial crisis of Government, the general crisis of the economy and the consequent political crisis. Each of these is at a different stage of development. The most advanced is the financial crisis of Government. The crisis of the economy is less advanced but can be more dangerous, if it lasts, than the financial crisis. **The supervening political crisis is only in its very first forms but has always the capacity of maturing speedily and exploding suddenly before the full maturing of the economic crisis.**"

An extract from the editorial notes of the Young Socialist No. 4—pp 178-179 dated 20th January 1962.

The class meaning and political object of "the abortive coup" are clear and definable; but its mechanics and precise processes are not. For instance, who the Ministers to be arrested were and whether even the Prime Minister herself was to be arrested is unclear from the "Statement". The Governor-General of the day, now "gone West!" was apparently assigned a key role in their plan by the conspirators; but the "Statement" does not accuse Sir Oliver Goonetilleke of complicity and the disclosures in the "Statement" do not suffice to reveal the precise role that the conspirators expected him to play. Even the question of who led whom is unclear; for, on the one hand "Colonel de Saram decided to 'take the rap' for the whole affair", while on the other hand "Mr. Sydney de Zoysa (an ex-Deputy

Inspector General of Police) told some of the officers to whom he assigned the tasks in connection with the coup, that he, Mr. C. C. Dissanayake (D.I.G.), Mr. Royce de Mel (ex-Commander, Royal Ceylon Navy) and a number of armed officers had planned the coup to overthrow the Government and to take over with the Governor-General as Head." Mr. de Zoysa's plan "contemplated the forcible dissolution of Parliament, and the suspension of the Constitution 'by getting the Governor-General to sign on the dotted line'". Colonel de Saram's plan, as stated to three officers on the night of January 26th, contemplated that a military dictatorship would have to be set up to be replaced soon afterwards by a Government of 'selected people'. During the investigation he stated that his plan was "to 'coerce' the Governor-General to take over the Government". Colonel de Saram "admitted also that he had no clear plan as to what he should do if the Governor-General did not act as he had hoped".

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THE CHARACTER OF THE COUP

From the point of view of the class meaning and political object of the coup-conspiracy, the role intended for Governor-General Sir Oliver Goonetilleke by the conspirators is as significant as the fact that "the arrest of Leftists" was an integral part of their plan. If there was one figure above all whom the forces of and associated with imperialism in Ceylon trusted, that figure was Sir Oliver Goonetilleke. The imperialists believed that he was "reliable", and both the opponents and the supporters of the forces of imperialism certainly believed that the imperialists were correct in their belief. A coup plan that assigned to him the continued role of Constitutional Head of the State was therefore really contemplating him as the effective link with the forces of imperialism.

Although Ceylon is independent, the forces of imperialism continue to be based within Ceylon itself. Today this fact finds clearest illustration in the position held in the economy by the foreign companies operating in Ceylon and owning some of the best wealth-producing property in the country. These forces constitute not only a vital sector of economic power in Ceylon but also an important source of political

and social influence. Up to date, no Government of independent Ceylon has dared to clash with these forces directly. On the contrary, every Government has sought their support through suitable adaptation, especially of economic policy. The forces of imperialism continue to be powerful within Ceylon; and of course the forces of imperialism are forces of reaction.

The social background of the coup arrestees is also significant. Broadly the arrestees belong to the English-educated and indeed "Anglicised" or Westernised section of the population and fall more or less into the upper middle class. The predominant majority of them are also Christians, mostly of the Roman Catholic persuasion. In other words, they belong to a stratum of the population which feels itself to be particularly afflicted in the conditions that have prevailed since the great anti-U.N.P. electoral overturn of 1956 and looks back nostalgically to the "stability" of the D. S. Senanayake regime. (The essential content of Senanayake "stability" was of course the continuation of the fundamentals of the colonialist and semi-colonialist social, economic and administrative set-up even after the attainment of independence).

Thus, in relation to the old U.N.P. regime and the post-1956 S.L.F.P. regime, the coup-conspiracy was "restorationist" in character—but with a vital difference: the coup-conspirators did not contemplate the continuation of the Parliamentary set-up sponsored by the Senanayake-Soulbury partnership as the political frame-work within which the new foreign imperialist-indigenous bourgeois partnership in Ceylon was to operate. The coup-conspirators had no faith in democracy—not because they were military men or policemen, but because, as politicians, they saw precisely in "democracy" the source of political and social instability. Parliamentary democracy and "stability" (that is, capitalist stability) could not in their view go together in the conditions and situation prevailing in Ceylon. In the interests of capitalist "stability", therefore, they set out to destroy democracy.

It was of course also in the interests of capitalist "stability" that the coup plan

and process included as an integral part "the arrest of Leftists". From the point of view of the conspirators and of the reactionary forces they reflected, the country's curse was "Leftism". Nationalisation, the welfare state, socialism, Communism, Swabasha and all the rest of what they regarded as contemporary ills were lumped together in their minds as "Leftism". Moreover, it was this "Left" which according to them was pushing the Government along lines which undermined "stability". It was this Left which was the source of strikes and disruption. And let it be added, it was this Left which alone had the organisation and the command of the masses to counter a coup and to resist a coup regime. Therefore, the Left had to go no less and even more than the Government that they regarded as caving in under Leftist pressure. Capitalist stability demanded the destruction of the Left and of the working class organisations, totally and unconditionally.

We thus have a coup-conspiracy aimed at the replacement of Parliamentary democracy in Ceylon with a military-police dictatorship which was apparently to stabilise itself in power by systematically decimating the Left and destroying the working class organisations so as to stifle effective opposition, and by winning foreign imperialist and local big bourgeois approval and support. The further programme of the coup-conspirators is unknown but can readily be guessed. Apart from the destruction of bourgeois Parliamentary democracy, they would undoubtedly have aimed at the "free and full functioning of capitalist enterprise" in Ceylon. In other words they would have made themselves the political agency of foreign and local big Capital.

It is clear from the above that the objects of the coup were reactionary through and through; and it was clear from the atmosphere that prevailed in the days immediately following January 27th that all the forces of reaction were in sympathy with the conspirators. Independent of the question whether the conspirators had or had not successfully established links with imperialist and big bourgeois circles beforehand, there can be no doubt that the forces of reaction would have rallied to the support of the new military-police regime in case the coup had been successfully carried out.

CAUSES OF THE COUP CONSPIRACY

It is clear that the basic cause of the coup attempt was Reaction's conviction that capitalism in Ceylon could not guarantee to itself a secure profitability of functioning in conditions of Parliamentary democracy. This necessarily implied on the one hand that the capitalist class in Ceylon and its imperialist backers could not any longer count upon the normal processes of Parliamentary democracy to bring to power their accredited political party or constitutional electoral organisation, the U.N.P. It also necessarily implied on the other hand that a political party of the bourgeoisie seeking to reach and stay in power by the normal Parliamentary processes would have to pay in social and economic concessions to the masses a price which was beyond the power of the capitalist class to pay any longer. In other words, the frame-work of Parliamentary democracy had become too expensive for capitalism in Ceylon.

In fact, right from the Senanayake days the capitalist class had found it necessary to pay the masses more and more heavily to secure its political power parliamentarily. Indeed, the capitalist parties of every variety found themselves compelled to resort to open political bribery to maintain themselves in power or to reach power. The sharpest illustrations are the heavily subsidised price of rationed rice and the heavy subsidy to paddy cultivators under the guaranteed purchase scheme. Be it the U.N.P. or the S.L.F.P., they have all paid the price to the masses in increasing measure. They have paid from current income or from accumulated reserves until some down-turn in the economic situation or rather in the international price situation for Ceylon capitalism's principal products got in their way.

The last time such a down-turn got in their way (1952-53), the capitalist class tried to shift the burden on to the masses through the processes of Parliamentary democracy—and failed signally. Their accredited political party became the casualty of mass wrath. The M.E.P. and S.L.F.P. regimes which followed and which themselves functioned wholly within capitalism's frame-work sought to maintain

themselves basically by living on the accumulated fat of Ceylon capitalism; but the depletion of accumulated reserves and a new down-turn of prices for Ceylon's products in the international market brought capitalism up against the fundamental question of maintaining itself as a going concern in Ceylon. This time the capitalist class has recognised the need to jettison democracy if capitalism in Ceylon is to survive.

Let it be stressed that this recognition is not confined to the orthodox Right. There has been for years a steady trend under the conditions of capitalism in Ceylon for Governments to resort more and more to extraordinary powers against the masses. Parliamentary democracy in Ceylon began by arming itself with the Public Security Act which enabled dictatorial rule through police and military methods in the setting-up of a "declared" "Emergency". These powers were taken in the face of mass strikes. They were next used by the Dudley Senanayake Government in the face of a hartal. Mr. S. W. R. D. Bandaranaike resorted to these powers and, by legislative amendment of the Public Security Act, increased these powers in the setting of the racial riots of 1958. Mr. Dahanayake resorted to them in the aftermath of Mr. S. W. R. D. Bandaranaike's assassination. Finally, the Sirimavo Bandaranaike Government resorted to them in the setting of the satyagraha movement in April 1961, continued them in face of the mass strikes of December 1961 and the following months and still maintains them in the post-coup situation. Although some relaxation of the regulations promulgated under the Emergency regime has been announced, the Emergency itself continues to be kept in being. This is not only the longest continuous Emergency regime we have known (already one full year), but also helps to add up to the fact that in the 47 months from May 1958—April 1962, some 27 months have seen Emergency regime conditions whose legal framework has been made increasingly severe.

Thus the trend towards a dictatorial regime has been a growing trend in Ceylon, demonstrating that even the parties of capital which profess to be devotees of Parliamentary democracy recognise in

practice the fact that capitalism in Ceylon cannot function effectively within the framework of a "normal" Parliamentary regime. Indeed, it may be said that the coup-conspirators only sought to carry the growing dictatorial trend in Ceylon politics to its logical conclusion. An Emergency regime deprives the masses of their democratic rights and civil liberties temporarily and as an extraordinary condition. A prolonged Emergency not only prolongs the deprivation but tends also to habituate both rulers and ruled to the deprivation. A straight dictatorship would make the deprivation permanent and normal.

Now, ever since May 1958 the Lanka Sama Samaja Party in particular has insistently warned the M.E.P. and S.L.F.P. Governments that the prolonged Emergency regimes both created the opportunity for a military police coup d'etat and also provided a standing temptation to ambitious military officers and policemen to attempt a coup d'etat. This flowed naturally from the position inescapably accorded to the military and police in the ordinary processes of administration under Emergency conditions. The contemporary S.L.F.P. Government and the M.E.P. Government before it, by their failure to heed these warnings or to understand this fact, bear a heavy responsibility for creating the conditions which created the opportunity for a conspiratorial coup d'etat by military and police officerdom.

From the nature of the reasons that gave rise to the coup-conspiracy, quite apart from the question whether the coup organisation itself has been fully discovered and effectively smashed, there is clearly good reason to anticipate further coup efforts. Not only does the fundamental inability of contemporary capitalism in Ceylon to pay the price of Parliamentary democracy to the progress-seeking masses continue but also the need for capitalism in Ceylon to withdraw even some of the concessions already made to the masses continues to become more pressing. The S.L.F.P. Government, that inefficient manager of Ceylon capitalism's affairs, has already declared that the need to find the urgent finance for economic development drives it to a stand

still in the field of further development of the existing social services. To judge by the financial and economic signs and pointers, the next period will require very much more than a mere stand-still in the wage, income and social services fields. Whole sections of Big Capital especially will surely feel that a Government of great resolution and determination which is wholly and acknowledgedly their own and which is not dependent on mass goodwill and electoral support is essential not only to drive forward the necessary measures against the masses but even to defend capitalism's very existence from the insurgent masses. Consequently a bigger and more powerfully backed coup-effort remains possible.

NECESSARY PREVENTIVE AND DEFENSIVE STEPS

What are the necessary preparations against the possibility of another such adventure by the forces of reaction? In a cursory conclusion to its "Statement", Government itself has declared that "the opportunity must not, however, be lost to effect complete and radical reforms in the Police Service, in the Armed Services, and indeed in the Public Services, *which this inquiry had revealed to be essential to the nation.*" In other words, "complete and radical reforms" in the three services, all of which were involved in the coup-conspiracy, is the fundamental first step required to effectively counter the coup forces. However, despite some shifts of personnel, there are no signs yet of such "complete and radical reforms in the Police Service, in the Armed Services, and indeed in the Public Services." On the contrary Government already appears to be comforting itself in the thought that the Services remained and remain substantially loyal. Declares the "Statement"—"It is a comforting thought that most of the regular units of the Army were unaffected by the spirit of disloyalty that manifested itself among certain officers who have been involved. In the Police too it is fortunate that a large number of loyal officers remain who are capable of giving valuable service to the Government at this critical time. It is particularly satisfying that the majority of the rank and file both in the army and in the police remain completely loyal to the

Government and to their country." Accordingly, Government appears to be relying even on the Services as they are for protection against coup-conspiracies of the future.

This would be political blundering near unto simple madness. The armed forces of the State, especially in their higher echelons are intimately linked with the forces of capital and come under their constant and reactionary pressure. Such also is the situation in the upper reaches of the police and civil administrative services. All of recent Asian, African and South American experience, right down to the very recent experience of Burma, shows that it is precisely on these circles that Capital relies for the installation of dictatorial regimes. No amount of weeding of the Services will do where especially the Services themselves are an inheritance from colonialism. They must be radically and rapidly re-organised. Pending long term measures of "complete and radical reform" of the Services, what the situation requires immediately is the insulation and bringing under surveillance of the Regular Armed Forces, the dissolution of the Special Armed Forces and the bringing into being of suitable new means of protection and defence. This can be done only by reliance on the masses and the mobilisation and preparation of them for effective resistance. It is surely odd that a self claimed "People's Government" has to be called upon to rely on the people; nevertheless, that has become the need of the hour. In any event, it is not just the Government that was and will be in danger but first of all, principally and essentially the masses. One hundred and sixty five thousand rounds of ammunition were not required by the conspirators of January 27th just to shoot down a couple of Ministers. They were required by the conspirators to beat down mass resistance. It is therefore the mass that most require means of prevention, protection and defence; and this can be achieved only by a carefully planned set of correlated measures such as the following. Form People's Vigilance Committees to keep watch on police and military centres. Confine the regular army to their barracks. Disperse the Volunteer Regiments and send the Volunteers to their homes. Disband and dissolve the Home

Guards and the Special Police. Arm the people by forming an armed People's Militia. These are the immediate ways to disarm reaction and to protect the people.

There are other measures which are immediately necessary. After all, if the people are to be ready, the people must know and the people must be free to act. This means that they must be free to speak, write and inform each other; free to meet, to demonstrate and to mobilise; free to function in and through their organisations and to prepare to bring them into instant action; in short, free to act as free men. The need of the hour is to free the people do defend themselves.

THE LONG-TERM NEED

In the long run, of course, the prevention of these situations depends upon political and social policy. Whether it be in the name of "Socialism" or in the name of "Welfarism" you cannot milk the capitalist class for much or for long beyond a certain point. Any such effort, in a large way or for a prolonged period can lead only to a slowing down of the functioning of the capitalist economy itself and even to its simple break-down. This of course is not Socialism's process, for, socialism connotes not the simple break-down of capitalism but the conscious replacement of the private property system with a public property system under suitable forms of public management in the context of a political structure which sustains and expresses the rule of the working class leading the popular masses. Further, the capitalist class is not some complacent cow which is willing to be milked. Especially when it hurts to be milked, the capitalist class fights back firmly and does not hesitate to carry its fight to logical conclusions. What is more, the capitalist class is never willing to leave the management of capitalism long to inefficient managers. They will set about replacing inefficient managers without undue nicety concerning the methods used.

What we have had in the six years since 1956 is the inefficient management of capitalism by an M.E.P. Government and an S.L.F.P. Government each seeking to milk Ceylon capitalism beyond its capacity in the name of a socialism which neither Govern-

ment really sought to pursue. In fact we have only had "Welfarism" passed off as Socialism. It would appear that the inevitable nemesis is overtaking the welfarist effort in conditions of an insufficient rate of capitalist expansion. The capitalist class or at least certain forces within the capitalist class have decided to fight back without regard to the method. Only the political and social policies of genuine socialism can protect the masses permanently not only from outright coup-efforts but also against the steadily strengthening trend towards a dictatorial regime which in today's conditions is the only possible political frame-work for capitalism's continued functioning in Ceylon.

THE IMPACT OF JANUARY 27TH

The impact of the January 27th events was manifold. Immediately, it had the consequence of interrupting the flow of the strike struggles. The Harbour strikers, who had fought firmly for 56 days, returned to work abruptly; the plans of the trade union movement to broaden and deepen the strike struggle had to be abandoned in the prevailing atmosphere; and although the Bank Strike continued, it was well realized that it would have to rely exclusively on its own strength thereafter. It was as if the class-peace of the pre-December, 1961 period again descended on the land and, if we may change the metaphor, the grim ninety-days struggle of the heroic Bank Employees (the longest strike in our history) stood out thereafter like a lone peak in the general scene.

The January 27th events undoubtedly evoked mass sympathy for the Government and probably arrested the deterioration of its mass position. Certainly they brought to the Government a direct accession of strength in Parliament. The M.E.P. capitulated to the Government, and joined the C.P. (whose capitulation was shown in the last Budget) in a line up with the Government that made both parties nothing more than a tail of the Government. Their support of the Government was practically unconditional; unconditional support, let it be said, on all fronts and not merely the coup front.

With the discovery of the coup-conspiracy, the Right suffered a heavy set-back among the masses. Included in this set-back was

the official and orthodox party of the Right, the U.N.P., for quite apart from Government's own official smear effort in the "Statement", the popular masses identify all varieties of Rightism with the U.N.P. The unpopularity of the coup and the resentment generated by it is therefore directed not only against the coup-conspirators as such but also against the U.N.P. broadly. The orthodox Right has ebbed.

However, the situation has also been utilised, by the S.L.F.P. in particular, against the revolutionary Left. The S.L.F.P. Government and its supporters have insisted that any effort by the working class to conduct struggles on its own issues in the post-coup situation would be and is indefensible. Together with their C.P. and M.E.P. allies, they certainly claim that for the working class to press forward with direct struggles for its own demands in the present situation would be to assist the forces of reaction. In sum, what the S.L.F.P. Government and supporters demand in the post-coup situation is not a co-operating Left but a capitulatory Left; not a working class co-operating in fighting the coup forces but a prostrate working class which will leave the Government without pre-occupation, anxiety or trouble on the trade union front. And this indeed is what the C.P. and M.E.P. seek, however ineffectively, to guarantee to the Government.

Alone among the Left parties, the L.S.S.P. has come forward with a policy based on working class independence. The L.S.S.P. has offered to give to the Government every support in the carrying out of measures truly directed against the coup-forces; but, at the same time, the L.S.S.P. has refused to leave the leadership and the conduct of the struggle against the coup-forces exclusively to the Government using the state-machinery and has insisted on seeking to base the struggle on the direct activity of the organised working class and the broad masses. Further, the L.S.S.P., has determinedly resisted (as in the case of certain dangerous clauses of the "Coup Bill") every effort of the Government to utilise the post coup situation as a cover for arming itself with repressive powers which could be used against the working class and mass movement. It is surely meaningless to permit a cold coup by Government itself

against the Left in the name of helping the Government against a hot coup from the Right. Nevertheless, that is what the C.P. and M.E.P. have done.

The political and attendant alignments of the period centreing around January 5th, 1962, (the day of the General Strike conducted by the united trade union movement) have thus been altered very substantially; altered to the disadvantage of the working class and mass movement. Trade union unity for militant struggle, achieved for the January 5th General Strike and precariously maintained thereafter (the C.T.U.O. & P.S.W. T.U.F., distinctly hung back when the proposal for a more sustained General Strike was mooted), was disrupted by the C.P. led C.T.U.F., and the M.E.P., led Ceylon Centre of Trade Unions when they sent their harbour men back to work immediately after the coup without even waiting to consult and co-ordinate action with the United Port Workers Union (C.F. of L—C.C.T.U.O.). The unity previously achieved was altogether destroyed in due course by the simple device adopted by the C.P.-led and M.E.P.-led unions of not helping to keep alive even the loose organs of unity which had been created in association with the C.C.T.U.O.—P.S.L. There is not even consultation among these trade unions centres today: and as for the political parties which supported this trade union unity, they are, as pointed out above, on differing and even conflicting lines of policy and activity. Only new changes in the situation can bring unity anew.

THE PRE-COUP CRISIS CONTINUES

However, if there is one certainty in the present situation it is that new changes will come and come quickly, whether or not these changes will effect either Left unity or militant trade union unity. Despite every adjustment of official figures, the Government's financial situation remains acute and continues to deteriorate. A heavily unbalanced Budget is in prospect once more—with fewer resources available within the capitalist system to help balance it again even at last year's level of real expenditure. (Apart from the "usual" under-expenditure, a 10 per cent economy cut was imposed on all departments a few months back). The price situation for rubber is depressed and

the economy itself, despite a certain overall expansion of production, lags behind the needs of the rapidly expanding population. Under a Government that insistently refuses to break out of the capitalist framework the definite prospect is that new burdens will be imposed on the masses.

The task of the day therefore is to prepare the masses, and first of all the organised working class, to resist fresh impositions. And history may yet show that it is on the promptitude with which the masses go into active resistance against new impositions that will depend the question whether the reactionary forces themselves will be enabled to take advantage of the climate of mass dissatisfaction to engage in fresh adventure. The Right has known too well on too many occasions to come forward in the name of the masses against the Government of the day and the masses themselves! Only timely mass initiative can head off such a development.

THE CRIMINAL LAW (SPECIAL PROVISIONS) ACT

The Criminal Law (Special Provisions) Act has attracted international attention no less than the Capital Punishment (Special Provisions) Bill to which we referred in our last issue. The latter has been silently abandoned; the former has been pushed on to the Statute Book. The provisions of the Act are startling from any point of view.

Part I of the Bill, as originally presented to Parliament, effectively displaced, in respect of anyone suspected of any offence against the state (and this includes the sort of every day sedition indulged in regularly by speakers at Price Park and Galle Face Green) the fundamental safeguards against arbitrary arrest and imprisonment without trial which have long been embodied in Sections 36, 37 and 38 of the Criminal Procedure Code. Under these provisions an arrested person who is not admitted to bail must be taken or sent within 24 hours at least to a magistrate. Since the duty of the magistrate is either to admit such a person to bail or to remand him to fiscal custody for a stated and limited period, an arrestee passes out of the hands of the police altogether thereafter and, moreover, is in the

state's custody only under continuous judicial control. The original Bill, removing altogether these safeguards of the liberty of the subject, enabled the I.G.P. on the mere suspicion that any person has committed any offence against the state, to cause that person to be arrested and to hold that person *incommunicado* in any place in the Island for fully 60 days. It was the pressure of Parliament including let it be said to their credit a whole set of Government's own back benchers, which successfully compelled the Government on the one hand to limit this part of the Bill to the January 27th events and on the other to accept an amendment directing the place of detention and any subsequent change of the place of detention to be notified to the magistrate's court having jurisdiction over the place in which the arrest took place.

Part II of the Bill takes the power of admitting people charged with offences against the State away from the Courts and vests it exclusively in the Attorney-General; makes all offences against the State punishable by death and in any event with not less than 10 years rigorous imprisonment, and also with the forfeiture of property; enables the Minister of Justice to direct that the trial for any such offence shall be "at Bar", and finally, alters in an amazing way Section 115 of the Penal Code.

The Ceylon Penal Code itself draws a distinction between preparation to commit an offence and attempting to commit an offence. Attempt is punishable but preparation is not. Again, our penal law distinguishes between intention and knowledge on the one side and the absence of these on the other for the purpose of defining offences; as is termed technically, the presence or absence of the *mens rea*. And, as our Penal Code stood, these distinctions were maintained in the realm of offences against the State too. But now, mere preparation is penalised and, what is more, preparation to do any act "calculated" to have a certain result—in other words, preparation to do an act which could have a certain consequence is made an offence even when the intention is not present. And included originally was a provision which made "wrongful restraint" of any Minister at any time, anywhere, whether in connection with his "Ministerness" or not, punishable

with death! (And with forfeiture of property). Parliament compelled the modification of this last to preparation to wrongfully "confine" a Minister "with the intention of inducing or compelling him to exercise or refrain from exercising in any manner the lawful powers" vested in him.

The terror of these provisions was not merely in respect of what the Government termed "treason." By the amended law, preparing to do any act calculated to overthrow otherwise than by lawful means the Government of Ceylon is made punishable with death, forfeiture of property, etc. Now, under the Emergency regulations, it is illegal to strike. Further, the Government itself claimed that the General Strike of January 5th was aimed at overthrowing the Government; but under this law it is not necessary to "aim" a General Strike at such an objective; it is sufficient that it is "calculated" to have such a result. In other words, under this law every person who participated in the January 5th strike could have been tried for this offence and sent to the gallows! And his family could have been driven on the streets by the forfeiture of his property! What is more, this can still be done; for the amendment is made retroactive from January 1st. Incidentally, as was pointed out in the course of the Parliamentary debate, had this law existed in 1953, every person who had taken part or even prepared to take part in the Great Hartal of August 12th, 1953 against the trebling of the price of rice would have been sent to the gallows. (On that occasion, the Government of Mr. Dudley Sdenanayake was actually "overthrown" in the sense that the Hartal forced his resignation from the Premiership.)

It was and is manifestly impossible for the working class movement to let such a law pass unopposed; but, to their eternal shame, the M.E.P. and C.P., found that they could vote for a bill which contained these provisions. It was left to the L.S.S.P. to fight this provision to the very end on behalf of the working class movement.

In Part III of the Act, the law of evidence is vitally changed; and at least in one respect outrageously. Under our law, as in the Indian law, a confession to a police officer is inadmissible in proof of a charge against any

person. Now a confession to an A.S.P. or higher police officer is admissible as a sufficient basis for proving an offence against the state. And then, the confession of an accused person to a higher police officer is made available as evidence against his co-accused. Note, this signifies that if an A.S.P. says that accused A told him that accused B committed the offence charged, then accused B can be found guilty on the A.P.S.'s allegation that accused A told him this, without even accused A getting into the witness box to say that he told the A.S.P. so and to be cross-examined by accused B. The only limitation is that the A.S.P. must be independently corroborated in material particulars. The provision is an outrage on any concept of justice whatsoever.

Further provisions of the Act, give to the Minister of Justice, instead of the Chief Justice as hitherto, the right to choose the Judges who are to constitute the trial court; and take away the right of appeal from the trial court's decision.

The Government stands well and regularly armed against resistance to unpopular measures!

SALUTE TO THE STRIKERS

We shall terminate our notes concerning local affairs with a salute to the matchless heroism of the participants in the grim set of 'strikes which the early months of this year witnessed; and we salute also and in particular the unsung heroism of the strikers' wives and families, without whose supporting determination and readiness to suffer these strikes could never have been fought out the way they were. The Radio Ceylon technicians held out for nineteen days in spite of the notices of "vacation of post" and were then taken back and their nine "detained" colleagues have also been taken back since, it being clear that the allegations of sabotage against them were false. The Standard Vacuum Oil Company strikers returned to work after days, the Company having partially conceded their bonus demand. The Port Cargo Corporation strikers returned after 56 days, the United Port Workers Union men returning last and in demonstration after a morning mass meeting on February 4th. There is every prospect that

they will win their demand for a monthly wage.

The longest and most determined strike of them all, the longest in Ceylon's history, was the Bank Employees strike. In this case, the Government (owner of the Bank of Ceylon) and the private Bankers (all foreign and of many a country) ganged up against the men and used every device in their power to break the solidarity of the strikers and to tame them into submissiveness. However, the strikers met them on every front for three full months, i.e. from December 27th to March 27th (89 days!) without faltering and then for sheer economic reasons, they could not hold out any more, they went back to work in an organised body with all heads held high. The employers have not dared to victimise any of the men in the face of this high morale; and negotiations have definitely got going. The Bank employers and their struggle will be an abiding inspiration to the entire trade union movement.

FURTHER MILITARISATION THREATS

AT the time of writing, there is being discussed in the House of Representatives three Bills to amend the Army, Navy and Air Force Acts which, if passed, will carry several strides forward the process of interpenetration of the armed forces and the civil administration of which "*Young Socialist*" has repeatedly warned.

By these Bills the Governor-General is empowered (1) to "order all or any of the members of the Army (Navy and Air Force) to perform such non-military duties as he may consider necessary in the national interest," (2) to "authorise such members, for the purpose of performing such duties, to exercise the powers of a peace officer under the Criminal Procedure Code."

According to the Finance Minister *cum* Parliamentary Secretary to the Minister of Defence and External Affairs who introduced the second reading, "the purpose of these laws is, as a matter of Government policy, to utilize service personnel for national development work." However, having detailed various tasks that the armed services could perform, he went on to make

the following statement which we quote from *Hansard*:—"Of course, the wording of the statute does not restrict the non-military service to be performed by the different units of the Army, the Navy and the Air Force to the items of the kind which I have enumerated if the occasion arises for their services to be utilized for other purposes as well. The list outlined by me above gives some indication of the activities which the armed services will engage in as service units working under military command. There will also be a large category of undertakings to which military personnel could be seconded for duty quite apart from the ventures undertaken through the various military organisations already mentioned. Military officers could, for example be appointed to function in staff and other posts in Government departments on secondment."

It is more than ironic, it is fatal to have a Government contemplating the process set out in the portions we have underlined in the very aftermath of a coup conspiracy regarding which, in the self-same speech, the self-same Minister declared "we are not through with it yet." If there was any one thing which placed the police and the military in a position in the administration to prepare and set out upon a coup d'etat it was the fact that under the Emergency they were placed in control of the civil administration. Here is Government contemplating and actually proposing to make the process normal!

The further dangers of the powers proposed to be taken and given hardly need describing. The working class movement will be quick to sense the danger to itself. Nor should Government be so obtuse as to overlook the fact that its firmest allies of today, the C.P. and the M.E.P., have been forced, despite the backstairs negotiations which have obviously taken place (the Finance Minister spoke of "discussions I have had") to come out in open opposition to these Bills. However, the Government will no doubt use its majority to steam-roller the Bills through Parliament.

ALGERIA

The outstanding event in the international scene during the last three months is the

settlement in Algeria between the F.L.N. and De Gaulle's Government. This terminates the Algerian War of National Liberation in so far as it covers the struggle of the Algerians against the French state. But it does not end the Algerian struggle for national independence. On the one hand, the new Algerian Government embodies a partnership between Algerian nationalism's representatives and the French Government—they share the power; On the other hand, there continues the problem of the colons in the form of O.A.S. resistance to the new state-power. The outcome of this "war" depends as much on developments within France as within Algeria. There is thus not only a long way to the final freedom referendum but also a long way to go before an independent Algeria can turn in peace to the basic problems of her poverty-stricken people.

COUPS ALL ROUND

Nearer home, Burma has seen the military come into power a second time; this time by a genuine coup d'etat (the last time the Government handed over to General Ne Win voluntarily). Over in Syria, the military which had handed over to a civilian Government after taking power to effect the break with Egypt, has staged a new coup d'etat against the very men they helped to install in power. In distant Argentina, the military have forced an elected President out of office and imprisoned him in order to render nugatory the expression of a Peronista trend in elections for a wide series of Governments.

Although the reasons for these developments are varied, they fit into a long emerging pattern in the under-developed countries having political independence. The armed forces alone appear to be able to provide a stable source of power to the ruling strata and the armed forces prefer in situations of social crisis to exercise the power themselves. Democracy and the established social system in these countries are unable to co-exist; basically because the masses are pressing for rapid social changes which threaten the position of the indigenous ruling strata. These military dictatorships, whatever, may be their claims, are as a rule (Nasser's Egypt is a signal exception) the framework of "stability," that is, for the endeavour to

preserve the social set-up as it is and not for radical social change. To speak of their coups-d'etat as "revolutions" is to misuse the word "revolution."

THE INDIAN ELECTIONS

While Parliamentary democracy disappeared in Burma as it has already disappeared in Pakistan, India held her General Elections. Whatever the outcome, the spectacle of over one hundred million voters going to the polls to choose between a whole series of political parties is impressive. India proclaims herself proudly to be the world's biggest democracy.

The outcome leaves Congress in power both at the Centre and in the states, although precariously in two states. However, the striking fact in the electoral returns appears to be the sharp advance of "communalism" as in Madras where the D.M.K. has netted 50 seats to the 132 of Congress. The advance of the Jan Sangh represents a similar trend in Northern India.

From another angle, the C.P. has broadly gained (though with some signal exceptions) both in seats and votes, whilst the P.S.P. has lost both seats and votes—but it is difficult to discern any definite trend or meaning in these facts. At the other end, the outright capitalist Swatantra Party has not shown any special trend away from "Socialistic" policies. The strength of the Right would appear to lie more in "communalism", "localism", "statism" or "provincialism", and "religionism" than in any specific "economic" attitude. And Congress also appears to be the principal political cement of the Indian Union.

BRITISH GUIANA

The true nature of any regime in the newly independent countries is always shown up when the working class moves into direct action. A signal example has occurred in South America where the working class is manifestly on the move again in a general way. We refer especially to the case of British Guiana.

This former British colony has at the head of its elected Government Mr. Cheddi Jagan, a Stalinist fellow-traveller who gained international fame when he was ousted from power in a newly freed British Guiana by the use of British Imperialism's reserve powers. In due course Mr. Cheddi Jagan returned to office at the head of an administration of much reduced powers.

Recently Mr. Jagan obtained the advice of the same taxation expert to whom Mr. S. W. R. D. Bandaranaike and Mr. Stanley De Zoysa resorted in the days of the M.E.P. Government, namely Mr. Nicholas Kaldor. The taxes he proposed, and which Cheddi Jagan adopted and implemented, evoked mass resistance of which a special feature was a massive general strike.

How did Mr. Jagan react to the situation? *He summoned the military help of his imperialist masters.* British troops were flown out to his help and with their aid he crushed the strike. Such are the true relations between these "free" Governments and their "former" colonies, or rather, between the foreign imperialists and the local ruling classes to whom they have handed over.

20th April 1962

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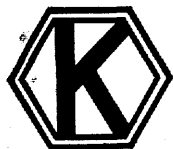
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THE SOCIO - ECONOMIC FOUNDATIONS OF THE EARLY ANURADHAPURA PERIOD

By LAKSHMAN S. PERERA. B.A., Ph.D. (Cey.)

INTRODUCTION

IT is customary in setting forth the ancient history of the Island to follow the path laid down by the Mahavamsa. The landing of Vijaya marks the historical beginning of the Island and thereafter the main trend of historical record takes us through the successive reigns of kings mentioned in the Mahavamsa till we come to the first convenient break in that trend—the disruption of the Mahavihara under Mahasena at the end of the 3rd C. A. D. This kind of recapitulation apart from being monotonous is inadequate as history, because history is here reduced to the mere stringing together of events and happenings without an intelligible background. It contains no interpretation and no analysis of facts. Although attempts have been made to move out of this net, these attempts have not so far been successful because the background has not been brought into relation with historical events. The purpose of this article is to analyse briefly this unfamiliar and difficult socio-economic background of the familiar and straight-forward political history.

Part of the difficulty that faces the historian in dealing with this subject is that the chronicler has mostly given us the unique and the particular and ignored except in incidental reference the mundane and the commonplace. But it is precisely in the mundane and the commonplace that the socio-economic organisation has to be sought. Its roots go down to the common man and the village. We have however a fairly large number of casual inscriptions recording donations of caves and other gifts to the Sangha. Besides there is the data made available by the archaeologist. For the rest one is left to deductions and synthesis of material.

By socio-economic organisation is meant the structure of relationships people enter into one with another and the changes that take place in these structures in their attempt to win a livelihood out of their environment. Therefore the first step in the study of the socio-economic background is the examination of the physical environment. This geographical factor remains a constant right through history though its significance varies according to the degree of mastery man acquires over the environment as a result of his technical achievements.

THE GEOGRAPHICAL BACKGROUND

This geographical influence as it affects history can be broadly categorised into three aspects (a) the physical features (b) climate, vegetation and natural resources (c) its position in relation to neighbouring land masses.

The most important physical feature for this ancient period is the existence of a wide and extensive plain over the northern half of the Island and which further extends southwards along the east coast to a smaller Southern plain. The rivers that flow across this to the sea not only were a means of irrigation but also served as means of communication and as a means of access into the interior. It was this plain that made possible the expansion of isolated village settlements into a socio-economic organisation knit together into a kingdom. It is the economic surplus from the expansion of agriculture in this plain that made possible the great cultural achievements of the middle period.

Climate and vegetation further emphasised the importance of this northern plain. Climatologists divide Ceylon into a wet zone

and a dry zone. The dry zone corresponds fairly exactly with the northern plain. It has moderate monsoonal rainfall and vegetation consisting of jungle and bush. The climate is equable. It is altogether suitable for settlement. The wet zone belt by contrast had heavy rainfall and tangled forests. The central highlands too fall into this category along with the south-western sea board. Thus on this account too the northern plain was obviously the first choice for settlement.

Ceylon from early times had a reputation for pearls, precious stones, ivory, elephants, timber and such luxury products and the earliest sailors came here in search of these articles of trade. But this never became a basic factor in the economy of the early Anuradhapura Kingdom though the king may have derived some valuable revenue out of this trade.

The position of the Island too in relation to India has played a valuable role in shaping the socio-economic pattern of the Island. Ceylon with the open sea around it and direct access to any part of the coast of India was not subject to any regular pattern of migration. Thus from the Panjab, from Gujarat, from South India, from Bengal migrations to the Island were readily possible. Thus many different races and traditions were introduced into the Island and these have become inextricably mixed or set a variegated social pattern.

THE PRE-HISTORIC PERIOD

The beginning of the early Anuradhapura period is traced to the migration to the Island of a considerable body of people speaking a North Indian dialect, who are known to history as the Sinhales. But to appreciate the socio-economic significance of their arrival it is necessary to consider briefly the prehistoric period that preceded this movement.

Culturally the main characteristic of this period is that the main livelihood of the people was hunting, fishing and gathering edible roots, fruits and leaves. They lived a semi-nomadic life and were probably organised in tribes and clans. Their chief technical achievement was the art of fashioning and polishing tools and weapons out of stone and the making of pottery. They

were like all forest folk shy and retiring and probably practiced cannibalism. This is only a broad general picture.

Pre-historic archaeology is still in its infancy in Ceylon. But a few important facts emerge from it. The palaeolithic period in Ceylon extended almost up to historical times and culturally they were in a very primitive stage of development. Almost at the end of this period a new people who had spread over the sub continent of India seem to have spread to Ceylon as well. Their chief characteristic was the use of minerals in composite tools. They also brought in a culture distinctly more advanced than that which existed here before. It is customary to describe this culture as "mesolithic" because it lies between the palaeolithic and the neolithic.

Little can be learned about this phase in Ceylon due to lack of adequate stratigraphic excavation. But from South Indian evidence and the evidence gleaned from the Middle East it is possible to assume that this people had developed agriculture and even some primitive tank irrigation. This cultural phase in Ceylon was apparently of short duration for it was cut short by the arrival of the iron-users. As far as we can judge there is no true neolithic culture in Ceylon though neolithic tools and weapons have been discovered in the Island. Round about the middle of the first millennium B.C. peoples using iron tools and implements made their way to Ceylon and South India. They either absorbed, swept away or pushed into the background—into the remoter regions—the primitive culture they found here. Two such cultures cannot exist for long side by side without conflict.

It is not always easy to correlate these cultural phases with succeeding racial and linguistic groups, which have chronologically been placed in the pre-historic period. The usual succession of races is negrito, proto-austroloid and mediterranean followed by the nordic. All these racial groups were present in Ceylon in our earliest phase of history. This conclusion may be drawn from subsequent analysis of racial types and from related linguistic and cultural factors. The Mediterranean is a distinctive group and is linguistically associated with the Dravidian. They are usually associated

with the megalithic culture of South India, which introduced to the south the use of iron somewhere about 5—3rd century B.C. The few megaliths to be found in Ceylon may be attributed to them. But these are contemporary with or later than the migrations from the north of the Aryan speakers who introduced iron to this island. The people therefore who inhabited the island before this time were negrito and proto-australoid groups. Much vagueness exists however about the racial identity of the people who used the microlithic implements. There could have been more than proto-australoid migration and they could have acquired in course of time a higher culture.

Legendary history peoples the Island with Rakshasas (in the Ramayana story) and Yakkhas and nagas (in the Mahavamsa and Dipavamsa story). An advanced civilization too is sometimes attributed to them. Thus far archaeologists have not been able to discover a vestige of evidence to support these claims. The Ramayana story probably in origin had no relation to Ceylon at all. Yakkhas are in tradition non-human beings of ugly visage usually hostile and dangerous to man. It is likely that the tradition that this island was peopled by yakkhas first arose among the sailors and merchants who visited the island for pearls and came across the elusive, primitive cannibalistic inhabitants who prayed upon unfortunate sailors who strayed too far inland or were shipwrecked outside harbour. They were naturally looked upon as yakkhas for no word in their opinion could describe them better. Later migrants too had trouble with them.

The Nagas however represent a more reliable tradition because of the persistence of the naga cult in later times and that naga appears as a name — not only among common folk but also among the Kings of the dynasty of Vasabha. They were a distinctive totemistic clan located mainly in the north and probably with a somewhat more advanced culture than that represented by the yakkhas. It is tempting to identify them with the peoples who brought in the microlithic culture. But this is unsupported archaeologically.

MIGRATIONS FROM THE NORTH AND THEIR SIGNIFICANCE

The arrival from the north of India in a series of migrations of a people who knew the use of iron and who possessed the iron axe and the iron plough and hoe created a revolution in the pattern of life that had existed here for centuries. A new and revolutionary pattern was thus introduced. They brought with them advanced methods of agriculture and also social and political institutions that usually accompany an improved agriculture. They also very probably had knowledge of urban life. Among the other arts introduced was that of hunting though there is no direct evidence of this till the introduction of Buddhism.

That stage in our history when the migratory peoples from the north gradually established themselves in the northern plain is largely a blank. The scrub and jungle fell before the iron axe and the soil was turned up by the iron hoe and the plough. Rice paddies gradually dotted the plains headed by a sheet of water. A way of life gradually emerged built up partly out of the traditions they brought here and partly out of the new experiences that arose here itself. In addition to the problem of economic organisation there was the social problem. The social institutions which the people who came here were accustomed to and the resolution of the tensions that arose in coming to terms with pre-existing peoples. The process of accommodation should not be looked upon as a uniform and mechanical movement. In some areas particularly in the east the aboriginal peoples would have held sway for longer periods than in the west and even leagued with some migrants against others in their conflicts. The Pandukhabaya conflict has to be viewed in this light. Primitive cultural groups continued for many centuries in the central highlands. The Naga groups were never wholly suppressed and they adapted themselves to the new situation while maintaining their identity. Some aboriginal settlements were either exterminated particularly at the beginning, or generally subjected. Their cults and practices in time even influenced the conquerors.

It is necessary now to draw attention to the special features of this socio-economic organisation that gradually arose after these conflicts.

RICE AND IRRIGATION

The first of these special features is that these settlers had a staple diet of rice which is usually grown on mud flats or prepared (asweddumised) water paddies. The heavy rain fall and the mud-flats of the north Indian rivers were ideally suited to the cultivation of this grain. But Ceylon though it had an equable climate and a vegetation that was easily cleared had only a moderate seasonal monsoonal rainfall and no large rivers with mud flats. Other grains continued to be grown on the high ground but for rice cultivation the low land between spurs on the contours came to be asweddumised and a system of irrigation either of tapping rivers or storing rain water in the tanks or reservoirs created of throwing earthen bunds across shallow valleys became the normal practice. These methods probably already known from Indian practice were widely extended and improved to meet the challenge of a new situation.

One result of this was the lining of tanks and fields by irrigation canals into a close network of irrigated fields. The fields too had to be contiguous. This process fostered a sense of social cohesion and social dependence. It prevailed not only among the residents of a village but also between villages for in many cases one had to depend on another for the supply of water. The need to co-operate in the provision and distribution of water must have served to heighten their social awareness and social consciousness. There must also have been some form of communal ownership of land and also of water underlying this system.

This economy was peculiarly linked with the supply of irrigated water and people became water conscious. As more land was brought under cultivation larger quantities of water were required. At this time the political authority—the King—intervened to provide this supply of water. He with the resources of labour and money at his command constructed large tanks and canals which were beyond the means of the village communities. He was not merely performing a valuable service but at the same time filling his coffers.

Water became so precious a commodity

that it came to be bought and sold as it passed through the tanks, the canals and fields. The owner of these means of irrigation charged for the water that passed through and paid for the water that came in. This charge on water was called DAKAPATI in the ancient inscriptions. Thus we come across owners of tanks (VAPI HAMIKA) and also the system of donating the water charge to the Sangha. The king because he had the largest of the tanks as his special preserve derived considerable income from water. He also came to have a controlling interest in the whole irrigation system.

One unfortunate but inevitable result of the enormous expansion of this artificial irrigation system is that the whole social expansion was general to a highly vulnerable system of tanks and canals. The increase in population was made possible by this system but the destruction of the canals and the breaching of tank bunds would inevitably let loose famine and drought.

THE OWNERSHIP OF LAND AND TANKS

This process of asweddumisation and irrigation seems to have assumed or taken for granted certain rights which are never discussed or explained. They are implicit in this socio-economic organisation. There was in the first place the right of ownership. There was probably at that time no conception of the legal ownership of land. This is a comparatively modern notion. But ownership of the produce of one's labour and the prescriptive right to land which one has prepared for cultivation or is in occupation of must have appeared even at that time inalienable and obvious. We cannot unfortunately say anything definite from evidence about communal ownership though in the nature of society at that time it must have been common.

There were next the rights exercised by the political authority. The practice for the king to claim a certain portion of the harvest in return theoretically for the services he had rendered in maintaining order and protecting the kingdom must have been introduced from India along with the institution of kingship. This tax came to be charged not only in land or the harvest but

also on the income producing irrigation units such as tanks, canals and even fields. This tax is called **BOJAKAPATI** and was probably paid in kind. This tax the kind sometimes made over to others whom he wanted remunerated for services to the state. He also granted it sometimes to the Sangha. By this means a bureaucracy grew and expanded out of this economy and the Sangha a non-productive but valuable institution also came to be supported within the economy. They had no direct relation with the land, but were only recipients of donated revenue. Sometimes the **DANA-PATI** too was so donated. This was the king's income.

LABOUR

There was next the question of labour and its reward. We have assumed in one sense that the man who works has an inalienable right to the fruit of his labour. But this was not the only type of labour we come across at this time. People working in a common enterprise such as a village tank would have the tank completed as common property. Work on one's own and each others fields in the village was a duty. There was besides this the right of the king to exact labours for state projects. In later times **VAV MĒHE** was a term specially used for this kind of labour used for building or maintenance of tanks. Labour was also used for the maintenance of roads. Military service was also exacted on this same basis at certain times of the year. We do not hear of the commutation of such labour but such labour basically is state revenue.

Paid labour is also met with in the **Mahavamsa**. Work on religious edifices were usually paid for and was not considered state service because such work was highly meritorious and the king was anxious to gain the merit therefrom. There is no reference at this time to paid agricultural labour and we have to assume largely a land-owning peasantry. But labour for small industries was sometimes paid for and one or two inscriptions record that the king paid for the services of having tanks dredged and cleaned. In any case at this early time such paid labour must have been limited.

There was a category of labour outside this which we shall have to take note of, that is slavery. In the earliest records there are

occasional references to **DASA** and some centuries later within 5th—6th Century A.D. to this work. **VAHALA** is quite distinctly used to indicate slavery in the sense of a person being owned with the need to pay to obtain their freedom. References are few in the early period to this form of slavery. But one condition did exist for its emergence—the enslavement of the aboriginal peoples of lower culture when defeated in battle. Perhaps later indebtedness and other factors further expanded this group.

ECONOMIC BASIS OF THE STATE

We should at this point pursue further the economic basis of the expansion of state power. The main source of revenue of the king was at first the **BOJAKAPATI**. It was part of the income from either land or tank or canal. This must have been much more important than revenue from ports and trade, valuable though that was. But very soon the king obtained another avenue of income.—The **DAKAPATI** when he began to construct large storage tanks and canals to keep the fields supplied with water. This was pure gain. The gradual extension of the irrigation system and the collection of **BOJAKAPATI** gave the king an opportunity to extend his control over the whole country in a real and tangible manner.

The village communities were largely self-sufficient and self-governing. The King in order to maintain contact with these units and to administer them and collect the revenues and the dues had to create a bureaucracy. Even in the earliest records there are glimpses of these officials and the most important among them was called **RATIKA**. He represented the king's interests in the administrative unit called the **RATA**. In time the officials serving the **RATA** in the king's business increased and specialised.

For the important question as to how these officials were remunerated we can give only a tentative answer. They were probably allowed to keep back part of the revenue they collected in return for their services. As far as we can find revenue was not farmed out nor did these officials become hereditary revenue collectors with overt

political power. There was therefore no movement towards the rise of a feudal aristocracy with the land parcelled out among them. Even the officials of the central government were kept under control by not linking closely the revenue allotted to them with the administration of territory. Thus though there was a strong bureaucracy and a royal group in the court they never emerged to the status of a baronial class. The most common political threat was that the senapati tended sometimes to become king maker.

With the increase in the political power of the king it was possible for him to assert towards the end of this period that "ownerless land belongs to the king". He was not gone so far as to say that all land belongs to the king as some Indian political theorists had done. This dictum was used by Mahasena to dispossess the Mahavihara monks to their vihara. This was undoubtedly an abuse of the theory. The theory only implied that where land was not cultivated or occupied the king had prior rights and it emphasised the king's right to forests and timber, animal life for the chase, natural resources such as mines and gem pits and treasure trove. It did not mean that the people had to buy land from the king to open up new cultivation.

SPECIALISED OCCUPATIONS AND PROFESSIONS

So far we have considered only the agricultural peasant communities and the economic basis for an expansion of state power. Another very important aspect is the existence of specialised occupations and trades from the very beginning. The social organisation that was introduced by the northern migrants was sufficiently developed for these occupations and trades to be established quite soon. The economic theory behind this specialisation is that surplus grain—grain over and above that required for consumption was utilised to buy other necessities and that specialised occupations obtained this surplus in return for the goods and services they were prepared to supply. Sometimes however such occupations were supplementary to agricultural pursuits. Thus we come across in the Mahavamsa and the inscriptions professions such as medical practitioners and astrologers, occupations such as brick-makers, stone masons,

sculptors iron mongers and smiths carpenters, jewellers, drummers and dancers, and traders. There are references to small industries such as sugar mills.

There is little evidence on how these groups were organised. There may have been some rudimentary form of guild organisation but not so highly organised as the trade guilds of the time. It is more likely that these skills ran in families and family cohesion and loyalty rather than guild practice protected their interests. Some of these skills were maintained as family secrets.

CASTE SYSTEM

This probably is the place to consider whether the traditional caste system as it obtained in north India was brought into island by the immigrants. The introduction of Buddhism in the 3C. B.C. prevented the system from taking root here. But even in the period before this there is no record of any definite caste system though many if not all the elements that went to form the system were present here in some form.

Brahmans were, before Buddhism, as well as after, an important group in society required both for their knowledge and their monopoly over domestic religious practices. Brahmanism was the religion of the ruling groups before Devanampiya Tissa's conversion changed the situation. But the influence of the Brahmans declined rapidly after the introduction of Buddhism. Brahmanism however was widely prevalent even after the introduction of Buddhism and so the services of Brahmans would have been necessary. They appear sometimes as donors in the grants of Caves to the Sangha.

It is difficult to trace a pure Kshatriya group in the Island. In later centuries the Sinhalese royal families claimed to be Kshatriyas and claimed the earliest Sinhalese kings as descended from the Solar or Lunar dynasty. But kingship had a humble origin here. If we set aside the legendary story of Vijaya we shall have to posit the existence of more than one local ruler who claimed the title RAJA and also the title GAMANI. It is difficult to prove whether these petty princelings were Scions of any recognised Kshatriya clan of northern India. They were of course de facto rulers and had such

authority even when they migrated to the Island. In the island itself the royal families maintained themselves as a distinct group and royal princes and princesses were given the titles AYA and ABI.

The only evidence we have of a sudra caste is the reference to Candalas who lived in a colony just on the outskirts of Anuradhapura and did the scavenging work of that city. Whether the aboriginal people were degraded to a sudra caste is a moot point. Some as we have seen already may have been enslaved. The Pulindas are referred to as forest tribes or people but their caste is indeterminate. There were other tribal and totemistic groups which maintained their integrity, such as the Nagas the Balibojakas, the Taracchas. But these were not quite caste groups though as in India tribal groups became in time caste groups. There were other racial groups too such as the Yavannas who had a colony in Anuradhapura and the Kambojas.

The general Vaicya class however has its counterpart. There was the general body of peasantry organised in families. Apart from this agricultural class we have already indicated the specialised professions and trades which were very probably organised in families. These were incipient occupational castes. The example of the brick makers, villages has already been indicated.

Thus although all the elements that went to form the caste system in India were present the caste system as such failed to develop. The necessary religious sanction given to it by the Brahamans failed to take root because after the introduction of Buddhism and Jainism their influence waned.

PARUMAKAS

We have kept to the last the consideration of the significance of a title that occurs frequently in the inscriptions of the early period but for which no adequate explanation has been given so far. It is the title PARUMAKA. It was a hereditary title, held both by men and women and is to be found alongside titles such as GAMIKA (Village headman) GAHAPATI (householder) and in various parts of the Island. They were obviously people of standing and the title signifies their importance. It is likely that

in the period of settlement these were the people who assumed positions of leadership and they may have already had some social preeminence before. They were a social elite standing apart from the village headmen and others and probably not unrelated to the GAMINI who were the chief political leaders, constituted royally. Whether they had a special privilege in terms of land owning and land holding is not clear.

THE ROLE OF THE FAMILY

In this whole social fabric the very important place taken by family ties (KULA)—should be noted. It was not an individualistic society where each person counts for one before the state. Here a person had significance, status and security only as member of a family or a group. Many disputes, questions of precedence and honour and matters of social order were decided within the families. The village council and village elders were conspicuous by their absence and the GAMIKA was the head of the village. Society could be described as corporate in character. At a time when the state power was not sufficiently organised to attend to the details of civil government and in a communal jurisdiction these matters were attended to at the local level through the families and village units.

THE SANGHA AND ASCETICS

The monk and the ascetic had a special place in society. The Brahaman had a special duty in society—to attend to all the domestic ritual prescribed by Brahamanism. But the monks and ascetics had no such obvious social function to begin with. They had the task of preaching to the people the Dhamma and the way of the good life. They were also recipients of alms and for the people a means of gaining merit. In time their position in society changed. Though the earlier functions continued the enormous grants of revenue and tank income granted to the sangha made them an important economic factor in society with an interest in the harvest and the well-being of the village and the regular and the systematic collection of revenue. This was of course done on their behalf by lay people. The gradual change in the character of Buddhism towards Mahayanism further brought the monks into closer touch with the people through various

ceremonies such as pirith and festivals such as Wesak and Duruthu. The place of the Sangha, particularly the Mahavihara and the Abhayagiri Vihara as centres of learning and culture must not be overlooked. They were the equivalent of Universities at that time.

TRADE AND COMMERCE

It was trade that from early times attracted merchants to these shores and who took back with them reports of its possibilities. Perhaps the earliest settlements on the N.W. coast may have been trade settlements. But the island's economy was never based on this trade. Pearls on the N.W. coast, gems from the S.W. coast and Ivory and other articles of trade the country provided became the focus of trade activity in the N.W. There was also perhaps an entre-port trade for merchants from far corners came here to exchange goods. The king no doubt reaped rich revenue from all this activity. Some of the early attempts by Tamil rulers to seize political authority, such as Sena and Guththika, Elara and Bhalluka and Tamils in the time of Vatta Gamini had implications for trade as well.


Anuradhapura, partly due to this trade and the presence of the King became in part a commercial city. There was from early times a colony of Yavanas (Greeks) and by the 5th Century A.D. a colony of Persian Christian merchants too. Fa Hien records that the mansions of the Merchants were imposing and one among them probably had the office of the "Guild Lord." There were also Tamil merchant colonies located in the city. There must have been local merchants too but the trade was mainly in foreign luxury goods. The only other cities of commercial importance were the N.W. ports particularly Mahatittha whose chief official has the title MAHAPUTULADDA in the inscriptions.

But trade as it touched the mass of the people was of a humbler kind. It was the exchange by barter or by limited use of cur-

rency (Kahavanas and puranas or edglings) of the surplus grain, manufactured goods and services. This internal trade during the early period came to be well organised.— Among the donors of caves in the early inscriptions are guilds (PUGIYANA) and members (JETE and ANUJETE) of such guilds. Occasional references in the Mahavamsa speak of caravans that were conducted to and from the central high-lands in search of articles such as ginger and spices. These caravans consisted of wagons and pack animals. The people who took part in this trade were the more enterprising of the immigrants and probably foreign traders. Apart from limited local trading there must have been the systematic supply of cloth, salt and a few luxury articles.

By the end of our period economic activity was so far advanced that there was a system of commerce in grain, particularly seed grain which came to be deposited as capital and interest charged. The grant of some of this grain for religious purposes—the performances of the Aryavamsa festival led to the transaction being recorded in inscriptions such as at Tonigala and Labuatu bandigala. These records show that the NIYAMATANA was an important business centre and were to be found at the gates of Anuradhapura and in important towns. Here merchants received grain to be deposited as capital (GAHE) which was not to be sold or diminished. But this is lent out to farmers who return the capital (GAHE) with interest (VEDHA). This interest is taken periodically by the depositor or the person to whom the donation had been made. The interest is usually specified and laid down and differed for the different types of grain. This is a kind of economic activity that arose with the expansion of agriculture but did not change the basic pattern of agriculture. It added to society a group of people useful for the smooth functioning of agricultural practice—the merchants who stored and lent grain—the banker in the making.

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THE POLITICS OF A COUP D' ETAT

By EDMUND SAMARAKKODY M.P.

THE preparation to seize political power, the attempt or the act of seizure of power by a group of persons by use of arms or supported by a section of the armed forces could take place in any social system—Capitalist or Socialist. Within any social system a coup situation is a condition of crisis. It is in either case a political crisis. A political crisis will inevitably be conditioned by a crisis condition in the economy or in other words a serious maladjustment in production or production relations in the given socio-economic set up. Such maladjustments are more likely in capitalist conditions than in socialist since capitalism had long ago entered into a stage of decline and decay. In under-developed bourgeois countries—the countries that have emerged from conditions of colonialism or semi-colonialism like Indo-China, Burma, Pakistan, Middle East, Iran, Iraq, Egypt and in the under-developed countries of Latin America a chronic state of economic maladjustments have produced a series of political crises climaxed by frequent coups d'etat.

An investigation into the concrete cases in these countries where the coup phenomenon has appeared will reveal a remarkable similarity of features and causes. Invariably a coup d'etat seeks to transfer political power from one section of the ruling class (i.e. Capitalist) to another section or group of the *same* class. Ordinarily therefore a coup in a capitalist country is understood as a 'Rightist' coup. A successful 'Leftist' or working class coup in a capitalist country can be ruled out although various forms of terrorist activity of a plebian or a working class source have occurred in capitalist countries in given conditions. The revolutionary seizure of power by the working class is commonly equated to a coup by the bourgeoisie although the conscious and ruling sections of the bourgeoisie are aware that the transfer of power from one class to another cannot be effected by the heroism of a small group of determined people. The essence of a coup is that it is

conspiratorial action of not just a minority of the people but of a small group of people. Whereas the revolutionary seizure of power by the working class is a popular movement backed by the majority of the people and while conspiracy may be an important feature in a successful popular insurrection the preparation for a socialist revolution must necessarily be a public affair.

A Rightist coup does not take place in a vacuum. While superficially a coup appears to be in the interests of coup leaders—that is the satisfaction of the power-hunger of ambitious men—such a coup is indisputably meant to serve the class interests of the bourgeoisie. Bourgeois democrats and Liberal politicians may resent the idea of a Rightist coup but the bourgeoisie as a class—industrialists and business men—generally welcomes a coup, since the main objective of such a coup d'etat is the intimidation, terrorising and break-up of the trade union and the working class movement.

If a Rightist coup seeks to perform a function in the interests of the bourgeoisie it would be relevant to inquire what precisely is this functions? What about the class institutions like Parliament and the legal system and the Courts of Justice that ordinarily suffice to preserve bourgeois rule? The answer to this question is often known in advance of a coup situation. When big business circles and industrialists make public pronouncements that Parliamentary Government and Bourgeois Democracy are out of date it is hardly necessary to pursue this investigation. Under normal conditions the bourgeoisie can ordinarily maintain their class rule without resorting to naked force. But in underdeveloped bourgeois countries in particular economic conditions are far from normal. In these countries especially, whilst economic instability is the normalcy, frequent worsening of conditions have led from time to time to economic crises. In such conditions class rule of the bourgeoisie can be maintained only by strong governments that will

be ready to resort to naked force against the working class and the masses.

In Ceylon conditions bourgeois class rule was undisputed for nearly one and a half centuries from 1815—1953. The first hundred years of course was the period of colonial and imperialist domination and the British bourgeoisie were the rulers. The emergence and growth of the Ceylonese bourgeoisie altered the character of the bourgeois class which thereafter became a partnership—the Imperialists as senior partners and the Ceylonese bourgeoisie as junior partners. This partnership commenced in the 1920's and culminated in 1948 when the entire political control passed into the hands of the Ceylonese bourgeoisie. But the rule of the Ceylonese bourgeoisie is hardly a happy one. Within the first decade the economy was in crisis. The Hartal of August 1953 brought to the surface the first serious manifestations of discontent and dissatisfaction of the masses. This first organised action against bourgeois rule set going processes which led to a serious weakening of their rule culminating in

the defeat in 1956 of the acknowledged class party of the bourgeoisie the United National Party.

The defeat of the U.N.P. (April 1956) was a severe blow to the capitalist vested interests. Although the M.E.P. of Mr. S. W. R. D. Bandaranaike was to function within the framework of capitalism yet even the meagre reforms of the Government and the anti-capitalist phrase mongering of Mr. Bandaranaike and the M.E.P. Ministers and Members had awakened many layers of the working class and the masses into class consciousness. Before long capitalist and Imperialist vested interests realised that capitalism was in danger and that bourgeoisie class rule could not be maintained in the same old way.

Furthermore the M.E.P. policies opened the door for mass pressures through the petty bourgeois influence that predominated in the M.E.P. set up. Petty bourgeois pressures and working class pressures brought results like the Nationalisation of Bus Transport service, the Nationalisation

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of the Port of Colombo and the Paddy Lands Act etc. The overall effect of the defeat of the U.N.P. and the M.E.P. victory was objectively the growth of the mass movement—particularly the trade union movement. The M.E.P. Government's opportunism in relation to the working class, i.e. its desire to pose as Socialist and therefore as pro-working class had its repercussions. The trade union movement grew and within a year the organised working class was on the offensive (the strike of 80,000 Government Workers). The first big strike brought success—Rs. 17-50 was conceded as a special cost of living allowance and the Wilmot Perera Wage Commission was appointed. The strike movement continued and spread to the private sector and was only temporarily halted by the communal riots of May 1958.

The working class movement was now seriously harrassing the Ceylonese bourgeoisie and was objectively opposing bourgeois class rule. Despite the serious damage caused to working class organisations and the working class movement by the communal outbreak, yet by the end of December 1958 the class struggle broke out once again. By March 1959 (March 3rd General Strike against the amendment to Public Security Act) the working class struggle even in a weak way moved on to the political plane. Thereafter the wage struggles broke out once again. Harbour workers and Mercantile employees were out on massive strike action. The Capitalist class and vested interests generally were enraged at the weakness of the M.E.P. Government. Vested interests found no difficulty in understanding that despite Socialist and Anti-Capitalist phrasing mongering the M.E.P. of Mr. S. W. R. D. Bandaranaike was bourgeois in character but that its opportunism in relation to the working class brought about conditions of paralysis in a situation which called for quick action. The bourgeoisie took stock of the situation and sought seriously to bring pressure on the M.E.P. Government. Through the Stanley Soysa, Wimala Wijayawardena, C. P. de Silva wing of the cabinet, 'pressurising' by the bourgeoisie was not without success. Strikers in Colombo were beaten-up by the police with the knowledge of the Prime Minister, and the Government refused to negotiate with the harbour workers on

strike. The Prime Minister publicly denounced Communism and bourgeois pressure compelled him to push the Philip Gunawardene group out of the Government. Not very long after came the assassination of the Prime Minister which was also a part of the process of the shaping by the bourgeoisie of the M.E.P. Government in the image of vested interests.

After a period of confusion following the assassination in September 1959 class forces moved into the election arena. The results of the (March 1960) elections brought temporary relief to vested interests in that the U.N.P. (the acknowledged class party of the capitalists) came back to power. But dissolution of Parliament after 33 days brought serious concern and anxiety for vested interests. The victory of the S.L.F.P. as a result of the election agreement with the L.S.S.P. and the C.P. was interpreted as a disaster by vested interests. But the 2nd Bandaranaike Government—the Sirimavo Government—however had for the bourgeoisie its silver lining. This Government appeared more rightist than the Government of S. W. R. D. Bandaranaike. The widow, Sirimavo, the Prime Minister, her nephew Felix Dias the Finance Minister, C.P. de Silva and Sam P. C. Fernando were good bourgeois rightists. This set-up was more homogeneous and therefore could show greater firmness against the working class and the masses than the Government of S. W. R. D. Bandaranaike. The bourgeoisie were also satisfied that in the very first Budget (1960) the Sirimavo Government was not averse to placing some burdens on the masses. The Government was also capable of bold action—the drastic import restrictions shortly after the 1960 Budget with full knowledge of the consequential rise in prices of essential mass consumption articles was a pointer that the Sirimavo Government would not be scared by unfavourable mass reactions. In the view of the bourgeoisie the Sirimavo Government showed considerable courage in dealing with the Tamil minority demands. The Government refused to make any concessions on the Language question and used police violence on Tamil Satyagrahis. The Government soon followed this action by the declaration of an Emergency in April 1961. The month by month extension of

emergency rule to meet likely mass protests or strikes was also welcomed by the bourgeoisie and the imperialists. The 1961 Budget despite the ceiling on incomes was hailed as a realistic budget by the representatives of vested interests. It was certainly bold action to raise the price of sugar, flour, safety matches, tobacco and also introduce a 4% development tax to include the category of persons drawing Rs. 300/- per month and over. The Sirimavo Government was girding its loins to save the cracking edifice of Capitalism in Ceylon. More proof was forthcoming. Good bourgeois representatives were welcomed into government institutions and undertakings (e.g. Mr. H. V. Perera, Mr. N. E. Weerasuriya, Mr. Loganathan etc.). And on the other hand with regard to unfavourable reactions of the working class and the masses the government showed it was ready to meet any situation.

The time for action soon arrived. The working class came out in strike action. After a brief period of indecision and inaction the Sirimavo Government moved into action. Within a week of the Harbour Strike the Military was sent in to break the strike, and hundreds of volunteers were enlisted to the army for strike breaking and intimidation. When the 5th January general strike came the Sirimavo Government did well in the eyes of the bourgeoisie. The occupation by the Military of the workplaces and the general intimidation of strikers was carried out well. By the end of the day (January 5th) several arrests were effected (C.T.B. Men) and Radio Ceylon men were kept under detention. The Sirimavo Government did not rest thereafter. The Government made active preparations to meet the coming second strike of workers, and there was little doubt that arrests, imprisonment of Trade Union leaders and even shooting down of strikers was part of the Governments plan to meet the second strike situation.

If the Sirimavo Government had given vested interests sufficient proof that the Government was clearly on their side in the coming situation of working class and mass action, why did the coup people attempt a coup d'etat which meant the removal of the Government? Was it fear of or opposition to the 'Progressive' policies of the

Sirimavo Government? Undoubtedly the capitalist class was opposed to many progressive actions and measures of the Sirimavo Government (e.g. Schools Take-over, Nationalisation of Life Insurance, setting up of the Petroleum Corporation etc.) But in a country where democratic institutions have functioned for nearly two decades the extreme step of a coup d'etat is resorted to only when the bourgeoisie as a class is convinced that only a military dictatorship would save the bourgeois class interests—their property system and their profit system.

But in the situation and conditions prior to January 27th there was no evidence that vested interests had come to the view that they were in immediate peril because of the "progressiveness" of the Government. The bourgeoisie while opposing certain measures understood that the Sirimavo Government would stop short of any move that endangers capitalism. But what moved the coup forces into action was mainly the conviction that immediate and drastic action was called for against the working class and the masses if capitalism was to be saved. The understanding of the situation by the imperialists and the bourgeoisie was apparently that despite emergency conditions that prohibited mass meetings, demonstrations and strikes the working class was once again in serious preparation for a much more serious struggle. The second strike was likely to be a challenge to the capitalist class and the Government. It was possible that political power would be in the balance. If not an immediate revolution, in the eyes of the coup people the coming period would seal the fate of capitalism in Ceylon.

If a development towards a Socialist Revolution proper with the working class taking the leadership and the initiative was likely to be a reality was it not prudence to prevent such an eventuality though such action would involve the removal out of the way of the Sirimavo Government? It is true that the threat of Socialist Revolution came not from the Sirimavo Government. On the contrary the Sirimavo Government had gone a long way to prove to the capitalist class that it is anti-working class and that although the capitalist class has suffered harassment under the S.L.F.P. Govern-

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ment yet the overall result of S.L.F.P. policies was the preservation of the capitalist order. But despite these considerations it would appear that in the view of the coup leaders the situation demanded drastic action. It would appear that in their view only a "Strong" Government,—a military Government of the capitalist class could save capitalism in Ceylon. The alternatives in their view were either a military dictatorship of the bourgeoisie or a workers Socialist Revolution. Herein lies the essence of the coup situation of 27th of January.

If the *raison de 'etre* of the foiled coup is understood the politics of the after-coup situation and political perspectives becomes clearer. If the question that is posed in the period ahead is either working class power or military dictatorship there is obviously no room for any type of Bonarpatism. A middle of the road Government will prove a serious obstacle both for the working class and the masses moving towards socialism and also for the bourgeoisie moving towards a strong bourgeoisie Government. In the further development of the class forces the role of the Sirimavo Government therefore will be far reaching in its implications. Will the S.L.F.P. government make a drastic change in its policies and get on to the anti-capitalist road thus changing its own class character? Such an eventuality will alter the relationship of class forces very favourably for the working class and the masses. It will mean a tremendous accession of strength on the side of the working class and the progressive forces. With the state machinery on its side the anti-capitalist forces will make a leap forward. The mobilisation of the working class, the rural poor and rest of the toiling people will be on the order of the day and this development must logically lead to a colossal anti-capitalist movement. In this new situation a State offensive backed by the masses against the summits of the Capitalist Economy like the taking over of the plantations and the Export-Import Economy, with the workers participating in management and control, the road will

be open for the liquidation of capitalism and for laying the foundation of socialism. This indeed is the logic of the further development of the class struggle with the Sirimavo Government leaning heavily on the side of the working masses. But is it not the case that this is only a consummation devoutly to be wished? The realities of the situation are totally different.

A perilous course of action for the Sirimavo Government would be to seek a compromise with the coup forces in the hope of warding off future attempts at a Rightist offensive. Unhappily this course is already being marked out. With the State of Emergency still on and the anti-working class and anti-democratic regulations in force the anti-capitalist forces remain almost imprisoned. What is more the new Criminal Law (Special Provisions) Amending Act which has brought within the purview of the offence of overthrow of the Government all massive mass actions even of a protest character and with penal provisions for such actions extending up to the death penalty the Sirimavo Government has sought to strangle in advance the working class and the masses in their struggle against Capitalism. Is the Sirimavo Government providing guarantees to the Capitalists and Imperialists? Is the Government seeking to prove to vested interests that they need not resort to the hazards of coups d'etat to obtain the "strong Government" and that by the end of the processes of present transformation the Sirimavo Government will be indistinguishable from the hearts desire of the Capitalist Class—the Strong Government? The logic of such a development will mean that the further development of the class struggle will see the Government and the capitalist class on the same side of the barricades and the working class and the toiling masses on the other. If this possibility is finally the unfortunate reality then what the people with their own hands created as an instrument of their emancipation and progress will by those same hands be strangled and destroyed as an obstacle on their march to freedom and a better world.

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THE CRIMINAL LAW (SPECIAL PROVISIONS) ACT

By R. K. W. GUNASEKERA LI.B.

NOW that the controversial 'Coup Bill' has passed into the statute book as the Criminal Law (Special Provisions) Act, No. 1 of 1962, it is opportune to make an objective appraisal of this law which has evoked much critical comment in this country and outside. The special provisions of the Act are really unusual and do violence to a number of fundamental principles of the criminal law. The Government were conscious of this fact and did offer the excuse that the circumstances themselves were unusual and the safety of the State demanded the sacrifice of certain hitherto accepted legal principles. This is the second time that a grave situation existing in the country has called for special legislation of this sort. The first occasion was in 1915 when the aftermath of the Sinhalese-Muslim riots were the so-called "treason trials" by Courts Martial which were in reality hideous travesties of legal trials. From the point of view of the rulers condign punishment had to be inflicted; for the Sinhalese people there was urgent need for protection against the crimes that were being committed in the name of justice. The outcome was section 440A of the Criminal Procedure Code making possible trials before the Supreme Court without jury and the imposition of a heavier punishment for sedition. This legislation was made retrospective only as far as the mode of trial was concerned. On this occasion it is alleged that a plot to overthrow the Government by force was foiled in the nick of time. There can be no doubt that the circumstances were quite unusual. Treason and treasonable conspiracies are rare enough but when the traditional custodians of law and order are the chief persons involved in a coup it must be admitted that an almost unique situation has been brought about for which the law based on the assumption of an unquestioning loyalty of the police force may prove inadequate.

This then is the background of the Act. The changes in the law which it has effected

have reference only to a single group of offences viz., those against the State, but they affect all branches of the criminal law. Chapter VI of the Penal Code ('Of Offences against the State') has 13 sections (if we leave out section 127 which enacts that the Attorney-General must sanction a prosecution under this Chapter) but 27 or more offences are specified. The list includes waging or preparation to wage war against the Queen or against any power in alliance with the Queen, conspiracy to wage war or to overthrow the Government, assaulting the Governor-General or members of Parliament with intent to compel or restrain the exercise of any lawful power, sedition, etc. The punishment for these offences varies from two years simple imprisonment to death and forfeiture of property. No special rules were enacted regarding the trial of these offences which must therefore be governed by the general law. What the Criminal Law (Special Provisions) Act does is to add to the list of offences against the State and at the same time alter the rules of procedure and evidence in their application to *all* offences against the State.

The Act has been criticised on a number of grounds. Firstly, it is retrospective since section 19 declares it to have come into operation on 1st January 1962 although the date of Assent was 16th March 1962. Curiously it is retrospective without at the same time being prospective. Part I of the Act (dealing with arrest and detention of suspects) is limited in its application to offences against the State committed on or about January 27th; the other provisions of the Act cease to be operative after the conclusion of the impending trials but Parliament may by special resolution extend the operation of the Act for further periods not exceeding one year at a time. There can be little consolation in these restrictive provisions once the principle of retrospective legislation has been accepted. Secondly, there is a threat to the

independence of the judiciary in the assumption by the Minister of Justice of the power to nominate the three Judges who are to constitute the trial at bar. This is seen as one aspect of executive interference in the judicial process made possible by the Act. Thirdly, the accused are denied the benefit of important rules of evidence and become liable to conviction on hearsay evidence. Fourthly, the period of police detention has been enlarged from a maximum of 24 hours to 60 days. Fifthly, a convicted accused's right of appeal to the Court of Criminal Appeal has been taken away.

These are the chief grounds urged against the Act and they are sufficiently important to deserve the attention not only of lawyers but even of the ordinary citizen. Offences against the State, and in particular treason, are quite unlike other offences and the question is, to what extent this difference can justify a departure from the general law. It is interesting to recall that in England for a long time a person accused of treason suffered many legal disadvantages. His right to the assistance of counsel was recognised only by the Treason Act of 1695 which required two counsel to be assigned to him but not more. This technically is the position even today. At the trial of Sir Roger Casement the accused was defended by a King's Counsel and Artemus Jones (of *Hulton v. Jones* fame). He had also retained a former Professor of Constitutional Law of the University of London whose expert knowledge of the law of treason was essential for a complicated legal argument. Owing to the rule limiting the number of counsel he could not appear for the accused and address Court but Lord Reading allowed him to be heard as *amicus curiae*. Thus British sense of justice was able to get over an inconvenient rule.

In this article the provisions of the Act are examined in relation to the general law. The reader will see to what extent the law has been altered and judge for himself whether on the whole the Act is deserving of the condemnation it has received or not.

NEW OFFENCES AGAINST THE STATE

New offences against the State have been added to Chapter VI of the Penal Code by

an amendment to section 115. The genesis of this section which was not in the original Indian Penal Code but was added in 1870 as section 121A is interesting. There was already section 121 (114 in our Penal Code) which covered waging war against the Queen and an attempt or abetment of waging war. One form of abetment recognised in the Code is engaging in a conspiracy but according to the Indian section on abetment i.e. section 107, in order to constitute an abetment by conspiracy there must take place an act or illegal omission in pursuance of the conspiracy. Thus a conspiracy to wage war against the Queen was not punishable as the abetment of waging war unless the conspirators did something in pursuance of their plan. It was with the intention of making the mere act of plotting an offence that section 121A was introduced. The Explanation to the section reads, "To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof". In its final form the section included conspiracies of a slightly different complexion. This section along with the Explanation in due course found its way into our Penal Code as section 115 and as it stood embraced two kinds of conspiracies—(1) conspiracies to commit any of the offences punishable by section 114, or to deprive the Queen of the sovereignty of Ceylon or any part thereof or of any of Her Majesty's dominions; (2) conspiracies to overawe by means of criminal force or show of criminal force, the Government. At this stage a significant difference between the Indian Code and our Code must be noted. Our definition of abetment (section 100) departs from the corresponding Indian definition in that engaging in a conspiracy constitutes abetment without even an act or omission taking place in pursuance of the conspiracy. To remove any doubts as to this there is Explanation 2 to section 100 which reads, "A conspiracy for the doing of a thing is where two or more persons agree to do that thing or cause or procure that thing to be done." Even without section 115 therefore conspiracies of the first kind would be punishable—under section 114.

The amendment has added to the two kinds of conspiracies the following offences:

- (a) a conspiracy or attempt or preparation,

- to overthrow otherwise than by lawful means the Government of Ceylon;
- (b) any act, or a conspiracy or attempt or preparation to do an act, calculated to overthrow, or with the object or intention of overthrowing, or as a means of overthrowing, otherwise than by lawful means, the Government of Ceylon;
- (c) a conspiracy or attempt, to murder, or
- (d) the wrongful confinement of, or a conspiracy or attempt or preparation, to wrongfully confine, the Governor-General, or the Prime Minister, or any other member of the Cabinet of Ministers, with the intention of inducing or compelling him to exercise or refrain from exercising in any manner any of the lawful powers of such Governor-General, Prime Minister or Cabinet Minister.

It is submitted that this is the only way this jumble of new offences can properly be read. It is idle to speculate as to the reasons for introducing these offences. Details of the action contemplated by the alleged conspirators were not disclosed in the Government's White Paper, consequently no opinion can be formed as to whether or not there had been an attempt or abetment to wage war against the Queen, or a conspiracy to wage war to overawe the Government, or indeed, whether any one of the offences prohibited by Chapter VI had been committed, attempted or conspired. In any event, the fact that after the amendment those guilty of an offence under section 115 will forfeit their property and can be sentenced to death seems to suggest that enhancement of the punishment was as important, if not more important, a consideration than finding the conspirators guilty of committing offences punishable under the existing law. Since section 114 already provides for punishment of this kind it is pertinent to consider the scope of this section.

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In England the phrase 'levying war' (which was the original phrase used in the Treason Act of 1351) was by a strained judicial interpretation in the middle of the 18th century extended from its direct and natural meaning to cover acts of force and violence against the Government either for the purpose of compelling or preventing legislation or in order to attain political objects. This adaptation took into account the fact that in a constitutional monarchy the government of the country was no longer in the hands of the reigning sovereign and made the use of illegal force to overturn the Government or to strike at the authority of Parliament treasonable. This doctrine of constructive treason was confirmed by the statute of 1795 (36 Geo. 3, c. 7) which enacted that it was treason to compass, imagine, invent, among other things, "to depose the King, or to levy war against him, in order, by force or constraint, to change his measures or counsels, or in order to put any force or constraint upon, or to intimidate or overawe both houses or either house of parliament." But in 1848 (11 & 12 Vict. c. 12) the compassings, etc., specified above were made felonies ("treason felonies") punishable with imprisonment for life, although it remained theoretically possible to bring a charge of treason. Even earlier after the Riot Act of 1714 the practice was for rebellious riots and tumults to be dealt with as felonies. In Ceylon much the same kind of situation exists and uprisings against the Government could be treated as acts of waging war, if we follow English precedents of the 18th century, or dealt with as unlawful assemblies whose object is to overawe by criminal force or show of criminal force the Government, an offence punishable with six months imprisonment under section 140, or as riots the maximum punishment for which is imprisonment for two years (section 144). Section 114 has not been construed by our Courts and in pre-Independence India the corresponding section was applied only to violent insurrections by political societies against the British Raj. In a recent case (post-Independence) one notices a restrictive interpretation being placed by Shearer J. who opined that "waging war" means and can only mean "waging war in the manner usual in war" i.e. resisting troops and crushing opposition (*Mir Hassan Khan v. The State* (1951) 52 Cr. L.J. 462).

We shall proceed to analyse separately the new clauses which have been added to section 115.

(A) "conspires to *overthrow* or attempts or prepares to overthrow *otherwise than by lawful means* the Government of Ceylon." This clause is intended to leave no room for doubt that a plot to oust the lawful Government is an offence of the same gravity as a conspiracy to wage war. Does it add to the existing clause "conspires to overawe by means of criminal force or show of criminal force"? The word 'overawe' when used in this section was recently explained as signifying "more than the creation of apprehension or alarm, or even perhaps fear. It appears to connote the creation of a situation in which the members of the Central or a Provincial Government feel themselves compelled to choose between yielding to force or exposing themselves or members of the public to a very serious danger. It is not necessary that the danger should be a danger of assassination or of bodily injury to themselves. The danger might well be a danger to public property or to the safety of members of the general public" (*Mir Hassan Khan v. The State*). By contrast the word 'overthrow' is more specific and can only mean to cast from power. The substitution of the phrase 'otherwise than by lawful means' for 'by means of criminal force or show of criminal force' in this and the next clause, was perhaps inevitable since the former is more appropriate to the word 'overthrow'. At the same time there can be little doubt that it enlarges the scope of the offence. A Government amendment to make the phrase read 'otherwise than by lawful or constitutional means' was moved and apparently abandoned in the Lower House.

(B) "does any act, or conspires to do, or attempts or prepares to do any act, *calculated to overthrow*, or with the object or intention of overthrowing, or as a means of overthrowing, otherwise than by lawful means the Government." Whereas clause (a) deals with action directly intended to overthrow the Government this clause refers to acts which indirectly achieve this object. Two comments are offered. Firstly, the type of acts is absolutely unlimited. Secondly, it is a cardinal principle of the criminal law that a person is held responsible only for

consequences foreseen by him i.e., intended. There fore it is only exceptionally and for offences where the punishment is not heavy that a person is punished without regard to his intention. This principle is shown in operation in this clause by the requirement that the act done or contemplated should be with the object or intention of overthrowing the Government or as a means of overthrowing the Government. But the phrase 'calculated to overthrow' does not import any mental state of the doer; it is the objective assessment of the effect of action. This makes it possible for a person to be found guilty of a serious offence and to suffer severe punishment by use being made of circumstances outside his control to interpret his action as directed to the overthrowing of the Government by unlawful means.

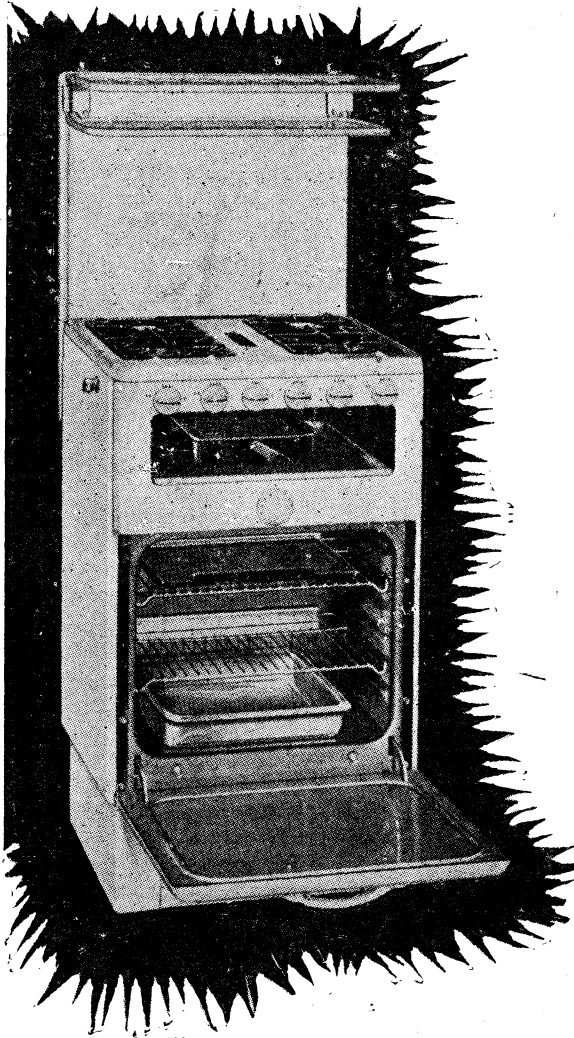
(c) conspires to murder or attempts to murder the Governor-General or Prime Minister or any other member of the Cabinet of Ministers; with the intention of inducing or compelling him to exercise or refrain from exercising in any manner any of the lawful powers of such Governor-General, Prime Minister or Cabinet Minister." Conspiracy to murder and attempt to murder are already offences under the Penal Code. The former is punishable as murder if the murder is committed or with imprisonment which may extend to 7 or 14 years if it is not committed. The latter is punishable with imprisonment which may extend to 10 or 20 years. The purpose of this clause is to enable a more severe punishment to be imposed where the murder, attempted or conspired, is that of persons holding certain political posts. But an amendment moved by the L.S.S.P., and, somewhat to the surprise of the mover, accepted by the Government has grafted on this clause as well as on the next (where it is really relevant) a specific intention, and this may well defeat the object for it may be a little difficult to show that a person attempted or conspired to kill another with the intention of inducing or compelling him to exercise or refrain from exercising his powers. A threat to kill such personage with the same intention is not covered by the clause.

(d) "wrongfully confines, or conspires or attempts or prepares to wrongfully confine, the Governor-General etc." with the same intention as in the preceding clause. The requisite of a specific intention restricts the

application of this clause but even here we are not quite free of difficulties. As it stands the clause makes it a grave crime to wrongfully confine any of the persons mentioned for the purpose of compelling or inducing him to exercise his lawful powers i.e. to do his duty. But this problem is present also in section 119 from where apparently the clause has been taken.

From the foregoing analysis it will seen that acts of preparations have been included among the new offences. This calls for special Comment because as a note the criminal law does not punish an act which is wisely preparatory to the Commission of a crime. An exception recognised in the Code is preparation to wage war which is made an offence by section 116. This exception, for which good reasons exist, can justify the preparation to overthrow the Government by unlawful means, being made an offence. But if it was odd to find the wrongful imprisonment of a Minister for a particular purpose, alone of the many offences against the person, being selected for exemplary punishment, it is even more odd when the mere preparation to do so is made liable to be treated with the same security. The puzzle increases when we notice that preparation to murder a Minister with the same object is no offence at all. When two or more persons are involved in these offences this point will not arise because these can then be proved a conspiracy which although it is auterdent to any act of preparation, is nevertheless an offence. It is only if a person, single-handed has the kinscrit, to to prepare to overthrow the Government or to wrongfully confine a Minister that this part of the law can come into operation.

The amendment also alters the punishment for offences under section 115. Punishment for offences against the State have always been guided by principles which are not the same as for other offences. Stephen in his Notes on the Indian Penal Code has this to say: "though in general a person who has been a party to a criminal design which has not been carried into effect, ought not to be punished so severely as if that design had been carried into effect, yet an exception to this rule must be made with respect to high offences against the state; for state-crimes, and especially the most heinous and formidable state-crimes, have this peculiarity, that



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if they are successfully committed, the criminal is almost always secure from punishment. The murderer is in greater danger after his victim is despatched than before. The thief is in greater danger after the purse is taken than before. But the rebel is out of danger as soon as he has subverted the Government. As the penal law is impotent against a successful rebel, it is consequently necessary that it should be made strong and sharp against the first beginnings of rebellion, against treasonable designs which have been carried no further than plots and preparations." Stephen fails to mention another, and, perhaps a better reason, that is, a successful rebellion is for more drastic in its consequences than allowing a rebel to go unpunished, it means a threat to the entire existing legal order and to legal institutions. In his History of the Criminal Law of England the same jurist says "In treason it is obvious that the conspiracy is a more proper object of punishment than the actual offence, for when war is actually levied it must be met by armed force, not by legal punishment, and when a rebellion has suffered defeat in the field subsequent punishment may seem cruel." It can be safely assumed that the punishments in Chapter VI have been prescribed with these principles in mind. For instance, in section 114 no distinction is made between actual waging war and an attempt or abetment all of which are punishable with death or imprisonment for 20 years and forfeiture of property; the conspiracies under section 115 were punishable with imprisonment for 20 years and a fine. The Act has made the punishment for all offences under section 115 (new and old) to be forfeiture of property and death or imprisonment which shall not be less than 10 years or more than 20 years. The minimum punishment then for any one of these offences is forfeiture of property and imprisonment for 10 years. The discretion which the Court has to differentiate between the criminality of this heterogeneous mass of acts can be exercised only outside this minimum. One consequence of this change was that it necessitated an amendment of section 114. It would have been illogical for the graver offences in section 114 to be dealt with more leniently and therefore the same minimum punishments in section 115 has been prescribed.

INVESTIGATION

The powers of the police to investigate into the commission of offences are given in Chapter XII of the Criminal Procedure Code. At the centre of such investigation is the police station and the officer in charge of it. Information as to crimes is given to an officer in charge of a police station and it is he who sets in motion the wheels of a police inquiry. If the information relates to a cognizable offence i.e. an offence for which the police can in accordance with the First Schedule to the Procedure Code arrest without a warrant, the officer having sent a report to his immediate superior proceeds to hold an investigation the purpose of which is to discover and arrest the offender. In the case of a non-cognizable offence i.e. an offence where a warrant is necessary for arrest, the powers of investigation can be exercised only after receiving an order from the Magistrate. All offences against the State were non-cognizable, but even if they were cognizable, where the suspects include high-ranking police officers, to follow the procedure laid down in Chapter XII would be stultifying. As a matter of fact in the present instance the need to act swiftly was so urgent that there could have been no question of proceeding by way of Chapter XII. The investigation therefore had to proceed on entirely different lines and all this has been legalised by section 13 of the Act which says that in the case of offences against the State it shall not be necessary to comply with the provisions of Chapter XII. But what is the procedure substituted in place of chapter XII? In the absence of any provisions the Act seems to authorise an investigation the nature of which is left entirely to the discretion of the person in charge. This is most unusual and a serious matter when the Act is applied in the picture against an alleged offence against the State uncomplicated by any exceptional pictures as in the present. At the same time all offences against the State have been made cognizable by an amendment of the Schedule (section 5 (2) (a) of the Act). Section 13 also has the effect of taking away the judicial control which a Magistrate exercises over an investigation which cannot be completed in 24 hours. Under section 126A of the Procedure Code where an investigation cannot be completed in 24 hours the police must make a report to the Magistrate and forward the

suspects to him and the Magistrate decides whether detention of the suspects is necessary.

INTERROGATION

It is natural that the police when investigating into a crime should have the right to question persons from whom useful information can be obtained. Chapter XII of the Procedure Code authorises the officer in charge of the investigation to summon persons acquainted with the facts and to examine them. Among them could be the suspect or the person subsequently charged. Although no oath is administered witnesses are bound to answer truly the questions that are put to them except that they may refuse to answer a question which is likely to criminate them. This right of interrogation lasts as long as the investigation and the Procedure Code does not appear to draw a distinction between the early stages of the inquiry when the object is to ascertain the guilty party and the latter stages when the object is to obtain evidence against him and to discover his confederates. The arrest and detention of a suspect or his release on bail do not affect his liability to be questioned or his duty to answer. (But during the hearing of the Bandaranaike Assassination Appeal doubts were cast from the Bench on the right of the police to interrogate a remand prisoner. The judgement refrains from expressing an opinion.) English practice as approved by the Judges Rules is quite different. During the initial stages of the inquiry the police have an absolute right to question persons but the latter are equally free not to answer. When however the police have decided to charge a person i.e., when the suspect becomes an accused, it is their duty to caution him before asking any questions.

ARREST AND DETENTION

The arrest and detention of a person before trial is often a necessity in the administration of the criminal law. But the law is also a jealous guardian of the subject's liberty and will not permit the power to be abused. In our law following the British system it is subject to the closest judicial control. An arrest can be made with or without a warrant and in the case of some offences only with a warrant. When there is time to obtain a warrant the police will apply for one from a Magistrate stating the grounds on which

it is sought. Even with a warrant the police must strictly conform to the conditions attached to its execution and the most important of these is that the person arrested must be informed of the reason for this arrest. The police have a right to arrest without a warrant when there is a reasonable suspicion that a cognizable offence has been committed but in this instance too it is incumbent on the police to inform the suspect of the nature of the charge against him. Further protection is afforded to the citizen in those provisions dealing with the procedure after arrest. If the arrest is on warrant the suspect must be brought before a Magistrate "without unnecessary delay," but in cases of arrest without warrant not only must he be brought without unnecessary delay before a Magistrate but an outside limit of 24 hours is given for this. In other words the police have no right to detain a person arrested without warrant for a minute longer than 24 hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate. Any further detention is at the discretion of the Magistrate who has the power to order the suspect to be detained in *Fiscal's custody* (not police custody) for periods not exceeding 15 days at a time. It is theoretically possible in this manner for a suspect to be detained indefinitely but the fact that every 15 days at least the Magistrate is required to bring his mind to bear on the need for further detention in itself provides a safeguard. What are the legal rights of a person remanded by a Magistrate? The following quotation based on H.M.S.C. publication *Prisons and Borstals* (1957) may be taken for an answer: "he is treated quite differently from those who are convicted and undergoing punishment, and if possible he is not to be put with them. If he can afford it, buy his own food and pay for specially furnished rooms and certain domestic service. He may see his legal advisers in private and his written instructions to them are not subject to censorship. Any infringement of his common law rights not authorised by the rules would be actionable." These rights of a prisoner under remand have been recognised by Rules 190-211 under the Prison's Ordinance.

Of course, there need not be any detention or prolonged detention because a suspect may be granted bail at any time. The Court when issuing a warrant may endorse it with

a direction that bail is to be granted on certain terms, or the police may release a person on bail if he has been arrested for a bailable offence, or when he is produced before the Magistrate he can be given bail instead of being remanded. In certain grave offences like murder and waging war (and to this list has now been added, by section 3 of the Act, offences under section 115) the Magistrate has only a limited power of granting bail. The Supreme Court has an inherent power to admit a person to bail in any case. The factors that are taken into consideration in granting or refusing bail are the likelihood of the accused absconding ("jumping bail") and the likelihood of his committing other crimes or interfering with witnesses.

The above provisions relating to arrest, detention and bail have been greatly modified by the Act in their application to offences against the State. In the first place, as earlier noted, offences against the State have been made cognizable so that any police officer can arrest on *reasonable* complaint or *credible* information or *reasonable* suspicion, but in addition section 2 of the Act empowers the Inspector-General of Police acting on mere suspicion to arrest or authorise the arrest of a person for an offence against the State. Secondly, the person so arrested "may be removed from the place of arrest to *any other place situated anywhere in Ceylon*, and detained in custody" (i.e. police custody) for a period which may extend to 60 days. Those provisions of the Criminal Procedure Code dealing with procedure after arrest (viz; sections 36, 37 and 38) are expressly implicable by section 2 (8). The only semblance of judicial control over this lengthy detention is that the place of detention and any subsequent change of the place of detention must be notified to the Magistrate (but it does not say how soon after the arrest). Thirdly, The Prisons Ordinance and rules made under Part IX of it pertaining to Visits and Correspondence will apply only at the discretion of the Permanent Secretary to the Ministry of Defence and External Affairs and subject to his modifications (section 2 (5)). Thus the right of a suspect to see his legal adviser "on any week day at any reasonable hour, and, if required, in private" (Rule 201) may be withdrawn by an administration order, which need not even be published in the Gazette. But if he has the misfortune to be detained in a place which is not a prison

established under the Prisons Ordinance (This is possible since a suspect can be detained in any place anywhere in Ceylon) there is no law conferring any rights on him during his period of detention, and he is completely at the mercy of the Inspector-General of Police. Finally the absolute power which the Supreme Court possessed to grant bail in all cases has been taken away where an offence is tried at Bar without a jury and this is now vested in the Attorney-General (section 4 (3)).

CONFESSIONS

The law relating to confessions is rightly considered to a corner-stone of the criminal law. It was framed after a careful consideration and weighing of numerous factors not the least being an unfortunate tendency on the part of the police not to care by what violent means they extract a confession of guilt from an accused. There can be no better proof of guilt than an admission by the accused that he committed the offence but for good reasons the Evidence Ordinance places a number of sentinels before declaring such admissions to be admissible at the trial. If a confession has been obtained as a result of a treat, inducement or promise, held out by a person in authority, the law shuts it out. A confession made to a police officer even voluntarily is also inadmissible. A confession made after a person has been taken in police custody cannot be proved unless it is made before a Magistrate who before recording it must be satisfied that it was being made voluntarily. (Sections 24, 25 and 26 of the Evidence Ordinance). Not only confessions but even other statements recorded in the course of the investigation cannot be used at the trial. Before a confession is admitted in evidence the prosecution must prove that it was made voluntarily

These restrictions have been relaxed in the case of *any offence* against the State. By section 12 of the Act all statements and confessions made by a suspect to a police officer even while in custody can be proved against him *provided they were made voluntarily*, e.i., not in consequence of an inducement, promise or threat, *and* they have been made to a police officer not below the rank of Assistant Superintendent. This innovation is reminiscent of the English Law which

acts on the entirely different principle that it is not often that a case can be established against an accused beyond reasonable doubt without the help of statements made by him during interrogation. A confession to a police officer is admissible in English law if it has been volunteered, that is, not made under threat or promise of favour or in answer to questions, and the best evidence of this is that it was made after the administration of the customary caution, "Do you wish to say anything in answer to the charge? You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and maybe given in evidence." Even then the Judge in the exercise of his general power to protect the accused and to ensure that he is given a fair trial may exclude any evidence if some unfair or oppressive use of police power has been made or if the prejudice caused to the accused by its admission is greater than its evidential value. A statement made after a request for a lawyer to be present may, for instance, be treated as not voluntarily made. There is no provision in our law for a caution to be administered; as a matter of fact if the correct view is that even after remand an accused is still subject to interrogation by the police it may be a difficult matter to prove that the statements were *volunteered*. (According to a Regulation under the Public Security Ordinance those taken into custody or detained under any emergency regulation may be questioned by "any officer of the police, or any other officer authorised by the Commander of the Army, Captain of the Navy or Commander of the Air Force, and it shall be the duty of the person so questioned to answer the question addressed to him." To some extent but not altogether, this situation is met by section 12 (3) which places the burden of proving that a statement or confession was not voluntary on the accused.

The subversion of another important principle must next be noted. According to section 30 of the Evidence Ordinance a confession made by one of several accused tried jointly for the same offence cannot be taken into consideration against the other accused, that is, it is evidence against the maker but not against the others whose guilt will have to be established *aliunde*. Section 12 (2) of the Act enacts that in the case of offences against the State statements and confessions of one accused can be proved

against the others if corroboration in material particulars is forthcoming. It has been claimed that this change was unnecessary where the offence is a conspiracy because section 10 of the Evidence Ordinance permitted this to be done. This section says that things said or done by a conspirator in reference to the common intention can be proved against the other conspirators. But it is submitted that section 10 will not permit statements made by a conspirator after his arrest to be used against others. The Privy Council in *Mirza Akbar v. Emperor* (1940) 3 A.E.R. 585 pointed out the proper application the section: "In their Lordships' judgment, the words 'common intention' signify a common intention existing at the time when the thing was said, done or written by the one of them. Things said, done or written while the conspiracy was on foot are relevant as evidence of the common intention, once reasonable ground has been shown to believe in its existence. It would be a very different matter, however, to hold that any narrative, statement or confession made to a third party after the common intention or conspiracy was no longer operating and had ceased to exist is admissible against the other party. There is then no common intention of the conspirators to which the statement can have reference. In their Lordships' judgment, section 10 embodies this principle." Then referring to certain Indian decisions, "In these cases, the distinction was rightly drawn between communications between conspirators while the conspiracy was going on with reference to the carrying out of the conspiracy and statement made after arrest or after the conspiracy had ended by way of description of events then past."

TRIAL UPON INFORMATION

A trial before the Supreme Court may be upon indictment or upon information. The former is the usual mode and is preceded by an inquiry by the Magistrate after which the accused is committed to stand his trial before the Supreme Court. A formal indictment in the name of the Attorney-General is then served on him. The jurisdiction of the Supreme Court to try informations is recognised in section 19 (a) of the Courts Ordinance but more explicitly in section 385 of the Criminal Procedure Code. The latter section gives the Attorney-General

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the power to exhibit informations to the Supreme Court for all purposes for which the Attorney-General in England may exhibit informations. An information is a formal complaint filed in the Supreme Court by the Attorney-General on behalf of the Sovereign whereby a person is brought to trial without previous commitment. The origin of the criminal information in English law is somewhat obscure but it was used from early times by Kings to accuse persons of offences (but not capital offences) directly by one of his law officers and without the intervention of the grand jury. Its use came to be confined to "such enormous misdemeanours as peculiarly tend to disturb or endanger the government or to molest or affront the Sovereign in discharging the royal function." In the past offences which have been tried by information include obscene libels, libels on the Sovereign, on the Government, on Judges, on the Houses of Parliament, on the Constitution. The use of this extraordinary procedure is justified on the ground that it by passes a possibly lengthy preliminary inquiry and thus gives the injured party a speedy remedy. Stephen remarks that it also affords him an opportunity "of justifying his conduct and character upon affidavit." It is rarely used in England today because it places the accused at a disadvantage, the last occasion it was availed of being in 1911 when one Mylius accused the King of bigamy.

It will be noticed that section 385 of the Procedure Code attempts to maintain the English law distinction between misdemeanours and felonies by forbidding the exhibit of information in the case of an offence punishable by death or rigorous imprisonment for 3 years. In *Theja Gunewardene's case* (56 N.L.R. 193) it was held that a libel on the Governor-General designate was a proper occasion for the use of proceedings by information.

TRIAL AT BAR

The trial at bar has an ancient history going back to Magna Charta when the right to a local trial in the county instead of at Westminster was won. But in cases of great importance the Court of King's Bench had the power to grant a trial before the Court itself at Westminster. The prisoner was, as it were, brought before the bar of the court. The number of Judges who

constituted the Court has varied from ancient days when all the common law Judges sat, to four Judges who tried Lord George Gordon in 1794 and three Judges at the trial of Sir Roger Casement in 1917, which incidentally was the last trial at bar in England. A trial at bar was always with a jury and was reserved for cases where important and difficult questions of law arose. In similar fashion section 29 of the Courts Ordinance and section 216 of the Procedure Code provide for a trial before 3 Judges of the Supreme Court at Colombo with a jury. Under these sections the discretion is with the Chief Justice to order a trial at bar and it has been exercised only once. In England where the Attorney-General has exhibited an information he can demand that the trial shall be at bar. R. F. Dias in his Commentary on the Criminal Procedure Code in no less than three places makes the same assertion for Ceylon but this may not be correct.

After the 1915 riots section 440A was added to the Procedure Code providing for a trial at bar by 3 Judges without a jury on the direction of the Governor (now Minister of Justice) in the case of (1) an offence under section 120 of the Penal Code (sedition), or (2) any other offence which by reason of civil commotion, disturbance of public feeling, he may consider to be appropriately triable in this manner. This was clearly a manoeuvre to get rid of a sympathetic jury who may have returned verdicts of acquittal in favour of their countrymen. It was also provided that the trial of these offences could be upon indictment or information thereby extending the use of the latter device. It will be seen that a direction by the minister of Justice in the case of sedition is not open to question but, as was made clear in *Theja Gunewardene's case*, where the charge was one of criminal defamation, in the case of other offences the Court can examine whether there was reasonable ground for the Minister's belief that there was a disturbance of public feeling to justify the order for a trial at bar without a jury. Section 4 of the Act has made it possible for all offences in Chapter VI and not only sedition to be tried at bar on a direction by the Minister and the Supreme Court can in no way contest this because section 8 expressly declares that the Minister's direction shall be final and conclusive and shall not be called into question in any court.

This does not exhaust the Minister of Justice's power in respect of a trial at bar without a jury, Section 9 of the Act leaves it to the Minister to nominate the 3 Judges who shall form the Court (normally this would be the function of the Chief Justice) and attempts to cover any irregularity of action by saying that the jurisdiction of the Court so constituted shall not be called in question in any court. Taken in conjunction with the provision to increase the number of Judges of the Supreme Court by two (section 17 of the Act) and the power to give to the *Court of trial* to determine its non procedure this is capable of a sinister interpretation. But one should hesitate before attributing to a Government such an unprofitable emotion as revenge and first seek an explanation elsewhere. The enormity of the threat to the Government is best known to the Government who have been virtually handling the investigation from the beginning and their anxiety to put such dangers as remain lurking out of the way must be appreciated. Judges, however impartial, are still human and are influenced by what that distinguished American Judge, O. W. Holmes has called "the inarticulate major premise." It is this factor that renders the judgements of certain judges more predictable than others and sometimes leads litigants to manipulate the hearing of their causes before particular Judges. Often where important social legislation is involved a Government may be driven to ensuring the success of their policy by taking advantage of this knowledge. But this is not to jeopardise the independence or integrity of the judiciary. Question as to the interpretation and application of this Act must cause the Government uneasiness but it was surely unfortunate that when the life and liberty of a subject are involved the Government should do anything to shake the ordinary man's confidence in the fairness and impartiality of the Judges of the Supreme Court collectively. This is likely to happen when the Minister selects the 3 Judges of the Court of trial—quite apart from the embarrassment caused to the Judges by the unwanted declaration of confidence placed in them. But there is even a more serious objection to this provision. When a delicate balance is maintained between Legislature, Executive and Judiciary, legislation like this can upset the smooth working of good government with consequences that can be most unfortunate. The

whole Act is an assertion in an extreme form of the doctrine of Parliamentary supremacy.

TRIAL IN ABSENTIA

The general law requires that an accused person must be in court before he can be tried, convicted and punished. There is no provision for trial in the absence of an accused who has successfully evaded apprehension but the possibility of a proclaimed offender's property being attached and sold under section 60 of the Procedure Code is an indirect means of securing his attendance. Section 14 of the Act establishes the contrary principle that a person accused of an offence against the State may be tried in his absence if the Court is satisfied that he is evading arrest, or absconding, or feigning illness. Treason trials in the absence of the accused have not been uncommon in the past in England and can be justified in the ground that if he has fled the country and been granted political asylum by a country there may be no way of bringing him to trial. From this it could follow that a condition for a trial in absentia should be incontrovertible evidence that the accused is living in safety in a foreign country. In the absence of such evidence it could be harsh to proceed against an absent accused. If the fear is that witnesses may not be alive when the absconder is eventually apprehended use may be made of the provision to record their evidence under section 407 of the Procedure Code. It might be worth mentioning also that there is no period of prescription for "treason" or murder and in the case of other offences it is as much as 20 years.

APPEAL

A most disturbing feature of the Act is that it deprives a person convicted at a trial at Bar without a jury of the right to appeal to the Court of Criminal Appeal. Of course it can be argued that there is no point in allowing an appeal from 3 Judges to another Court which may again consist of 3 Judges. The reply to this is that it would have been far better to have changed the law so that such appeals can be heard by the Court of Criminal Appeal consisting of at least 5 Judges. The view that commends itself to the writer is that whenever it is necessary that an offence against the State should be tried before the

Supreme Court it should be *with a jury*, whether the trial is at bar or before a single Judge. There can then be no question of the disirability of the right of appeal. In *Casement's case* the trial at bar was presided over by the Lord Chief Justice and the appeal was heard by five other Judges.

The Act does not affect a person's right to appeal to the Privy Council but as is well known the Privy Council is not a Court of Criminal Appeal and rarely interferes in criminal cases. A special application for leave to appeal must first be made and even if the Privy Council is satisfied that it is a matter which calls for the exercise of its jurisdiction exceptional grounds must be shown before it will set aside the judgment appealed against.

RETROSPECTIVE LEGISLATION

There is a firm principle established against retrospective or retroactive legislation which in some countries like France and the United States has become a fundamental law. In England although in general and in no uncertain terms retrospective legislation has been condemned from early times, it has also been recognised that in certain situations legislation having retrospective effect may be necessary. A famous English Judge has put the matter in words which are worth quoting: "allowing the general inexpediency of retrospective legislation, it cannot be pronounced naturally or necessarily unjust. There may be occasions and circumstances involving the safety of the state, or even the conduct of individual subjects, the justice of which, prospective laws made for ordinary occasions and the usual exigencies of society for want of provisions fail to meet, and in which the execution of the law as it stood at the time may involve practical public inconvenience and wrong, *summum ius summa iniuria*. Whether the circumstances of a particular case are such as to call for special and exceptional remedy is a question which must in each case involve matter of policy and discretion fit for debate and decision in parliament which would have jurisdiction to deal with the subject-matter by preliminary legislation, and as to which a Court of ordinary municipal law is not commissioned to inquire or adjudicate." In this passage no distinction is made between the kinds of retrospective legislation

but such a one was made by the Supreme Court of the United States when called upon to interpret an Article in the Constitution, viz., "No State shall pass any *ex post facto* law." Justice Chase in *Calder v. Bull* (3 Dallas 386) explained "Every *ex post facto* law must necessarily be retrospective; but every retrospective law is not an *ex post facto* law. The former only are prohibited. Every law that takes away or impairs rights vested agreeably to existing laws is retrospective and is generally unjust, and may be oppressive; and it is a good general rule that a law should have no retrospect; but there are cases in which laws may justly, and for the benefit of the community, and also of individuals, relate to a time antecedent to their commencement; as statutes of oblivion or of pardon. They are certainly retrospective, and literally both concerning and after the facts committed. But I do not consider any law *ex post facto* within the prohibition that mollifies the rigour of the criminal law, but only those that *create or aggravate the crime or increase the punishment or change the rules of evidence for the purpose of conviction*.... There is a great and apparent difference between making an unlawful act lawful and the making an innocent action criminal and punishing it as a crime." Judged by these standards there can be no doubt that the Criminal Law (Special Provisions) Act combines in it all the bad features of an *ex post facto* law: it makes an act an offence which it was not at the time it was committed; it increases the punishment; finally subverts the rules of evidence. In addition the Act has taken away an existing right, the right of appeal, and expresses the Government's support for two outmoded and thoroughly discredited forms of punishment—death and compulsory forfeiture of property.

SUMMARY

To sum up the Act as far as it concerns those arrested in connexion with the abortive coup of 27th January:

They have already experienced certain provisions of the Act—those dealing with arrest, detention, investigation, inability to see legal advisers as of right. Other provisions will take effect much later, after the trial and conviction of those found guilty—namely, criminal responsibility for acts

which were not offences at the time of commission (including acts of preparation) or for appeal against conviction or sentence. At the moment however, interest must focus on the trial. What happens at the trial is of greater significance than what has already taken place. It is difficult to say what special rules of procedure the trial Court will adopt in the exercise of the powers conferred on it, but being the Supreme Court and not a special Court, it is unlikely that there will be deviations from the procedure normally followed in a Supreme Court trial except those rendered necessary by the absence of a jury and the number of accused involved. Of the greatest importance will be the questions of law which are bound to arise, in particular the following: whether the pre-trial proceedings were regular or, if there were irregularities whether the Court is entitled to treat them as not material; whether statements made by accused persons

during the investigation were made voluntarily whether confessions made to police officers in the belief that they could not be used in evidence should be treated as made voluntarily or excluded on grounds of public policy; whether there is sufficient corroboration to permit the use of a statement or confession by one accused against a co-accused. These are matters which are entirely in the hands of the Court. In the absence of an appeal to the Court of Criminal Appeal the Judges of the Court of trial are invested with a special responsibility. The question may be put, does not the safety of the State demand that technicalities and niceties of the law should be dispensed with when there is overwhelming evidence of guilt? There is no any answer to this but it is tentatively submitted that if the answer is in the affirmative, a trial by a regular Court is most inappropriate—far better a Court of the people or of Parliament.

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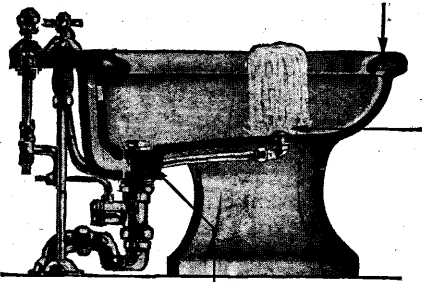
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THE DECISIVE HOUR OF THE ALGERIAN REVOLUTION

by MICHAEL PABLO

A letter written to the F.L.N. from prison in Amsterdam

Dear comrades, dear brothers of the F.L.N.

I address this letter to you on the day after the condemnation of Sal Santen and myself to fifteen months imprisonment for "illegal" activities on behalf of the F.L.N.

The Algerian revolution is now virtually victorious. The last delays and manoeuvres of Imperialism can retard the hour of liberation but the latter is certain and relatively near.

This victory is above all the work of the Algerian workers and peasants who for seven years have not spared their blood, with immense and multiple sacrifices.

In seven years of atrocious war, the Revolution has spread its roots in the Algerian people, and the FLN—the national revolutionary leadership which this people has produced—has developed into a formidable politico-military organisation of the masses, with international connections.

This victory is equally the result of the material and moral aid received from the Arab masses, from the African masses, and from the workers states, from China, from Yugoslavia and the other "people's democracies."

The international revolutionary context, the new balance of forces established already on a world scale for many years has not ceased to evolve against Imperialism, enormously favouring the victory of the Algerian revolution.

Groups, at first rather small, but growing larger and larger in the European and French workers movement have contributed equally to this victory. Certainly in this sphere, the European workers' movement, still led by the traditional socialist and communist

parties has shown and still shows great slowness in general, by comparison with the revolutionary struggle of its brothers in the colonial countries. This can be seen clearly in France not only with the shameful attitude of the SFIO, as executioner of Imperialist policy and principal supporter in the workers' camp of the Gaullist dictatorship, but equally in the attitude of the French CP to the revolution both during its first years and even now where it contents itself with a purely verbal opposition to De Gaulle and the pursuit of the war in Algeria.

It is this frankly treacherous and fundamentally opportunist attitude of the major organisations representing the proletariat, which has forced a number of militant workers and revolutionary intellectuals to envisage means and forms of aid to Algerian revolution of an exceptional nature and which cannot possess the same aspect and the same content as in the case of a genuine revolutionary action by the masses.

The fact remains however that these initiatives and activities of a confined vanguard in France and elsewhere have been valuable, awakening workers and democratic opinion in France and in Europe of the Algerian question and stimulating reactions from larger sections of the population.

This can be seen today with the increase of protest in France and even in Algeria against the continuance of the Imperialist war and the more powerful response in favour of the Algerian revolution which has developed in the European capitalist countries.

The French Trotskyists and the whole IVth International, as you are well aware, have since the beginning of the Revolution, contributed, modestly it is true, to this evolution.

Some among us, with dozens of other militants and intellectual revolutionaries, both French and European, with various political orientations, at the danger of losing their life and undergoing imprisonment have already shown their attachment to the Algerian revolution and beyond that to the colonial revolution in general.

Certainly these sacrifices are nothing in comparison with the enormous sacrifices undergone by the Algerian people. But if I mention this, it is simply to explain that we have some small right to speak to you frankly as sincere friends of the revolution, on the eve of total liberation.

You will have before you a major choice. What are you intending to make of the victory of the Revolution ?

In 1954 the Algerian people rose as a mass movement for the primordial objective of national independence, liberation from Imperialism.

For seven years, the struggle has been waged by the major forces of the peasantry

the workers, the "intelligentsia" without precise social differentiation. These social forces once brought on the scene have determined the dynamics of the revolution and have realised their consciousness in a profoundly agitated and revolutionary national and international context.

It is not only the harsh consciousness of a nation which has been forged in this struggle. In however confused a way, in different degrees, the social strata who have supported the revolution and the war, the peasants of the mountains and of the villages of Algeria, the agricultural proletariat, workers and "intelligentsia" of the Algerian cities and in metropolitan France itself have become aware of their own social aspirations and ideals which now largely transcend the framework of national independence, pure and simple.

The revolution began inevitably in the form of a National Front.

In its first phase, beliefs, customs, traditions have played even a progressive role

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in developing and reinforcing the consciousness and national solidarity in face of Imperialism itself, coming from nations such as Tunisia and Morocco who, despite independence are still in submission to feudo-capitalism.

However imperceptibly moved by its own dynamics, the Revolution has raised itself to higher levels. Today after seven years of war against the main forces of a powerful Imperialism, the spirit of the Algerian masses has been strongly affected by the ideas, the aspirations, the dominant socialist, and revolutionary ideas of the epoch. No one can overlook this fact of capital importance for the future of the Revolution.

The latter is developing at the moment in a world of incredibly radical, profound and accelerated transformation. The recent progress of science and technology in the spheres of atomic energy, automation, and space research have pushed back the frontiers of the actual and potential power of humanity beyond all previous imagination. Man has the material power to produce abundance, to raise and transplant mountains, to make deserts flourish.

This new industrial revolution which opens the way to a new civilisation, materially possible and necessary for the first time in the history of humanity, is combined with prodigious political and social changes.

There is thus an interaction between these two processes, destined to coalesce at a higher level of development.

The material and military power of the URSS, of China, of Yugoslavia, of the other workers states, has not ceased to increase and impress its seal on world production and on the balance of forces between Imperialism and the nascent socialist world.

This increasing power interacts with the formidable evolution since the last world war of the struggle for liberation from nations formerly yoked to Imperialism.

Consider the changes since the Algerian revolution in Africa. This continent, formerly the most backward, is now involved from one end to the other in a revolutionary upheaval extending to the most primitive peoples of the forest and the tropical jungles.

From Egypt to Morocco, from Nigeria to Tanganyika, from North Africa to South Africa, through Mali, Guinea, Kenya at the threshold of its revolution, the Congo, Angola "New Algeria"—the whole African continent is a prey to a revolutionary fever. This will continue until total and effective liberation from Imperialism and the social, economic, and national restructuration of this region.

In this historic process, the heroic struggle of the Algerian people has played and continues to play a very considerable role of which it is not yet fully conscious.

In the Middle East the revolutionary fever is no less profound, whether it be in Turkey or Iran where the Shah and the feudal capitalist comprador class attempt desperately at the last hour to delay the inevitable explosion, or Iraq, in midstream under a Bonapartist regime a la Kerensky, unstable, and transitory.

The deterioration of the situation in the Far East for Imperialism is perfectly illustrated by the progress of the revolution in Laos, in South Vietnam, the vigour of the workers movement in Japan and in Indonesia, the chronic crisis in South Korea.

It will not be long before the Revolution makes further progress in this part of the world, more and more dominated by the shadow of Red China.

As for Latin America, the success of the Cuban revolution in the immediate proximity to the United States, citadel of Imperialism, literally in the "Jaws of the monster" is particularly significant. This success illustrates the new balance of forces established on a world scale between Imperialism and the world socialist revolution, and signifies, historically speaking not only the beginning of the Latin American, but equally that of the North American revolution—that is of the Pan American socialist revolution.

The revolutionary impetus which is effecting the masses of Latin America and the instability of the feudo-capitalist regimes are notable throughout almost the whole continent. In reality only the lack of parties and of audacious revolutionary leaderships

who can draw intelligently and boldly upon the revolutionary potential of the peasant and worker masses of all these countries and areas of the world retards an ever greater acceleration of the revolution.

Naturally we have to bear in mind the delay of the advanced capitalist nations of Western Europe and of North America, in comparison with the changes and the revolutionary progress in the colonial, semi-colonial countries and the workers states.

But the economic euphoria which is at the base of the relative social stability of these countries is fragile and conjunctural. The prosperity of these countries has developed and maintained itself for several years—once the reconstruction following the second world war was completed—on the basis of a complex interaction of three essential factors: the phenomenal increase in productivity thanks to the scientific and technological progress which characterises the present “industrial revolution”, the exploitation to the advantage of the industrial sector of each country, of the peasantry, and the exploita-

tion of the colonial and semi-colonial nations by the body of the industrial nations.

The increase of productivity has allowed the simultaneous increase of real wages and of accumulated reinvested capital.

The exploitation of the peasantry of each industrial nation and of the colonial and semi-colonial nations by the body of the industrial nations has maintained the high level of profits of the industrial sector while securing for it the necessary market for its expansion, for the realisation of accumulation.

However as this in the last analysis means that the peasantry and the colonial and semi-colonial countries are experiencing a relative impoverishment, and that the capitalist economy is burdened with the heavy expenditure entailed by armaments which is constantly inflationary, the downturn in this economy and financial crisis are equally in the long run inevitable. The downturn is already visible, as much in the case of the USA and Canada as in England, from which

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at the moment the other capitalist nations, with Germany at their head benefit.

The weakening on the other hand of the various currencies, including the dollar and the real threat of a world financial crisis, illustrate perfectly the fragility of the present capitalist prosperity. In reality, the capitalist world, with the United States at its head has entered into irrevocable economic and military decadence, a process destined to be accelerated irreversibly. Each year will bring striking proof of this.

It is in such a world of revolutionary transformation that the Algerian revolution reaches its hour of victory, its hour of decision.

Imperialism and its external and internal allies are alive to the danger of seeing the Algerian revolution take the "Cuban" road that could proceed to profound social, economic and political transformations which would give Algeria a socialist structure.

In Cuba similarly, as in Algeria, the revolution is based essentially on the struggle of a revolutionary army recruited from the peasantry and was conducted in the absence of a Marxist revolutionary party. Yet this revolution has advanced in its actions and its achievements much more rapidly and with greater audacity than the timid communist parties in their political programmes.

It is to the interest of French Imperialism and its "bourguibist" allies of various sorts outside and within Algeria and its revolution to "embourgeois" in some way the revolution and to contain it within the limits compatible with an Algerian capitalist regime allied with Imperialism. This is the object at which de Gaulle, the Americans and all the feudo-capitalist forces of the American and Arab countries plus the "bourguibist" elements within Algeria itself, are aiming in this decisive period.

The wealth of the Sahara the financial "aid" of France for the proposed "industrialisation" of Algeria under the Constantine Plan, the presence of European "elites" in Algeria, the Algerian emigration in France, all these aspects of the Algerian problem are evoked as an illusion and a mirage of a better future, to direct the solution in a bourgeois and pro-Imperialist direction.

Will you be tempted to fall into such a trap?

In brief Algeria at the hour of victorious revolution has the choice between a solution a la Tunisia or a la Cuba.

"Bourguibist" Tunisia is a country which has found its formal national independence but which has resolved none of its fundamental problems: real independence in relation to Imperialism, solution of the agrarian problem, industrialization, abolition of unemployment and illiteracy, liberation of women. It remains a feudo-capitalist underdeveloped nation, an ally and subject of Imperialism

Cuba on the contrary, a little country almost in the "Jaws of the monster" with one blow, has been genuinely freed from Imperialism has resolved the agrarian problem, embarked on major plans for industrialisation, and the complete abolition of unemployment and illiteracy, and the liberation of women.

By this fact, this little country has already obtained an international significance and has placed itself in the vanguard of the great Latin-American revolution and even—historically speaking—of the Pan American revolution. Cuba, thanks to the intelligence and the supreme audacity of the bold leadership of the revolution has entered the historic path of nascent socialism.

An equally unique achievement is possible now for the Algerian revolution. In entering upon the socialist transformation of Algeria, it would place itself in the leadership of the inevitable Arab and Pan-American revolution.

Do not argue that this is difficult or impossible, by drawing upon arguments borrowed from the arsenal of the ideologists of Imperialism, of capitalism, of opportunism.

The true solution of the fundamental problem of the Algeria of tomorrow cannot be found outside a socialist solution.

The best lands in Algeria stolen by Imperialism are to be found in the hands of rich colons and Imperialist enterprises. The communal lands and individual plots which remain to the Arab Algerians are limited, have poor soil and are inadequately cultivated due to lack of financial, material and technical assistance.

But the vast majority of the Arab Algerian population is composed of peasants with or without land.

These masses were and remain the essential force of the revolutionary army and of the revolution.

The latter cannot refuse or even delay giving the land to the peasants without betraying them.

Such a policy requires the annulling of peasant debts, the confiscation of the land of the rich colons and of the Imperialist enterprises, the distribution of a part at least of the reconquered lands to the poor peasants and landless peasants, the cooperative exploitation of other lands belonging to the state by the democratic collective of the agricultural workers, the consolidation of communal lands, and financial, material and technical aid from the state to the peasants.

But this radical agrarian reform will have no future if it is not combined with the diversification and reorientation of the agrarian economy and the intensive industrialisation of the country according to a plan.

Algeria is a rich nation in itself even without the Sahara. By including this region which contains extremely valuable raw materials for a great rapid industrialisation, Algeria can face this problem with confidence and vigour.

The financial means necessary for such an economic plan would be furnished by the productive investment of the profits from the nationalised imperialist enterprises, aid from the workers states, the surplus from the labour of the, at present, enormous unemployed sector of the population, the exploitation of the riches of the Sahara.

But it is for the State to mobilise and organise all these resources on the basis of a predominantly nationalised economy and according to a long term plan. An essential aspect of this policy whose validity is widely recognized, by bourgeois specialists on the economic development of the underdeveloped nations, is the state monopoly of foreign trade.

It is significant that a number of the most qualified specialists from Myrdal to Higgens have abandoned the classical theories of "laissez faire" and "spontaneous equilibrium" of the liberal capitalist economy in favour of a planned development for the underdeveloped nations, propelled and in great part controlled by the state, including measures of nationalisation, of agrarian reform, monopoly of foreign trade... Certainly there can be no question in the case of Algeria or any other nation of an orientation towards an autarchic and totally nationalised economy from the start. Such an orientation would only retard for a whole period the necessary raising of the level of life of the masses and provoke dangerous social tensions.

The planned economic reconstruction of the country must profit as much as possible from the resources of the world market, including the use of foreign capital if the latter is granted for the purposes of economic development on a long term basis and under advantageous conditions.

Neither is it a question of proceeding immediately to the collectivisation of agriculture, and to the complete nationalization of industry, commerce, and the various crafts. Such a policy would have the result of lowering the level of productive forces which should on the contrary be raised speedily and throwing important social layers into opposition to the regime. What is necessary and sufficient at the beginning is that the state nationalises the key banking, industrial, agricultural and commercial enterprises, that it fixes a maximum size for land acquisition by individual peasants, without the right of resale, and that it forms a monopoly of foreign trade. The extension of the nationalised and planned economy to those sectors available to private exploitation should be done gradually according to the material and technical possibilities provided by the state and the maturing of the consciousness of the masses.

It is in the framework of such a total conception that the question of the Sahara and that of relations with the European minority and France can find a solution. The Algerian state should promote the exploitation of the Sahara with the nearby African

states and also with French capital under a specific form which would preserve Algerian sovereignty on Algerian Sahara and the preponderant control of the Algerian state. The latter should be equally disposed to arrange preferential long term agreements with France so that this country may contribute to the economic development of Algeria, thanks to financial aid and contracts for equipment from French factories and enterprises. This is a possible formula of association reciprocally advantageous between ex-metropolitan and liberated countries.

Such aid—which excludes political ties, misdirected investment and scandalous profits bleeding the recipient of “aid”—would not only benefit the liberated countries, but would guarantee full employment to the workers of the ex-metropolitan countries.

Such a rearrangement of the relations between Algeria and France would easily resolve the problem of the European minority in Algeria by the maintenance on a footing of complete equality all the elements desirous of accommodating themselves to the structure of the new Algerian state and eventual indemnity to those whose property is expropriated, and indemnity shared jointly by the French and Algerian governments from the proceeds of exploiting the Sahara. But the longer Imperialism delays its departure from Algeria and the hour of liberation, the risk of losing the advantages of such solutions grows greater.

For such radical reforms in structure to be possible, it is necessary to form a new state power, organ of the Algerian workers and peasants and of their revolutionary army. This authority must be based on the democratically elected organisms of the Councils, Committees, in the villages, towns and regions, a constituent National Assembly a government responsible to Council Committees and Assembly. The various representative organs of the politico-military administration which have arisen during the revolution should serve as the embryo political power of tomorrow.

But the key to all the political and social future of Algeria lies for practical purposes in the future of the FLN.

The FLN has developed as a recognised leadership in the very struggle and revolu-

tion of the Algerian people. From this point of view it has acquired a prestige and an immense influence which it will retain in every way for many years. The FLN has developed as a politico-military organisation *sui generis*, a unique front of all the elements and tendencies of the Algerian people struggling for the essential objective of national independence.

But in reality the FLN has been practically transformed during this struggle into a political organism through which is expressed the dynamism and the aspirations of the Revolution.

It is high time that the FLN transformed itself effectively into a party political structure with a better articulated and more clearly defined political and social programme.

This programme must be that of a socialist revolutionary and democratic party. It is only in so far that the FLN becomes a revolutionary socialist party that it will know how to express adequately the ideas, the ideals, the aspirations of the worker and peasant masses of the revolution, and so not betray them.

On the other hand it is only in the degree to which it operates as a democratic party that it will maintain legitimately its monopoly of political power, in the first phase at least of the Algeria of tomorrow. To be democratic means to allow the free confrontation of ideas and tendencies within the organisation, which reflect inevitably in the case of the single party, the ideas and tendencies, heterogeneous from the cultural and even material and social stand point, of the popular forces at the base of the revolution.

This monopoly of the single party should not prolong itself however by preventing the existence of other parties who adhere to the fundamental conquests of the Revolution and operate within the constitutional framework of New Algeria. By accepting this, the single party will owe its justification entirely to the confidence of the masses and not to the monopoly of the state by this party. Such a monopoly could lead to the bureaucratisation of the party and the state and to the degeneration of the popular regime issuing from the revolution into a dictator-

ship of the single party over the masses and even of the leadership of this party over the party itself and the masses. During the first transitional phase, it is possible that the revolutionary party, obliged to make certain compromises with Imperialism and to deal with the destruction inflicted on the nation plus the lack of cadres plus the low cultural level will disregard certain of these rules. But it is of primary importance for the revolution that these principles are clearly defined and proclaimed by the revolutionary party and that the latter does not identify itself with the policy day to day of empirical compromises by the state or justify this policy.

It remains for me in closing this letter to treat this last question: that of the pressure on the Algeria revolution of the customs and beliefs inherited from the past.

This heritage is certainly a heavy burden on all these peoples and particularly on peoples who have passed from centuries old feudalism to Imperialist domination. Customs and beliefs express the accommodation of the masses to the mode of a particular social regime and from this point of view contribute in a certain degree to organize more economically the life of the individual and of the family within the community and to safeguard ethnic cohesion. It does not prevent this situation being a retarding factor on the evolution of this particular society which essentially benefits the dominant native and foreign ruling classes and castes.

In Arab society for reasons which belong to the structure and the historical evolution of this society, the weight of customs and beliefs, particularly those of religion remain very great. The revolution cannot suppress by a stroke of the pen all this and open individual and social life to the knowledge and the rational organisation at the level of the demands of the XXth century. To abolish and combat effectively anachronistic, barbarous and irrational customs and beliefs including religion, it is necessary to extirpate material and cultural backwardness, the division of society into classes, to approach the level of a world communist society. Therein is the music of a very distant future.

The revolution cannot administer a superior culture by propaganda alone—certainly very necessary—and by the forbidding of such and such a practice by individuals or by families in the absence of an adequate material level and of a natural cultural maturity. To intervene bureaucratically in the life of the individual or of the family to “reform manners” administratively, would risk on the contrary perpetuating their force and throwing into opposition to the regime a number of backward elements and strata. As long as social reality is characterized by material penury, low cultural level, absence of real democracy for the masses, the latter will maintain their customs and their beliefs and will always find in religion a consolation for the defeats of real life, for their unsatisfied aspirations and hopes, for their ignorance of the world of nature and society.

But to make a pretext on the other hand of this weight of the past to halt the Revolution halfway, to retard the decisive structural reforms and accept compromise solutions would be an unpardonable fault. On the contrary it is necessary to exploit the immense enthusiasm of the Revolution at this moment of victory when the enthusiasm is still vibrant, when the energy, the will, the aspiration of the masses for a radical change in their human condition is extremely vigorous, so that with one leap they can jump decisive stages.

The Revolution should declare religion and religious practices a strictly private affair.

The Revolution has already achieved a considerable amelioration of conditions for the young and for women within the ancient patriarchal family. This is the just tribute paid by the Revolution to the role they have played, to the immense sacrifices made by these masses. The victorious revolution must consolidate and amplify this amelioration, particularly in relation to women by liberating them economically, socially, sexually. The impetus which such a programme and such achievements of the Algerian revolution would give to the revolution in the Maghreb, to the entire Arab nation and to Africa would be an incalculable historic landmark. It would be particularly effective in the Maghreb pivoting around an Algeria flanked by Tunisia and

Morocco, countries formally independent but submissive to a feudo-capitalist, pro-western, pro-imperialist regime. It would stimulate the whole Arab nation which extends from Morocco to Iraq and which is seeking unity via intermediary federative forms. Until now this unity has been prevented because of the geographical dispersion of the Arab nation, the diversity of social structure, the historic evolution of its various components, and the role of world Imperialism. There is no doubt however that historically this unity is the essential task of the socialist Arab revolution, of which the Algerian revolution should be a glorious and decisive beginning.

The panafrikan consequences of the Algerian socialist revolution would be no less important and historic. In Black Africa, in particular, we are dealing with a primitive peasant society, still profoundly marked by tribal economy and customs, yet revolutionized by the penetration of imperialist merchant capital. The native peasant and bourgeois merchant strata are generally limited and much less important than the analogous strata of the Arab nations of the Middle East, Egypt, Tunisia, and Morocco. In these countries which have secured their independence, the state apparatus is in many cases still embryonic and their social destiny remains undetermined. Everything still depends on the state power. Their social basis, largely composed of poor peasants and detribalised elements who have entered the use to which these politically limited elites will put the towns, plus the revolutionary impulses from the present international context impell these elites towards a nationalised, planified, socialist economy. On the other hand the native bourgeois or potentially bourgeois elements plus Imperialism impell them towards a comprador capitalist regime in the image of the evolution of the Latin American nations since their independence.

The division already outlined between "reformist" Africa hinging on the present governments of the Ivory coast, of Senegal, Nigeria, Liberia, and "revolutionary" Africa whose axis is Guinea, Mali and even in part Ghana is characteristic of these tendencies. The choice which the Algerian revolution will make at its hour of victory will effect tremendously the immediate destinies of the whole of Africa.

Neither can one underestimate the influence which the Algerian socialist revolution would have on those European states bordering the Mediterranean. The dictatorships of Franco and Salazar are already shaken by the actions of the colonial revolution in Africa, in Cuba and in Latin America. The victory of an Algerian socialist revolution and its after effects could well precipitate their downfall.

Even in France; the heroic struggle of the Algerian people has acted as a powerful stimulus which has reactivated the workers and revolutionary movement in this country, hindered the consolidation of the Gaullist dictatorship and beyond that, checked the march of Fascism. There is no doubt that the victory of the socialist Algerian Revolution can become the prologue to the French socialist revolution, so illustrating the intimate dialectical relation which exists at present between the historic march of the colonial revolution and the revolution in the advanced capitalist nations.

History in its dialectic unforeseen by the classic thinkers of Marxism has made its own the precept of the founder of Christianity "The last shall be first".

There is the awesome historic destiny dependant on the decision of the Algerian revolution at its hour of victory.

What will you do with this victory?

Consider the unique example given to revolutionaries by the extreme audacity, the profound intelligence of the Cuban leadership which has understood the direction and the opportunities of history in the present epoch.

Do not hesitate a single instant on the path to follow, do not subordinate at any price the future of the Revolution to the fetish of an abstract unity of the nation or of the party.

Raise boldly the banner of the Algerian socialist revolution and history will grant you a tremendous prize, an immortal favour.

Do not retreat, under any pretext in face of this task.

18 July 1961.

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