

THE POLISH CONSTITUTIONS OF 1947 AND 1952 :

A HISTORICAL STUDY IN CONSTITUTIONAL LAW.

A Thesis submitted for the degree of Doctor of
Philosophy in Laws.

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D.Lasok, Abstract of Thesis for PhD Degree in Laws.

Title: "The Polish Constitutions of 1947 and 1952:
A Historical Study in Constitutional Law".

The post-war evolution of the constitution of Poland as well as several other Central and East European countries is characterised by a marked departure from the national traditions towards a form of Government known as the "People's Democracy". This state of affairs resulted from the interplay of alliances during the last war and the political expansion of Soviet Russia.

Notwithstanding the treaty obligations and declarations such as the celebrated Atlantic Charter, the Western Allies, in face of protests by the Polish Government in Exile, agreed on an arbitrary fixing of the Polish-Russian frontier along the lines of Soviet demands, and the abrogation of the existing Polish constitution. Parallel to this reversal of the international situation developed the Soviet-sponsored nucleus of the post-war Polish political régime. Upon the advance of the Red Army this body established itself on Polish soil and was recognised by the "Grand Alliance" as the basis of the Polish Provisional Government.

Before achieving this position the Soviet-sponsored régime effected a considerable amount of "legislation", which purported to preclude any other body from attaining power, and determined the future constitution to be based on Marxism-Leninism-Stalinism. General Elections were delayed for two years, but they did not bring any change in the régime. In such conditions the Constitution of 1947 was nothing else but an interim

1967 measure designed to serve as a device to facilitate transition from the parliamentary "capitalist" state into the "socialist" state as understood in Soviet Russia. For this purpose the whole authority of the state became concentrated in an unprecedented body - the Council of State, Parliament declined and the position of the individual became circumscribed by the ideas of the so-called "dictatorship of the proletariat".

1972 The Constitution of 1952, modelled on the pattern of the Soviet Constitution of 1936, transferred the point of gravity from the Council of State onto the Government and proclaimed a "State of People's Democracy governed by the working people of towns and villages".

The Polish People's Democracy only during its infancy showed signs of originality, the later development faithfully following the pattern of the Soviet state evolved during the Stalinist era. The doctrine of the People's Democracy as well as its practical features represent, therefore, an application of the Stalinist Marxism on the institutions of the former Republic of Poland.

Introduction.

The study of a constitution is interesting not only from the point of view of the actual working of the given political system, but also from the point of view of its origin and the contribution it brings to the general and fascinating knowledge of the ways in which communities and states are governed.

Broadly speaking new states spring up either from revolutions or peaceful emancipation, and constitutions of independent states are formed either in a revolutionary or evolutionary fashion.

When an amendment occurs in a constitution the reason is usually obvious though the motive of such change is not necessarily the yardstick of progress. In most cases, however, the community, if a free agent of its own destiny, is animated by the idea of finding a more expedient and consequently more adequate form of government. Historical experience and the force of national tradition are the main factors in the evolution of a constitution, whereas revolutionary changes largely depend on hazard and coincidence. In the former case a certain sequence of development can usually be traced, but the latter are apt to produce curious and quite unpredictable phenomena.

The post-war development of the constitution in Poland and several other Central and East European countries does not fit into any typical scheme, but falls into its own distinctive category. There was no revolution in Poland and yet the "revolutionary changes" marked a complete break away from the past and ran counter to national tradition. The course of development is, however, predictable, aiming distinctly at an imitation of the system obtaining in Soviet Russia.

In this process the Constitutions of 1947 and 1952 represent

the most important stages, though each of them is only a recapitulation of prior development, and a transitory measure. Together with other statutes they form the legal substance of the system of government which under the popular name of "People's Democracy" emerged from the chaos of World War II and was diffused throughout Central and Eastern Europe. Owing to their nature and purpose the Constitutions of 1947 and 1952 must be studied in conjunction with the political, economic and social phenomena to which they owe their existence, because if considered as isolated topics of Constitutional Law their study would produce a very incomplete picture.

For the sake of convenience, and in keeping with the spirit of the present constitution (which expressly adopted the term "People's Democracy" and invested it with a legal meaning of comparatively narrow significance) we shall refer to the system of government discussed in this work as the People's Democracy.

By studying the Polish People's Democracy we gain not only an illustration of the post-war development of the constitution in Poland, but also an insight into the pattern of political changes taking place in Central and Eastern Europe.

The system of People's Democracy revealed remarkable dynamism in the course of its development, but so far does not appear to have achieved a totally crystallised form. We shall follow it from its early infancy, through its preparatory and formulatory period to find it finally in the present stage of growth and modifications. Accordingly the work is divided into four parts:

The first part comprises a historical introduction necessary to portray the general background, and the second part tells the story of its origin. It is thought necessary and of great importance to make a detailed study of the genesis of the system because the People's Democracy is a direct outcome of historical

events of an international character, and the binding force of the positive law appears to be rooted in the cleavage of the external position of Poland, notably her relation to Soviet Russia. The third part illustrates the preparatory and formulatory period of which the Constitutions of 1947 and 1952 form the backbone. The last part gives a glance at the working of the system and some of its characteristic features.

Material available for the present study is not abundant. There are very few English publications on the subject and none concerned with the legal aspect of the People's Democracy. In sketching the story of the system we are able to find assistance in historical testimony borne by people who were directly engaged in the process of its creation. They come from different quarters and in their joint evidence we hope to present as accurate as possible an account of events.

In studying the legislative foundation of the system we shall rely on the official publication of statutes and decrees as well as on the authoritative pronouncements emanating from official sources. Official sources, of course, mean the persons occupying responsible and leading positions as well as government controlled writings. The Journal of Laws will provide the authentic texts of laws, whereas periodicals, such as "Nowe Drogi" (corresponding to the Russian "Komunist") and "Panstwo i Prawo"^{xx} (corresponding to the Russian "Sowietskoje Gosudarstwo i Prawo") supply valuable information on matters of doctrine and extra-judicial aspects of the polity.

We shall also take into account the decisions of the Supreme Court, though owing to the rôle of the Judiciary in the system of the People's Democracy, the Records of the Supreme Court are scanty in volume and limited in scope. Owing to the fact that the

x "New Ways"

xx "State and Law"

bulk of the Criminal Law has been entrusted to the Military Tribunals, whose records are unavailable, we have to miss the judicial interpretation of several statutes and decrees of vital importance from the point of view of Constitutional Law and rely on the Press and Radio when referring to political trials.

This work does not aspire to be a text-book on the Constitutional Law of the Poland of today, but an attempt at projecting in historical perspective the present trend of development in this field. In general it purports to deal with the aggregate of political laws which in their totality make up the constitution of the country. In particular it is intended to discuss the Constitutions of 1947 and 1952 which are the stepping stones of the present political system.

We must bear in mind that the People's Democracy represents a different set of political ideas from those obtaining in the West. Encroaching upon that foreign land we must realise that due attention must be paid to the views propounded there, and consequently that the scope of discussion ought to be adapted not to a narrow purely legalistic approach to the constitution, but to that Eastern reality, whose Constitutional Law embraces quite a wide range of subjects. In deciding, therefore, which questions are directly connected with the main theme, apart from the formal letter of the Constitution-charter, we have to pay heed to the nature of the system we are about to study.

A difficulty lies in the controversial character of the subject-matter of the discussion. The propagators of the People's Democracy claim the novelty and superiority of that system over the traditional conception of Democracy; their opponents, on the other hand, flatly reject these claims. Since the laws can speak

for themselves there is no need for one to subscribe to either side, their provisions being the best illustration of the system. The question of evaluation of merits and demerits of a polity must be left to the individual, for what is "good" to A, need not necessarily be "good" to B. The same applies to the moral and ethical side of legislation. A Western reader should, however, be on his guard whilst drawing "favourable or unfavourable" conclusions from the principles of the People's Democracy exposed here, because what appears "favourable or unfavourable" to him need not necessarily be so for the founders and propagators of that system.

Another difficulty lies in the fact that the system of the People's Democracy is rather young and that it was born and now grows before our very eyes. Whereas events of the distant past can be viewed dispassionately a similar attitude is rarely applied to the present day realities which, therefore, lack the soothing effects of time. The present writer realises this fact, and being convinced upon the historical evidence accessible to a student that the source of the post-war Polish constitution lies outside the general will of the Polish nation, proposes to devote a considerable part of this work to the study of the genesis of the Polish People's Democracy.

The aims of this work, therefore, is :

- a) to discuss the influence of historical events, and social, economic and political factors on the formation of the present constitution of Poland;
- b) to discuss the elements of the system of government defined as "People's Democracy" and search for analogy in other polities;
- c) to study the influence of the system of the "People's Democracy" on the working of the machinery of the state and the position of the individual.

The purpose of this work is to make a modest contribution towards the knowledge of Constitutional Law of Poland and to give an account of the changes that occurred in her legal system since the fateful month of September, 1939, disturbed the peaceful development of the Polish nation. This modest contribution, it is hoped, might help to fill the gap in several works on the present political situation in Central and Eastern Europe.

Part I. Polish Constitutions prior to Second World War.

Chapter 1. Polish Traditions.

History and Constitution. The Law of the Constitution develops along with the history of the state and there is always a close connection between the historical events bearing on the life of the organised community and the form and character of the organisation itself. One can indeed say on the one hand that the interdependence of matters of history and Constitutional Law are of vital historical importance, and on the other hand that these changes are, if not directly caused, at least greatly influenced by the course of history.

The historical review we are going to make, though only fragmentary, seems helpful for the purpose of grasping the whole subject in all its complexity and peculiarity and to explain the repercussions of the past as well as the force of tradition that becomes a driving factor in the formation of a polity.

The Royal Republic. Nearly a thousand years have elapsed since the Slavonic tribes living between the Baltic and the Carpathians, in the basins of the Vistula and Oder rivers organised themselves into the state of Poland. In its early history that state was ruled by an absolute, hereditary monarchy which in the course of time became circumscribed and elective.

Poland achieved the peak of her power during the XVIth and XVIIth centuries when stretching from the Baltic to the Black Sea she was one of the principal states in Europe. Though nominally a monarchy, her constitution bore republican features and her institutions a distinct indigenous character.

Kings were elected by acclamation^x of the assembled gentry
 x If the vote was divided the candidates had to fight out the issue.

(who usually appeared "viritim"), vassals, and the representatives of the chapters and burghs. After 1573 as a part of the coronation oath they had to swear to honour the so called "Pacta Conventa", which may be described as the constitution of the country at the time of the given election. The "Pacta Conventa", previously prepared by the Diet before each new election, defined the fundamental laws of the realm and specified the obligations of the King. This was of a contractual nature and a breach by the King would invoke the "articulus de non praestanda oboedientia" with the effect of freeing the nation from its allegiance.

Ancient Poland was a class society, the gentry being the ruling class. No feudal system, however, developed, and the gentry among themselves were equals before the law, no matter the distinctions of wealth or office. The Diet evolved from a national representation of all classes into a parliament of the gentry. Unanimity was the cardinal rule of the procedure, and a dissenting vote could frustrate the whole work of the Diet and terminate its session. To obliterate the rule of the "liberum veto", which became rather oppressive, Diets used to resolve to act as "Confederations", that is assemblies where the majority vote obtained.

The second part of the XVIIth century saw the beginning of the period of decline. Countless wars with Sweden and Russia together with Tartar and Turkish invasions, weakened the kingdom that used to pride itself on being the "rampart of Christianity" and the defender of Europe from Asiatic invasions. A short spell of regeneration under John Sobieski gave way to the rule of the Saxon Kings who with the aid of Russian force of arms were installed on the Polish throne.

In the Saxon period Poland ceased to be a power and became totally dependent on the mercy of her neighbours, which in the period of Polish decline, grew into powerful, militaristic, absolute states. The Russian army was stationed in Poland and the

actual rule of the country was in the hands of Russian ambassadors. Consequently on the death of Augustus III (1763), the former favourite of Catherine II of Russia, Stanislas Augustus Poniatowski became King of Poland.

During his reign considerable reconstruction ensued and attempts were made to reform the political and social system. But reforms, for obvious reasons, were efficiently opposed by Poland's neighbours who did not hesitate to use intimidation or even force to annihilate them^x.

A handful of patriots organised themselves into the so called "Confederation of Bar^{xx}" (Bar is a town in eastern Poland) designed to shake off the Russian domination, but after two years struggle (1768-1770) it was crushed by the Russians. Two years later (1772) the three powers Austria, Prussia and Russia agreed to partition Poland. This first partition was followed by a rebirth of the national spirit and serious attempts to remedy the past. Those efforts were crowned by the reforms of the "Great Parliament" which sat from 1788 to 1792 and voted the Constitution of May 3, 1791, which was thought to give a new foundation for a modern state. The promulgation of the Constitution provoked another Russian intervention and a struggle ensued, followed by the second partition.

The second partition brought the nation to arms and besides the gentry, townsmen and peasants rallied together in this last act of desperation. This national insurrection led by Thaddeus Kosciuszko^{xxx} was crushed by a concerted action of Prussian and Russian armies and was inevitably followed by the third and final partition.

x One Russian Ambassador already in 1767 had two bishops, a senator and a deputy arrested and deported to Russia.

xx One of the leaders Casimir Pulaski fell a hero of the American War of Independence.

xxx Distinguished as a general in the American War of Independence.

May Constitution. The Constitution of May 3, 1791 abolished the institution of free election and made the throne hereditary. The position of the King was clearly defined: He sat in the Executive as the ex-officio member of the Ministry, had a vote in the Senate and the Courts administered justice in his name. The King in his private capacity stood above the ordinary law of the land and was immune from the jurisdiction of his courts. In his official capacity "he could do no wrong" and was not responsible for the acts of the state. Consequently every official act required a ministerial assent of a responsible Minister.

The Executive consisted of the King and his Council. The Council was composed of the Primate (as the principal dignitary of the Church and Chairman of the Commission of National Education), five Ministers, the Heir to the throne, and the Speaker of the Diet (the latter two without right to vote). Ministers were appointed by the King for two years from a larger body of sixteen members. Resolutions of the Council were not binding on the King, who was free to act, provided he received the assent of the Minister concerned. Disputes between the King and his Council were to be decided by the Diet convened for that particular purpose. Ministers were constitutionally responsible for all executive acts performed in the name of the King and assented to by them. For breaches of the Constitution they were liable to be tried by the Court of the Diet. They were also responsible to the Diet and could be dismissed from office by a two thirds majority on a joint sitting of both chambers of the Diet.

The legislative power was vested in the "assembled estates", i.e. the Diet consisting of the Senate and the Chamber of Deputies. The King sat in the Senate together with 132 Senators. The Chamber of Deputies consisted of 204 representatives of the Dietines (i.e. local assemblies of the gentry) and twenty one representatives of the burghs. Both chambers had equal status

and when sitting in joint sessions were considered one for the purpose of a division. Senators were appointed by the King whilst the Deputies were chosen by the Dietines and burghs respectively, and could be recalled by them.

The "liberum veto" was abolished and the principle of majority vote introduced. The Senate had a suspensive veto operating until the next session which power could be exercised only by a corresponding majority vote^x.

The Judiciary was made independent both of the Crown and the Legislative, only the prerogative of mercy (not extending over the "crimina status"^{xx}) remaining in the King.

The Constitution of 1791 was a synthesis of traditional institutions, contemporary political doctrine^{xxx} and certain elements of the English system of government. In England the sovereignty of the people had been established a century before when the absolute tendencies of Stuarts sent one of them to the scaffold and another one into exile; but "people" hardly meant the whole population. The King did not rule and the hereditary throne could well be described as maintained by the "will of the People", even though, in actual fact, the reign of George III in reaction to the French Revolution much resembled that of Charles I.^{xxxx} The position of the Polish King was similar, though he had no royal prerogative - that "residue of the former arbitrary power which has not been eaten away in the course of time" - and his powers and functions were defined by the letter of the Constitution. The English doctrine of the "King in Parliament" hardly applied to Poland where the King only sat in the Senate and voted. He had no legislative veto and could not influence the course of the enactment of the laws
 x If a bill was passed by say 2/3 majority it could be vetoed in the Senate by not less than 2/3 majority.
 xx e.g. treason, public violence, crimes against the person of the King, the Diet and Dietines.
 xxx Rousseau's theories of the sovereignty of the people and social contract; Montesquieu's doctrine of the separation of powers.
 xxxx W. I. Jennings, The Law of the Constitution, London, 1943, p. 24

by dissolution of Parliament, prorogation or affecting the composition of either Chamber. Nor could he legislate by "Proclamation" or "Order in Council" as did his English counterpart.

In the English system there was no clear cut separation of powers, the Executive being closely linked with the Legislative, and the Legislative exercising judicial functions both at first instance and by way of appeal.

In the Polish Diet not all classes were represented, the representation of the people under the English system being wider, though the reform of the franchise had yet to wait for nearly fifty years^x.

The importance of the Constitution of 1791 lies not in its value as a piece of legislation but in the moral power it inspired for generations. As a law it died a natural death on the destruction of the Polish state; as a swan song of the Polish state it survived up to our time and made a tradition of its own. Being a fairly modern reform the Constitution was thought to infuse new blood into the dying body of the Royal Republic and save the nation from foreign domination. The three flanked assault that destroyed it and enslaved Poland for over a century seemed to confirm the belief that national revival was imminent.

A child of Rationalism, the Constitution represented a victory of pure reason over the forces of reaction, and in the field of political reforms corresponded to the destruction of the Bastille. It failed to abolish ~~the~~ class distinction and sweep away ~~the~~ social injustice as did the French Revolution, but it brought to an end the ancien régime without bloodshed or ruin.

Though Romanticism relegated it onto a pedestal of national pietism, the Constitution of May 3, 1791, or rather its posthumous influence, considerably contributed to an idealistic approach towards law and state.

x Representation of the People Act, 1832

Struggle for Independence. The partitions effected only a physical division of Poland. Kosciuszko's insurrection (1794), primarily a peasants' movement, and Dabrowski's Legions, formed in Italy (1797), represent the continuity of the struggle for independence. Though Napoleon disappointed the Poles by creating the Duchy of Warsaw (1807) instead of restoring the country a Polish army fought his wars to the bitter end.

Created by the Congress of Vienna, the "Congress Kingdom" a quasi-independent state under a Russian protectorate, existed only until the national rising of 1830-31 when even that fiction of a Polish state disappeared.

The "Spring of Nations" inspired insurrections against Austrian (1846) and Prussian (1848) rule, but a large-scale rising (1863-65) proved another failure.

Finally World War I brought about the liberation of Poland and the reatoration of an independent republic.

The struggle for independence greatly influenced the growth of political ideas, but its foremost effect was to regard the question of constitution as secondary to the effort of regaining independence. Thus we see the Poles in revolutionary movements and fighting for freedom all over Europe in the illusory belief that a struggle for "your freedom" was identical in effect to the fight for "our freedom".

The idealism of the struggle for independence was considerably enhanced by Romanticism which, in the field of politics, proclaimed freedom of peoples within a brotherhood of nations as well as liberty and equality of individuals.

The development of political ideas owes a great deal to the political emigration - an aftermath of the 1830 rising. In western Europe, particularly in France, representatives of all classes and vocations gathered and organised political activities prohibited at home.

x The Napoleonic legend, particularly Dabrowski's Legions, resemble the fiasco of Polish efforts during World War II.

The "Right" (called "Whites") was headed by Prince Adam Czartoryski, a diplomat and statesman, and the uncrowned King of Poland. His party (also known as "Hotel Lambert" party) consisted chiefly of representatives of the gentry and was monarchical in outlook. Their plan was to use the personal influence of their leader and wait for a major European war through which they hoped to regain independence by means of foreign assistance. The Crimean War proved the futility of their plans and expectations. In matters of future government the "Whites" intended to continue the tradition of the Constitution of 1791 and proposed to base their policy on the following principles: equality of all before ^{the} law; freedom of all persons, religions and thought; guarantee of private property; absolute ownership of peasants' land, subject to vested rights; unity and efficiency of government.

The "Left" (called "Reds") consisted of several factions, among whom the radicals gained predominance. The most distinguished leader of the "Left" was Joachim Lelewel, a historian of international repute who directly opposed Czartoryski's ideas of diplomatic intervention and foreign help. Lelewel believed only in a total uprising of the masses previously emancipated, and condemned those who squandered their lives in foreign service hoping against hope that the liberation of Poland would be the fruit of their personal sacrifices^{xx}. In his international programme, he appealed to nations for brotherhood and solidarity with the Polish struggle for independence. His chief enemy was absolutism and consequently he advocated unification of the German peoples, abolition of absolutism in Germany, and the rule of the German people. His vision of a future Poland was a democracy based on the rule of the people and full social reform.

x quot. by W. Feldman, *Dzieje Polskiej Myśli Politycznej*, p. 186
 xx J. Lelewel, *Histoire de Pologne*, Paris, 1844, vol. I. p. 386-7

The "Young Poland" (another faction of the "Left") was a revolutionary movement, its chief object being the liberation of Poland within the wholesale liberation of all oppressed nations. Their national programme was, therefore, neither elaborated in detail, nor capable of strict definition. Being a part of an international movement the "Young Poland" favoured federalism.

In contrast to the general and rather intangible ideas of the "Young Poland" the "Democratic Society" brought forward a definite national programme. In their lengthy manifesto of 1836^x they proclaimed the sovereignty of the people and a democratic government, which government, by today's standards, would fit into the conception of a modern welfare state.

On the extreme "Left" was the so called "Grudziadz Community"^{xx} - an organisation formed in England of former insurgents (mostly peasants and workers) of the 1830 rising. In their proclamation^{xxx} of 1835 savouring of extreme socialism they demanded social reorganisation of the country, abolition of private property and industrial monopolies.

Though the "Great Emigration" did not live to see the dawn of independence, it kept alive the spirit of fighting Poland and manifested abroad the desire^v of national freedom. The idealistic picture of the Polish "pilgrim of freedom", as portrayed by romantic poetry, must, however, have reflected a rather queer, Quixotic look in the realistic mirror of western mentality. He did not achieve his aims, but only scars in foreign wars and a reputation of being an adventurer, who, for the magic word "freedom" would go to the end of the world fighting anyone, for anybody's cause, even against his own interest.

This reputation probably saddled the Polish nation with tutors and arbitrary advisers, the result of the political tutelage during the last war being particularly disastrous.

x quot. in The Democratic Heritage of Poland, London, 1944, p. 49-53

xx The name is derived from that of the fortress in which they were kept.

xxx quot. in The Democratic Heritage of Poland, p. 54-55

At home political activities in which the emigration was avidly engaged were for obvious reasons prohibited. Moreover, movements embracing the whole nation were for some time prevented because of the three-fold division of the country. Insurrections proved a failure and the only way dictated by realism was to take advantage of the Parliamentaryism that was beginning to develop in the occupying powers. Having their own deputies the Poles could expect a certain measure of defence, strive for autonomy and hope for achieving independence at the opportune moment.

The romantic era had to give way to a positivist policy which can be summarised in the following few words : Education, Emancipation, Economic Reconstruction and Democratisation of the masses.

The second part of the XIXth century gave birth, to political parties extending over the whole country and aiming at a collective effort to regain independence. Owing to lack of space only the two most important, the Socialist Party and the National Party will be briefly considered.

The Polish Socialist Party was founded in 1882 under the name "Proletariat" on the lines of the Marxist theory and practice of the Russian revolutionary movement "Narodnaya Wola^x". Notwithstanding condemnation of extremist measures by the Positivists, revolutionary ideas were always popular with certain sections of the community, especially as foreign leaders of the proletariat were not unsympathetic to the Polish question.^{xx}

The "Proletariat" became virtually suffocated in consequence of the trial of its leaders by a tsarist court in 1885, but revived later and emerged during the Organisational Congress in Paris (1892) as the Polish Socialist Party with a definite programme of further action.

x H. Wereszycki, Historia Polski 1864-1918, Warsaw, 1948, p. 147 et seq.

xx W. Kolarz, Myths and Realities in Eastern Europe, London, 1946, pp. 100 and 106

The political programme^x of the Socialist Party aimed at the creation of an "independent democratic Republic" organised as a federation embracing territories and peoples prior to the 1772 partition, and ensuring by its constitution a republican rule by the people, equality and enjoyment of basic rights, popular election of judges and state officials, and so forth. The economic programme envisaged progressive labour legislation, a welfare state and gradual nationalisation of land, industry and transport.

Socialism was intrinsically international and, therefore, uncomfortable for nationalists. This fact coupled with German influences within the Socialist international movement caused a split in the Polish Socialist Party. The man who led the secession under the name of "Revolutionary Faction" was Joseph Pilsudski.

Joseph Pilsudski (1867-1935) started his political career within the socialist ranks, but Socialism was for him nothing but a form of rebellion able to destroy tsardom and liberate oppressed nations. He was a revolutionist who believed in revolution and, therefore, was opposed to any movement aiming at autonomy or hoping to achieve independence by evolution. In his reasoning Russia was the chief enemy of Poland; Russia also, owing to her internal weakness, could be destroyed by revolution in the easiest way. Seizing an opportune moment for action during the 1905 revolution (which followed upon the Russian defeat by Japan) Pilsudski went to Tokio to plead for Japanese help to organise an uprising in Poland. His mission failed.^{xx}

During World War I Pilsudski organised "Legions" under Austrian tutelage and led them against Russia. On the resurrection of Poland he was appointed to the office of the "Head of the State" and as such led the nation through the stormy days of the Polish-Soviet war.

x see The Democratic Heritage of Poland, pp. 107 and 108

xx Another mission headed by Roman Dmowski went also to Tokio, but to jeopardise Pilsudski's plans.

Pilsudski's vision of Poland was that of a federal state^x within the 1772 frontiers, protected from the east by means of federalism. His scheme, not particularly popular in Poland^{xx}, did not materialize and Poland was restored as a unitary state.

The National-Democratic Party developed from the "Liga Polska" (Polish League) founded by John Poplawski in 1886 and was reorganised in 1893 into the "Liga Narodowa" (National League). Originally embracing only the Austrian occupation it spread all over the country and under the leadership of Roman Dmowski became one of the chief political parties in Poland.

Roman Dmowski (1864-1939) believed in evolution, and in the evolution of modern states he saw, as he did in the aftermath of a major war, the advent of the restoration of Poland^{xxx}. For him the question of Poland was a matter of international concern and as such Poland's independence was inevitable.

As an evolutionist Dmowski loathed revolutionary methods and as a nationalist positively disliked the idea of building the new Poland on the Socialist lines of the day. In his opinion^{xxxx} the conception of the new Polish state must result from a realistic assessment of the actual strength of the Polish nation, of the country's geographical situation, as well as its internal position at the time of rebirth. He thought, therefore, that the elaboration of the constitution must be postponed until independence was achieved^{xxxxx}.

Contrary to Pilsudski's plans Dmowski wanted the Prussian and Austrian section of Poland to be the basis of the new state^{xxxxxx}. His arguments were historical and ethnical: "this is the cradle of the ancient kingdom of the Piasts, and there the undisputably Polish population is most dense". Such a plan, he argued, could
 x C. Smogorzewski, *La Pologne Restaurée*, Paris, 1927, p. 143
 xx S. Stronski, *Pierwsze Lat Dziesiec*, Lvov, 1928, pp. 219, 246, 266
 R. Dmowski, *Polityka Polska: Odbudowanie Panstwa*, 3rd ed. London, 1947, vol. II pp. 9 and 48
 xxx Dmowski, *op. cit.* vol. I p. 11; xxxx Dmowski, *ibid.* p. 16
 xxxxx R. Dmowski, *Dziesiec Lat Walki*, 2nd ed. 1938, p. 374
 xxxxxx R. Dmowski, *Polityka Polska: Odbudowanie Panstwa*, vol. I, p. 21

count on the support of Russia, no longer an ally of the Central Powers. He proposed, therefore, to link the Polish cause with the Franco-Russian alliance and persuade the Russians that in case of a Russo-German war Poles would actively support them.^x

To further his plan Dmowski became a member of the Russian Duma, and to revive the Polish question abroad he published a book in 1908 : "La Question Polonaise". During his tour abroad he was able to notice that in the West no one was interested in the Polish question, and no one knew anything about it.^{xx} Furthermore, certain writers as Lége in France and Morfill in Britain, had already done considerable damage by picturing Poland in false colours^{xxx} and the British Foreign Office was constantly supplied with false reports on Poland.^{xxxx} For this state of affairs he blamed the underestimation of the position of Poland by western politicians^{xxxxx} and the efforts of international Jewry hostile to the Polish cause.^{xxxxxx}

In August¹⁹¹⁷ Dmowski became the Chairman of a "Polish National Committee" organised in Paris with the purpose of presenting the Polish cause to the Western Allies, supervising the Polish Army in the western front and organising a consular protection over Polish nationals. He led the Polish Delegation at the Peace Conference where, owing chiefly to the strangely hostile attitude of Lloyd George^{xxxxxxx} (whom Dmowski called "indefatigable enemy of Poland"), the western frontier of Poland was settled to his dissatisfaction.

x Dmowski, *ibid.* vol. I, p. 28

xx Dmowski, *ibid.* vol. I, p. 145; opinion confirmed by R. Machray, *Poland 1914-1931*, London, 1932, pp. 28 and 29; and Paderewski in *Paderewski's Memoirs*, London, 1939, pp. 250 and 251

xxx Dmowski, *op. cit.* vol. I, p. 145

xxxx Dmowski, *ibid.* p. 147; confirmed by Machray, *op. cit.* p. 120

xxxxx Dmowski, *op. cit.* p. 181; xxxxxx Dmowski, *ibid.* pp. 156, 236, 239, and Smogorzewski, *op. cit.* p. 241

xxxxxxx Hostility of Lloyd George recorded by British writers: Machray, *op. cit.* pp. 123, 124, 151, 196, 197
G. Slocombe, *History of Poland*, London, 1939, p. 315

Neither the conception of a "Piast Poland"(Dmowski) nor the idea of a "Jagiellon Poland" (Pilsudski) materialised and Poland emerged as a result of bargain and compromise between the Big Powers with strangely shaped frontiers,³large number of national minorities and precarious economic prospects.

The period of the struggle for independence was rich in political ideas and abundant in programmes. Its achievement lay in the democratisation of Polish political thought, its failure in the lack of a concrete proposal of a new constitution to meet satisfactorily the demands of the time and provide a good start for the period of independence. Thus in the period to come, the Poles, whilst consolidating their state liberated after so long a century of bondage and after so much sacrifice, were still looking for an adequate form of government and could not entirely agree among themselves as to which one to adopt. It was only in the sphere of industrial and social legislation that some programmes found their realisation.

Chapter 2. The Failure of the Parliamentary System.

At the close of the first World War both the Western Allies and the Central Powers proclaimed the independence of Poland. On the Armistice Day there were in Poland two authorities which could be described as "governments" : the Regency Council established by the Central Powers and the "Provisional Government" composed of different political parties formed in Lublin by a socialist, Ignace Daszynski. The latter issued a Manifesto^x on November 7, 1918 proclaiming a "Polish People's Republic" and setting forth the principles of the future constitution. The Regency Council offered Pilsudski the office of the Head of the State under strict understanding that this office was only transitory and that he would pass it into the hands of the National Assembly when constituted. The "Provisional Government" also recognised this arrangement. Pilsudski called upon Daszynski to form a government, but another socialist Jędrzej Moraczewski succeeded in doing so when Daszynski failed.

The government was organised by Pilsudski's decrees of November 14, and November 22, 1918 and its primary object was to arrange General Elections. Elections on the principles of "general, equal, secret, and proportional suffrage, suffrage without distinction of sex" took place on January 26, 1919 and a National Assembly^{xx} consisting of 415 members and composed of sixteen different parties (including a Jewish and a German party having eight and ten members respectively) was in office already by February 1919. Little Constitution. Pending the enactment of the Constitution the so-called "Little Constitution" was voted to serve as an interim measure.

x Full text see The Democratic Heritage of Poland, p.142

xx. F. Tommasini, *Odrodzenie Polski* (translated from Italian), Warsaw, 1928, p.18

S. Mackiewicz, *Historia Polski 1918-1939*, London, 1941, p.113

Under its authority the Administration consisted of the National Assembly (called the Legislative Sejm), the Head of the State, and the Cabinet. It recognised the sovereignty of the people exercised by the Legislative Sejm, whose principal function was to see that a Constitution was enacted. In the meantime the Sejm was to legislate, and to control the Executive.

The Head of the State was acknowledged as the chief of the Executive, a presidential office without constitutional authority. As such he represented the state, appointed the Cabinet, and executed resolutions of the Sejm in civil and military matters. It was purposely provided that "resolutions", not only "laws" were binding upon him, the Sejm making it clear, that the Head of the State was subordinated to all its orders.

Every official act of the Head of the State had to receive the assent of the Minister concerned, and his appointment of Ministers the direct approval of the Sejm.

The Little Constitution would have required a great deal of interpretation had that interim statute lasted long, but it served its purpose during the Soviet-Polish war, and in the meantime the Constitution of 1921 was prepared.

The Constitution of 1921 Poland became a republic with a President elected for seven years and a bi-cameral Parliament elected for five years. A "general, secret, direct, equal, and proportional" suffrage was enjoyed by every citizen of either sex if twenty one years of age and not incapacitated for insanity or severe crimes defined by the Electoral Law.

The general principles on which the Constitution was built may be summarised as follows: sovereignty of the people, preponderance of the lower chamber of Parliament (Sejm), liberal conception of the state, and extensive guarantee of individual rights.

The legislative power was exercised solely by the Parliament, the President and Ministers having only the limited power of delegated legislation. The two chambers of Parliament, however, were not equal, the Sejm enjoying real preponderance over the Senate in every respect. The legislative initiative resided with the Sejm and Government and the Senate was not able to propose directly any bill. The Senate could only suggest amendments to bills but had no veto, and in practice it could only suspend a bill for sixty days. The question of the dissolution of Parliament came before the Senate only if such dissolution was proposed by the President. This lack of balance between the two chambers was due to the opposition of a certain section of the community to a bi-cameral Parliament and an idea of the ancient Sejm deeply rooted in the nation.

There was no room for "judicial legislation" and the Courts had to function according to statutes constituting them and decide cases according to law. Courts could not question the validity of duly promulgated laws and they were not called upon to decide whether a statute was "constitutional" or not, as is the case under federal constitutions.

The Sejm and the Senate jointly elected the President and in the case of a presidential vacancy his office was exercised by the Speaker of the Sejm. Presidential powers were very limited and they may be summarised in two functions: "to represent, and to officiate". The President was nominally the head of the Executive and Commander of the Armed Forces, but the latter function had only a symbolical meaning since in the case of war he could not assume the actual command. He was not responsible for his official acts, but in practice his powers were limited to the signing of documents together with a responsible Minister. The President had no personal legislative authority, except the power to issue executive decrees based on statutory authorisation. He could effect

x M. Niedzialkowski, *Przeciw Senatowi*, Warsaw, 1920, pp. 13 and 16

dissolution of Parliament, but only with the assent of three fifths of the statutory strength of the Senate. He had no legislative veto and his only function was to promulgate and publish enacted laws.

The Executive had no control over the Judiciary. The President, though exercising the prerogative of mercy, could not influence the course of justice or reverse sentences of Courts. Judges were indeed nominated by the President, but they were independent in their office and could only be removed by Court order or legislation. Thus independence of Courts was secured, but it could be curtailed by adequate legislation, that is to say, on the instance of the Sejm.

On the whole a general division of powers existed, but only the Judiciary was distinctly separated from the Executive and Legislative. The actual master was the Sejm as the representative of the nation according to the principle of Art. 2 of the Constitution that the "sovereign power resides with the nation".

The Constitution declared in its preamble a continuity of the tradition of the Constitution of May 3, 1791, thus stressing the moral and legal importance of the latter. Both charters reveal certain affinities. The principle of the sovereignty of the nation led in both Constitutions to the parliamentary rule exercised by the Sejm with the difference that the powers of the two chambers were balanced under the May Constitution. Both Constitutions followed the doctrine of separation of powers, the March Constitution deviating in favour of the Legislative. In each case no responsibility for official acts was attached to the head of the Executive, but Ministers could more easily be dismissed under the March Constitution^X. By extraordinary coincidence both Constitutions endowed the head of the state with little power, yet the intention of the makers of the May Constitution was to strengthen
 x A simple majority vote in the Sejm sufficed, a 2/3 majority of both chambers necessary under the May Constitution.

the position of the King ,whereas the leading motive behind the March Constitution was to make the President a mere figurehead.

Whilst the May Constitution was under the influence of the English system ,the March Constitution was,to a great extent, modelled upon the French Constitution of 1875,without,however, taking into account the conventions,practices,and experience of the Third Republic.

The March Constitution may be classed without exaggeration as being modern,progressive,and truly democratic.It proved, however,a failure.Elaborated by University Professors it was doctrinaire,idealistic,and unadjusted to the real state of the Polish community of 1921.

Several compromises between political parties knocked the Constitution off the balance that was indispensable for a harmonious and efficient working of the machinery of state.Such was the compromise on the organisation of Parliament and status of its chambers which inevitably led to uni-cameral rule and what was termed as the "byzantinism^x" of the Sejm and "sejmo-craçy"^{xx}

The multifarious party system provided a fertile soil for demagogy and prevented formation of any kind of sound opposition in the sense of a parliamentary necessity.In this system oppositions shifted and parties changed their allegiance almost overnight from support to the obstruction of the government,and coalitions were formed which completely altered the structure of Parliament.This permanent political crisis resulted in a situation whereby from November 18,1918 to May 15,1926 twelve different persons held the office of the Minister of Foreign Affairs and fourteen different governments were formed.^{xxx}^{xxxx}

x Stronski,op.cit.p.562

xxV.Fiala,La Pologne d'Aujourd'hui,Paris,1936,p.41

xxx Smogorzewski,op.cit.p.274

xxxx B.Lesnodorski,Parlamentaryzm w Polsce,Cracow,1947,p.119

And yet stability of government was the prime necessity for the state where everything had to be built anew and where the chaos caused by over a century of division and, ultimately, war began to lift its head. The Constitution was unable to give the country a solid basis for stability of government and formation of policies.

Another compromise, that on the presidential office, proved equally disadvantageous. The Constitution made the President a mere figurehead unable to use the authority one would expect of this office, for the benefit of the country. But the original sin lay in the fact that the motive behind the framing of the presidential powers was to prevent Joseph Pilsudski, the "Head of the State" when the Constitution was made and a potential president, from acquiring too much power^x. This was conceded even by one of the most fervent opponents^{xs} of Pilsudski, who nevertheless saw the necessity of strengthening the Executive. Pilsudski would not accept the presidential office offered to him under the March Constitution not only because of its low status, but also because it would separate him from the Army (Art. 46 of the Constitution). He preferred, therefore, to decline the offer and retire to private life, but in May 1926 he came back in his old revolutionary fashion to seize the full power by a coup d'état.

Coup d'état of May, 1926. Early in 1926 Pilsudski attacked the Constitution several times in the Press accusing it of being the chief cause of political chaos. In May, after three days fighting and with only a handful of military, he overpowered the capital and forced the President and the Government to resign. In the new Government he contented himself with the post of Minister of War and the control of the army.

x I. Daszynski, Sejm, Rzad, Krol, Dyktator, Warsaw, 1926, pp. 26, 38, 49

xs Tommasini, op. cit. p. 31; Mackiewicz, op. cit. p. 152

xx Stronski, op. cit. pp. 522, 533, 561

The presidency becoming vacant Parliament was convened and Pilsudski elected. He declined the nomination and Ignace Moscicki was subsequently chosen.

The immediate consequence of the coup d'état was the amendment of the Constitution by the Law of August 2, 1926 with the object of giving more power to the Executive. Accordingly the President received the power to dissolve the Parliament on the request of the Government, and was authorised to legislate by decrees in cases of national emergency and during the absence of Parliament. Such legislation, however, could not contradict the Constitution and became null if not submitted to the Sejm within fourteen days of its first sitting. The Government became endowed with considerable powers in matters concerning the enactment of the budget.

In point of theory the former "parliamentary system" became transformed into the "presidential system". In point of fact, however, the actual distribution of functions at the top of the state machinery underwent a drastic change, and the "Minister of War" in subsequent Cabinets concentrated the whole of the executive power in his hands; though chiefly concerned with foreign policy and the development of the Army. Therefore Joseph Pilsudski, whilst living in the shadows and avoiding publicity and not nominally a dictator became, in this way, the autocratic ruler of Poland.

After Pilsudski's coup d'état there was no 'purge', or 'liquidation' of opponents as one would expect of a perfect dictatorship. The Government did not incur 'responsibility' for firing at the victorious revolutionaries; the Parliament was not disbanded but carried on its functions as usual until its term expired.

Pilsudski had no political party of his own in the Parliament at the time of his coup d'état and not even in the subsequent

Sejm did his supporters achieve a majority^x; it was only in 1930 that the "Non-Party Bloc of Co-operation with the Government" attained a formal majority.

Pilsudski enjoyed great popularity but had also to face a considerable opposition. Unlike other 'dictators' he neither developed his own propaganda nor suppressed the Press. He was not a demagogue or orator^{xx}. Relying mostly on military men his methods bore military features making for him more foes than supporters. Yet a strong Executive can always pride itself on efficiency and achievements in every field; therefore, in post-May Poland, there were many people who recognised the benefits if not the necessity for Government with the strong arm. On the other hand the opposition did not refrain from showing its dissatisfaction and even open hostility.

Several writers openly denounced the 'dictatorship' and in strong terms advocated its abolition. The Sejm itself set its face against it in the "Czechowicz affair", when the Finance Minister Gabriel Czechowicz was brought before the Tribunal of State, indicted at the instance of the Sejm for spending public funds without parliamentary authorisation. Though the whole affair came to nothing it was an indictment of the régime of the day.

But the most daring act of the opposition was the Six-Party Congress held in Cracow on June 29, 1930, demanding in menacing terms^{xxx} a change of the régime and resignation of the President.

The reaction of the Government was to arrest the leaders of the opposition, keep them in custody in the military fortress of Brest and put them on trial for sedition. The Brest affair was primarily of a political character and aimed, it appears, at thwarting the

opposition during the impending General Elections, and criminal
 x Mackiewicz, op. cit. pp. 191 and 192

xx Fiala, op. cit. p. 86

xxx full text, Sprawa Brzescia, reprinted, London, 1941, pp. 29 and 30

xxxx some ninety people were arrested and eleven of them put on trial

W. J. Rose, The Rise of Polish Democracy, London, 1944, p. 178

charges in open court were preferred to justify the unlawful imprisonment in a military fortress.

In the meantime Elections took place and a majority was achieved by the Government supporters. This was the first Government majority since the coup d'état, but some foreign writers charge the Government of the day with "irregularities" in conducting the Election^x.

The Brest affair casts a dark shadow on the system of government, and if there is any doubt as to the correct classification of that system the name of Brest outweighs the balance for the autocratic rule of Marshal Pilsudski. But to be objective and to do justice to facts one has to concede that the peculiar kind of 'dictatorship' practised by Joseph Pilsudski neither concentrated all three powers, that is the Legislative, Executive, and Judiciary in his hands, nor liquidated the opposition by silencing effectively their voice on the model of classic dictators.

x Rose, op. cit. p. 178

Fiala, op. cit. p. 98

J. A. Hawgood, Modern Constitutions since 1787, London, 1939, p. 338

Chapter 3. The Constitution of April 23,1935.

New Elections, held in the shadow of the Brest affair, brought victory to the Government Party which in the Sejm^x received 247 seats out of the total 444, but still did not achieve the two thirds majority necessary to change the Constitution if the remaining Parties united against it.

Discussions on a new Constitution began in 1931, but they proved abortive, because the conception of an authoritarian state in which the power would be concentrated in the hands of the President, advocated by the Government, was unacceptable to the Opposition. The Opposition, on the other hand, did not bring any proposals of their own and remained strictly on the defensive.

The "Constitutional Theses", as the proposed draft was called, accepted in the committee stage in January 1934, was tabled for debate, but in wholesale protest the Opposition walked out leaving only one Member as observer. In the absence of the Opposition the "Theses" were voted and carried with one dissenting vote^{xx}. The proposal so enacted was passed in the Senate where the Government Party had a two thirds majority.

In the final voting in the Sejm, where the proposal was returned from the Senate with certain amendments, it was carried by 260 against 139 votes^{xxx} on March 23, 1935. The new Constitution was promulgated by the President on April 23, 1935, hence it is usually referred to as the April Constitution.

It was said that the Constitution "was put through by a fuse"^{xxxx} while the Opposition, contending that in their absence no debate

x Mackiewicz, op. cit. p. 217

xx cf. W. Komarnicki, *Ustroj Panstwowy, 1918-1939*, London, 1951, p. 27

xxx Rose, op. cit. p. 194; Fiala, op. cit. p. 101

xxxx Rose, *ibid.* p. 185

H. Seton-Watson, *The East European Revolution*, London, 1952, p. 156

on the "Constitutional Theses" should have taken place, called it 'irregulär', and some writers in post-war Poland made it 'illegal', because it was voted in the contravention of the Rules of the Sejm^{xx} which required a fifteen days interval between motion and debate. The charge of 'illegality' was refuted by Professor Stronski, the dissenting Opposition Deputy in the vote on the "Constitutional Theses", who pointed out that the idea of 'illegality' was invented by the so called "National Committee of Liberation" (created in Moscow during the war) in order to pass over the awkward fact of the existence of a constitutional Polish Government in London.^{xxx}

It appears that the argument of 'illegality' cannot be sustained either on legal or parliamentary grounds. The Sejm was the master of its own procedure and before the division it overruled formal objections of the Opposition Deputy. On the other hand, no experienced parliamentarian would contend that measures taken in his absence ought to be null and void. The Constitution would not have been passed at that occasion had the Opposition remained in the Chamber and not relied on a "nihil sine nobis" expectation.

Theory of State. The April Constitution was an attempt at finding a middle way between the liberal and totalitarian conception of state. The state as the "common good of all citizens" (Art.1.al.1) was no longer a mere form of organisation of the community, it became the community itself transformed into a distinct machinery, into an organism of its own. We have here a universal conception of state as something pervading all spheres of life and being in itself the highest ideal. The legal expression of this conception of state identifies the 'state' with the 'legal

x Mackiewicz, op. cit. p. 23

xx B. Lesnodorski, op. cit. p. 128

xx A. Peretiatkiewicz, Kodeks Polityczny, Poznan, 1947, p. 5

S. Rozmaryn, Polskie Prawo Panstwowe, 2nd ed. 1951, p. 127

xxx S. Stronski, The Two Constitutions 1921 - 1935, Glasgow, 1944, p. 2

order'. The 'state' appears, thus as a creation of law and a product of purely legalistic consideration of the political organisation of the society. There is a metaphysical element in this formulation of the theory of state since the 'legal order' implies on ^{the} one hand existence of a law-making body, and on the other, it lays down foundations of its activities.

In the March Constitution the nation was the 'sovereign' and the source of all law and state authority. The 'state', on the other hand, appeared only as a legal form of the organisation of the nation. Historically this conception of state seems to have derived from the ideas of the French Revolution when the 'people' destroyed the ancien régime in the form of an absolute state, declared itself to be the subject of supreme authority and commenced a new era of the 'rule of the people by the people for the people' in a republican form of state organisation. The April Constitution was born when another theory was more fashionable and virtually superseded the old one rejecting it as fictitious. In France Maurice Hauriou and Leon Duguit, in Austria Hans Kelsen, in Poland W.J. Jaworski rejected the old theory and expounded the new theory of state, which considered the state as a 'legal order'. This theory put the state on an objective basis and made it simply a reality that exists on its own and acts by its organs. Hence the object of the state in the April Constitution was not to cater for the welfare of individuals leaving them to their own fate, but to cater for the whole community as a unit, composed of individuals, all striving for "one common good" - the interest of the state, identical with 'interests of individuals'.

This theory of state affected, of course, the constitutional position of the citizen. Whereas the March Constitution favoured the individual, the April Constitution favoured the society. Thus the individual was no longer regarded as a 'separate entity', but became a 'member' of the community-state and so subordinated

to the will of the community-state. The community-state indeed guaranteed him development of his personal values as well as personal freedoms, but warned him at the same time that the 'common good' may limit these rights (Art.5). The community-state resolved to rely on the individual stating that the 'productivity of the individual is the basis of the development of the community', but this statement only emphasised the idea of a social function of the individual.

The April Constitution may be classed as "etatic", that is, allowing the state to take precedence before the citizen. Another characteristic feature was the announcement of the formation of an "elite" foretold by Art.7, since the degree of influence on public affairs was to be measured by 'effort and merits' of the citizen made for the 'common good'.

Division of Powers The April Constitution renounced the doctrine of the separation of powers and solved the problem of the organisation of the state on the basis of the indivisibility of the authority of the state and a concentration of its powers. Hence, in theory, we have the conception of an 'indivisible authority of the state' and of 'divisibility of functions' of the state^x. In practice, on the other hand, the indivisible authority of the state was entrusted to the President of the Republic (Art.2, al.4) and the divisible functions of the state to various organs of the state (Art.3, al.1), separated from each other, but at the same time placed under the authority of the President.

The position of the President was unique : he was the head of the state (Art.2, al.1) and supervisor of all organs of the state (Art.3, al.1). The President was not the chief of the Administration, as is the case in the United States of America^{xx}, he did not govern, or rule by means of a Government subordinated to him, but his function was to coordinate the work of the various

xw. Makowski, Wspolczesne Zagadnienia Ustrojowe Polski, Warsaw, 1937

p. 78

xx cf. C. B. Swisher, American Constitutional Development, New York, 1943, p. 37 et seq.

organs of the state and control their activities. He was not authorised to interfere with the technical work assigned by the Constitution to each organ, but was expected to use the authority of his office for the purpose of moral leadership and, if necessary, arbitration. Hence his chief duty: "to cater for the interest of the state, its defence and international position" (Art. 2, al. 3).

By the provision of Art. 13 the President was given certain personal prerogatives. These powers touched the Legislative, since he could dissolve the Parliament as well as affect the composition of the Senate by appointing one third (of its strength at each Election; they touched the Executive, since he could recommend a candidate to succeed him in office, appoint and dismiss the Prime Minister, and indict Ministers before the Tribunal of State; they touched the Judiciary, since he appointed the First President of the Supreme Court as well as ordinary Judges, and had a prerogative of mercy; they touched the question of the financial control as well as the organisation of the Armed Forces, since he appointed and could dismiss the Chairman of the Supreme Chamber of State Control, and the Commanders of the Armed Forces. The personal element in exercising the presidential prerogatives was emphasised by the provision of Art. 14, al. 2 which stated that no ministerial assent was required for acts executed under the authority of Art. 13, whereas all other official acts of the President had to be assented to by the Prime Minister and the Minister concerned.

The Legislative. The legislative function was assigned to the Sejm, whereas the Senate only examined the bills passed by the Sejm (Art. 31). The Senate could not initiate legislation, but could reject or amend any bill passed by the Sejm (Art. 46). The final decision on the destiny of bills so amended or rejected was, however, in the hands of the Sejm (Arts. 53 and 54).

The President had a suspensive veto operating until the next session with regard to all statutes and the right to promulgate them (Art.54).

A great deal of legislation could be effected by the President of his own right. He could legislate by decrees, his decrees ranking equal to Acts of Parliament, by the authority of the Constitution as well as by special statutory authority. The presidential initiative to amend the Constitution was privileged as compared with the initiative of the Sejm or Cabinet, he could veto an amendment passed by the Sejm (this veto would suspend the amendment for the duration of the given Parliament) and even dissolve both Chambers if the same amendment was passed again.

The Cabinet had the power to initiate legislation, including the amendment of the Constitution, and in certain questions, such as the budget, conscription, and ratification of treaties, the initiative exclusively belonged to the Cabinet (Art.50)"

The Executive. The Constitution, rejecting the doctrine of the separation of powers rejected as well the conception of the Executive in the broad meaning of this term. In the narrow meaning of the Executive we have the Government (i.e. the Cabinet) as an 'organ of the state', besides the President as the head of the state and supreme authority over all organs.

The responsibility of Ministers was threefold:

- a) political (to the President - Art.28);
- b) constitutional (before the Tribunal of State on impeachment - Art.30); and .
- c) parliamentary (to the Sejm primarily and Sejm and Senate secondarily - Art.29).

Ministers were responsible politically to the President, himself responsible to "God and History for the destiny of the state" (Art.2, al.2). The President was not responsible in law

for his official acts, but those acts were divided into two classes: those requiring assent of the Prime Minister and the Minister concerned, and acts authorised by the presidential prerogative (Art.13) which did not require any assent. In other words the Prime Minister and Ministers took responsibility for all acts of the President, except those authorised by Art.13. For the latter only the President was responsible to "God and History", that is, not responsible 'in law'. By the wording of Art. 28, the Prime Minister and Ministers were politically responsible to the President, that is, for their own acts and acts of the President they assented to. In other words they were responsible to a person not responsible 'in law', even for his own acts. If one considers the responsibility to "God and History" to be 'no responsibility' and excludes the responsibility to another person, he may contend that politically the Ministers were 'not responsible'. This seems to be the attitude of Prof. Komarnicki^x, in whose opinion the Constitution introduced the principle of non-responsibility of Government, that is, a rule of authority, not a rule of law. With due respect to Prof. Komarnicki, it seems that his opinion is too extreme. Besides the 'political' responsibility of one person to another there was also the constitutional and parliamentary responsibility of Ministers, that is, they were under the control of the Sejm and consequently they could be always forced to resign or even brought before the Tribunal of State at the instance of the Sejm with the consent of the Senate.

The Judiciary. The Judiciary was organised on the principles of the March Constitution, that is, independent of the Government and the law-making bodies. The extensive legislative powers entrusted to the President did not affect the Judiciary, but
x Komarnicki, op. cit. p. 33

his prerogative of mercy allowed the President to pardon, mitigate or even abrogate effects of a conviction otherwise untouchable by other organs of the state.

The Armed Forces. The Armed Forces regarded as another organ of the state, were separated from the political element and subordinated to the authority of the President. Whereas the March Constitution put the Military under the control of the Sejm, the April Constitution put it under the command of the President, or a Commander in Chief responsible directly to the President. This separation degenerated later in practice into a sort of 'duality of authorities' : the civil, exercised by the President, and the military authority, exercised by the Commander in Chief.^x

Electoral Law. The Electoral Law of July 8, 1935 represented a considerable departure from the principles of Electoral Law announced by the March Constitution. The election of the Sejm followed a different procedure from the election of the Senate, and the number of Deputies as well as the Senators was reduced.

The candidates for Deputies were nominated by the "District Assemblies" (Zgromadzenia Okregowe) consisting of the Returning Officer for the given constituency and delegates of:

- a) territorial self-government (i.e. communes, towns, district assemblies);
- b) economic self-government (i.e. chambers of commerce and trade, agricultural committees, guilds and syndicates); and
- c) professional organisations (i.e. medical associations, law chambers, universities, trade unions).

Besides candidates nominated by the "District Assemblies" candidates could be proposed directly by the electorate, but in such case 500 supporting signatures were required for nomination.

As we can see the party element became excluded and elections tended to be not for "professional politicians" but for representatives of the cross-section of the community. The new system x of Circular of Prime Minister of June 13, 1936 declaring the Commander in Chief second only to President.

was a reaction against the former party system, where nominations were effected at the instance of political parties, and it conformed with the idea of "direct contact with the electorate" and abolition of the "party rule" propounded by critics of the old system. It was further a consequence of the idea of social solidarity expounded by the Constitution and advocated by Valery Slawek, one of those who inspired the April Constitution and the Electoral Law of 1935. Slawek, leader of the Government Party, dissolved his party on October 30, 1935, faithfully following his theory.

Whereas the election of the Sejm was conducted upon the "general, secret, equal and direct" suffrage, the Senators were elected indirectly through "Electoral Colleges" (two thirds of the total strength of the Senate) and appointed by the President (one third of the total). The right to vote for Senators was reserved for three groups of citizens who distinguished themselves by :

- a) merits (holders of highest military and civil decorations);
- b) education (minimum the matriculation standard); and
- c) public confidence (people elected to leading positions in the territorial self-government units, trade, commerce, agricultural, professional and similar organisations).

Therefore qualified electors chose among themselves delegates to "Electoral Colleges" where ultimately Senators were elected.

The idea of an "elite" propounded by Art. 7 of the Constitution was so realised by the Electoral Law. Consequently the Sejm was meant to be a representation of the country and the Senate an "elite" of the nation, chosen by specially qualified citizens.

The electoral system of 1935 was severely criticized and even Valery Slawek admitted its failure three years after its introduction.

The reaction of public opinion to the April Constitution was divided. Besides the enthusiasts there was a strong feeling that the new system should have a trial to prove its merits and shortcomings in practice, and, of course, a considerable section of the community openly opposed it. The Electoral Law certainly was rejected by the public and the Elections of 1935 prove it by the unusually poor attendance at the polls.^x

An interesting document to illustrate the attitude of an opposition was a memorandum of the Polish Labour Movement of November 13, 1937 urging the President of the Republic to effect change of the Electoral Law and order new Elections.

In the face of international crisis that was feared in Poland already in 1937 the question of the defence of the country superseded all other problems. The Elections of 1938 brought over two thirds of the electorate to the polls^{xx} and the Government appeal for a National Defence Fund was met with a spontaneous response of the public.

It is a matter of opinion whether the Constitution of 1935 was a short shot in "democracy" as much as its predecessor was a long one. In all probability the ensuing development would have tempered the extremism of the presidential system had not the war intervened.

x Fiala estimated 46'6% attendance, Rose 45% and Schmitt 46'5%
 B. Schmitt, Poland (a collective publication), New York, 1945, p. 142
 xx Rose, op. cit., p. 201, - 2/3 of the electorate, v . n. .
 Schmitt, op. cit. p. 146 - 64'5%

Part II. Genesis of the "People's Democracy."

Chapter 4. Constitutional "Vacuum" (1939-1945)

The clue to the formation of the present political system in Poland lies in the history of World War II. The question of how the ideas of a "People's Democracy" became the victorious political force in Central and Eastern Europe may be adequately answered by a study of historical events, in the course of which the small states of Central and Eastern Europe lost their independence and found themselves in the Soviet sphere of influence. Why this had to happen still remains an enigma. One thing, however, is certain : those states had practically no chance to influence the decisions taken for them by the Big Powers.

In order to trace the genesis of the People's Democracy in Poland we have to study, therefore, the course of the war and its influence on the fate of Poland.

German Aggression. The German assault of Poland in 1939 was the last link in the chain of aggression which started with the unpunished occupation of the Ruhr, the forcible "Anschluss" of Austria and the fall of Czechoslovakia. The proven pattern of conquest was accordingly applied to her: First a persuasion to take part in a crusade against Soviet Russia^x or to remain neutral in the case of war in the West^{xx}, then "modest demands" and finally threats and violence. (In the meantime, to prove that words mean business, a small scale grab was executed by the capture of the Memel on March 21, 1939.) The "modest demands" preceded by and accompanied with violent anti-Polish propaganda,
 x The Polish White Book (Ministry of Foreign Affairs, Official Documents, 1933-1939), No. 48, p. 53; also French Yellow Book, no. 124
 The Speeches of Adolf Hitler (1922-1939), vol. III. edited by N. Baynes, New York, 1942, o. 1561-1566
 xx S. Mackiewicz, Colonel Beck and His Policy, London, 1944, p. 139

comprised in general terms the return of the free city of Danzig to the Reich and readjustments of the frontier to repair the "Versailles injustice".

Messages of the Pope, the President of the United States and the King of Belgium asking the parties in dispute to refrain from using force were the last voices appealing for peace before the guns started to speak. Poland replied with readiness to negotiate, Germany with an ultimatum. This ultimatum, however, was never communicated directly to the Polish Government, but was put before the British Ambassador in Berlin and broadcast through the German radio. The ultimatum, consisting of sixteen paragraphs was to be unreservedly accepted and a plenipotentiary sent within twenty-four hours to sign it, as previously did Dr. Schuschnigg and President Hacha. The last effort of the Polish Ambassador to talk with the Reich's Minister of Foreign Affairs was fruitless, since the former did not come as the plenipotentiary to accept the dictate. At dawn on September 1, 1939 World War II started and night fell upon Poland.

Polish Alliances. From an early beginning of her restoration Poland was allied with France, her historical and natural friend. The Franco-Polish Treaty of February 19, 1921 provided for mutual assistance and co-operation in case of aggression against one of the contracting parties. It was further amplified by the Military Convention of May 19, 1939 in which each party engaged to start military operations in three days from the mobilisation and launch a major offensive within fifteen days, in case of German attack against the other.

x Polish White Book, No. 88, p. 98

cf. Hansard, House of Commons, vol. 351, cols. 111-112

xx J. Beck, *Dernier Rapport*, Neuchâtel, 1952, p. 216

cf. Hansard, House of Commons, vol. 351, col. 126-138; and House of Lords, vol. 114, col. 913-922.

xxx full text see Polish White Book, No. 113, p. 120 et seq.

Sir N. Henderson, *Deux Ans avec Hitler*, Paris, 1940, p. 340 et seq.

xxxx Polish White Book, No. 112, p. 119; Henderson, *ibid.* p. 293 et seq.

xxxxx Beck, *op. cit.* p. 345-6

The British-Polish Agreement of Mutual Assistance was the result of the political situation that ensued after Munich. Poland always was, and still remains, terra incognita for the British people; the statement of the British Prime Minister in the House of Commons on March 31, 1939^x was, therefore, of great historical importance, a "milestone in British history" as described later by Mr. Churchill^{xx} (as he then was). The British guarantee, opposed by Lloyd George^{xxx} and unfavourably received by The Times^{xxxx}, drew in fact that distant country of Poland into the British orbit and made it a forepost of the anti-German alliance. Although there was some apprehension in the House of Commons^{xxxxx} as to whether Britain could gain anything from her alliance with Poland, later history proved that Britain was not to be the loser.

The Agreement of Mutual Assistance consisted of a Treaty and a secret protocol attached thereto. The contracting parties entered thereby into a pact of mutual assistance coming into operation automatically if one of them was attacked, and pledged themselves to respect each other's interests whilst dealing with other powers.

Poland was also allied with Rumania and Hungary. With Soviet-Russia Poland had a Non-Aggression Pact signed in 1932 and still in force. Good relations were emphasised during the visit to Warsaw of Mr. Potemkin, the Assistant Commissar for Foreign Affairs on May 10, 1939, who stated that in the event of an armed conflict between Poland and Germany, Soviet Russia would adopt "une attitude bienveillante" towards Poland^{xxxxx}. Mr. Stalin's speech of March 1939 seemed to confirm this policy ("... we stand for the support of nations which are the victims

x Hansard, House of Commons, vol. 345, cols. 2415-2417.

xx ibid. vol. 354, col. 2482 et seq; xxx ibid. vol. 347, cols. 1817-1822 cf. W.P. and Zelda K. Coates, Six Centuries of Russo-Polish Relations, London, 1948, p. 131

xxxx The Times of April 1, 1939

xxxxx Hansard, vol. 346, cols. 13, 59-61, 105-106, 113-114, 129-130, 137-138 (cf. Speech of Mr. McGovern on April 13, 1939)

xxxxxx Beck, op. cit. pp. 201 and 322

of aggression and are fighting for the independence of their country" (...).

Three days after Poland was attacked Great Britain and France declared war on Germany, but neither of them rendered any assistance (the forty aeroplanes Britain originally sent to Poland were sold en route to Turkey^{xx}).

Soviet Attack. On the 17th day of fighting the Soviet armies in great numbers entered Polish territory. One of the contemporary publicists counted as many as six treaties that were violated by this act of aggression^{xxx}.

Partition of Poland. The fifth partition of Poland took place in 1939. The German-Soviet Pact of August 23, 1939^{xxxx} was a prelude and preliminary to the final division of spoils arranged in the agreement of September 28, 1939 whilst Poles were still fighting^{xxxxx}. Poland became divided between Germany and Soviet Russia, the line of division running chiefly along the celebrated "Curzon Line"^{xxxxxx}.

Contrary to the accepted principles of "International Law" that the belligerent parties are in temporary occupation of conquered territories until the peace settlement, both Germany and Soviet Russia considered their 'settlement' as final and began to re-organise the occupied territories in their particular fashion. As far as they were concerned Poland ceased to exist (... "Nothing is left of that ugly offspring of the Versailles Treaty"... - Mr. Molotov on October 31, 1939 in his speech to the Supreme Soviet^{xxxxxxx}).

The legal position was undoubtedly that of an "occupatio bellica" and consequently the provisions of Art. 43 of the IVth x quot. in Hansard, House of Commons, vol. 351, cols. 3-16, 28-41 xx Beck, op. cit. p. 209 xxx S. Mackiewicz, Lata Nadziei (1939-1946), London, 1946, p. 43 xxxx Beck, ibid. p. 348 xxxxx H. Laeuen, Polnisches Zwischenspiel, Berlin, 1940, p. 333 xxxxxx Line of demarcation suggested by the Conference of Spa during the Soviet-Polish war (1919-1920). xxxxxxx full text, A. S. Cardwell, Poland and Russia, New York, 1944, /p. 223

Convention of the Hague of October 18,1907 should have been observed by the occupying powers. Accordingly "occupatio bellica" does not constitute a title to the acquisition of territory as would be the case of "debellatio". The war was still on and Poland continued to be a belligerent state with a Government and Army in exile. This being so the occupying powers should have considered themselves in temporary de facto dominion over the conquered territories and consequently incompetent to exercise sovereign powers such as legislation designed to supersede the existing laws or effect incorporations. This theory was recognised by a German expert^x in International Law, but denied in practice by both German and Soviet authorities.

German occupation. As far as Germany was concerned Poland ceased to exist at the moment the Führer gave the invasion order to his armies. Accordingly territorial changes were immediately arranged and a specially prepared administrative apparatus was introduced following the advance, of the military operations. According to a carefully prepared plan Poland was to be gradually absorbed into the Reich and germanised. The effectiveness of this plan, set in motion with the usual German efficiency, seemed quite certain since all available means including the indefatigable Gestapo and SS, as well as special "Germanisation Commissars" were at hand.

The western territories of Poland^{xx} were annexed by decree of the Führer on October 10, 1939 and became part of the Reich as the so called "eingegliederte Ostgebiete". They constituted 30,8% of the pre-war territory of Poland and comprised a population of twelve millions, that is one third of the whole pre-war

x K. Strupp, Wörterbuch des Völkerrecht, vol. 2. p. 158: "Der Okkupant darf die ihm zustehende Rechtssetzungsbefugnis nicht dazu missbrauchen, um durch Einführung grundstürzender Neuerungen seine politische Pläne bezüglich des besetzten Gebietes so zu verwirklichen wie wenn er dortselbst bereits Gebietsherr wäre"

xx Upper Silesia, Pomerania, Posnania and the Ciechanow district.

population of Poland. To all intents and purposes the incorporated territories became German territory and their administration was organised on the German pattern. The remaining part of Poland, that is the central part of the country, apparently not prepared yet for incorporation, received a special status ("Generalgouvernement") and was to be for the time being in Hitler's own words the "Heimstätte des polnischen Volkes". Upon the conquest of the eastern part of Poland during the German-Soviet war in 1941 territories annexed in 1939 by Soviet Russia came also under German administration. Thus we have three categories of Polish territory under German rule : the incorporated territories (Ostgebiete), the Generalgouvernement and eastern Poland.

The intrusion of German law began as early as the invasion since from the beginning of the war German commanders in the field used to 'legislate' by orders and German military courts were in full operation applying, of course, German law and procedure.^x As soon as the conquest was completed detailed legislation methodically set up the machinery of germanisation.^{xx} Most legislation of the Reich applied, however, to the "eingegliederte Gebiete" only, whereas in the Generalgouvernement Dr. Hans-Frank^{xxx} was the legislator. Though originally the Polish law was to remain in force in so far as it did not stand in the way of German administration, the legislation in practice aimed at the assimilation of suitable elements and the destruction of all signs of Polish life and culture (On May 14, 1940 the Ostdeutscher Beobachter of Poznan ^{xxxx} wrote: .. "We do not admit the right of the Poles to life in any form" ... Similar ideas were uttered ^x By order of the Commander in Chief of September 5, 1939 ^{xx} full texts see The Black Book of Poland, published in London by the Polish Ministry of Information, p. 539 et seq. ^{xxx} Convicted in the Nuremberg Trial and executed. ^{xxxx} Führer's decree of October 10, 1939 and Frank's decree of October 26, 1939, Art. 8 ^{xxxxx} quot. by S. Mikolajczyk, Pattern of Soviet Domination, London, 1948, p. 16)

by Greiser and Förster, the notorious Gauleiters of Warthegau and Danzig. Greiser^X so expressed the German policy:.. "God helped us to conquer the Polish nation, which must now be destroyed; no Poles must have the right to own any land or house in Poland. In ten years the fields of Poland will be heavy with stacked wheat and rye, raised and harvested by Germans, but not a Pole will remain"... and Förster^{XX} seconded him :.. "It will be my glorious task in the next few years to obliterate all that speaks of Poland, whatever it may be"...).

To execute this policy first certain laws regarding citizenship were made, then all kind of legislation followed, thus using the law as an effective instrument of genocide. Law ceased to be a set of objective rules and became a code of instructions in the service of germanisation. It must be borne in mind that only the citizens of the Reich (Reichsbürger) enjoyed full civic and political rights, whereas the remaining inhabitants of Hitler's empire were divided into different classes having different status. This classification was made according to the assessment of their respective chance of eligibility for the "Reichsbürgerschaft". By the decree of the Minister of Interior of November 25, 1939 the following groups of inhabitants of Poland were made German citizens :

- a) those who until September 1, 1939 were citizens of the free city of Danzig;
- b) those who until October 26, 1939 were Polish citizens and lived either in Germany proper or the incorporated territories; and
- c) those stateless persons who after having lost their Polish citizenship lived in Germany proper or the incorporated territories.

The said decree distinguished between the "deutsche Volkszugehörige" and "deutsche Volksdeutsche". Both classes were
 x quot, by Mikolajczyk, op. cit. p. 16
 xx quot. in Europe under the Nazi Scourge (The Times), London,
 (Reprint of Articles), p. 3

"citizens" (Staatsangehörige), but the former comprised 'Germans' of German and foreign nationality, whereas the latter embraced only 'Germans' of foreign nationality. This distinction, artificial and confusing as it was, is a result of the German population policy and conforms to the ideas of German nationality by "blood" and "citizenship". The immediate consequence of this policy was the decree of May 4, 1940 introducing compulsory military service for the male population of the incorporated territories. Accordingly Poles, now made 'Germans' could find themselves in German uniform as tools of the German conquest. The reaction to this decree was strong and consequently the population of concentration camps greatly increased as well as the resistance movement.

Another step in the process of selection of nationalities was the order of the Ministry of the Interior of November 14, 1940 which aimed at finding out who was not a Pole. Accordingly persons of non Polish nationality were to form a class of their own and "those Poles who for centuries were under the influence of German culture" were no longer to be considered Polish nationals. As a result of this policy the population became artificially divided into three groups:

- 1) 'Germans' (by the decree of November 25, 1939);
- 2) 'non-Poles' (by the order of November 14, 1940); and
- 3) Poles (a group comprising the rest of the population).

The matter was finally settled by the "Verordnung über die deutsche Volksliste und die deutsche Staatsangehörigkeit" of March 4, 1941^x. According to Greiser's interpretation of this decree the population was classed as follows^{xx}:

x Decree about the German 'national list' and the German citizenship.

xx Greiser's interpretation was generally accepted in practice - K.M. Pospieszalski, Polska pod Niemieckim Prawem (1939-1945), Ziemie Zachodnie, Poznan, 1946, p. 48

- list A : active Germans,
- list B passive Germans,
- list C persons of 'German origin' capable of being restored to full German status,
- list D persons of 'German origin' who became 'assimilated' in the Polish surroundings, but were not actively anti-German,
- list E persons of 'German origin' who became 'assimilated' in the Polish surroundings and were actively engaged in anti-German activities.

According to Greiser lists A and B were to become the privileged citizens (Reichsbürger), whereas list C was to receive ordinary citizenship. In fact people classed as belonging to A, B and C groups received notification of being entered on the list of the German nationality (Ausweise der deutschen Volksliste), whereas people classed as D and E received no such notification. Persons of class E were considered potential enemies; they had, therefore, to apply for being entered on a list above E, otherwise by the confidential order of the decree of March 13, 1941 they were condemned to be kept in concentration camps, should the authorities think fit to exercise this power.^x

A further development^{xx} of the scheme produced a division of of the population into citizens and serfs. The division reflected on all spheres of life and went even as far as to invalidate marriages between members of these two groups. Furthermore to execute a policy of depopulation the minimum marriage age for Poles was raised to 25 years for men and 22 for women (decree of the Minister of the Interior of May 4, 1943), later increased to 28 for men and 25 for women (decree of January 10, 1944).

x Vertrauliche Information Nr. 51/42, Beitrag 680:.. "Deutschstämmige, die ihre Eintragung in die deutsche Volksliste nicht fristgemäss beantragen, werden in Schutz genommen und in ein Konzentrationslager überführt, um zu verhindern, dass sie sich weiterhin für das Polentum einsetzen".. full text see Pospieszalski, op. cit. p. 53

xx Zwölfte Verordnung zum Reichsbürgergesetz, April 25, 1943

The system of "national lists" was a part of the general germanisation scheme and as such applied only to Polish and Danzig population, excluding thereby Jews and Gypsies, who had to have no place under the sun.

Detailed regulations with regard to the personal status of, the conquered people were implemented by corresponding regulations with regard to their property. By the decree of September 17, 1940 Jews and absent persons were automatically deprived of any property. Persons who did not acquire citizenship by operation of the decrees on nationality were liable to have their property seized, confiscated and administered by specially appointed commissars. This rule was strict and obligatory in respect of Jews and absent persons, it was facultative and discretionary in respect of the rest of the population. Here again we have a logical application of the nationality policy: those who have no chance to live, have no need of property, those who have a limited right to live may enjoy possession of their property within the discretion of the authorities and as far as the interests of the Reich allowed. To temper the order with mercy the decree generously allowed persons whose property was seized to keep personal belongings and money up to 1000 Marks.

The confiscation of property had usually a sequel either in imprisonment or deportation to the General gouvernement. Deportations duly supervised by the SS and the "Commissars for Germanisation", were organised according to set principles (usually within 24 hours and the personal luggage allowed to be taken did not exceed 50 lbs.).

The classification of the population also conditioned the right to work. Accordingly for the professions and administration only "citizens" were eligible; consequently no Pole could work as medical practitioner, dentist, lawyer etc in the incorporated territories. Non-Germans were thus reduced to the position of

manual workers for the benefit of the "Herrenvolk". But that was not all; they had to be completely distinguished, Poles deported for forcible labour to Germany proper (usually collected in organised manhunts) had to wear the letter "P" on a yellow 2" square background as specified by the Police Order of March 8, 1940 and were subject to curfew regulations.^x

A special order of January 8, 1940, established lower rates of pay for Poles employed in agriculture, whereas generally the lowest rates were given to Polish employees. Though obliged to pay social services contributions Poles were deprived of their benefits. Even maternity grants and protection of youth and expectant mothers were denied to Polish nationals by the law of May 17, 1942. Poles were only paid for actual work days (no pay for holidays or days free of work; no pay for extra hours or bonuses). They were deprived of sickness benefit and in case of unemployment received benefits only at the discretion of local authorities (decree of December 22, 1941).

Though receiving lower rates of pay Poles were subject to higher taxation. A special tax, the so called "Sozialausgleichs-abgabe" - a levy for "social equation" - as it was called to express the contempt and scorn bestowed on its bearers, amounting to an extra 15% of the statutory income tax, was imposed by orders of the Finance Minister of February 10, 1940 and August 5, 1940. They received no allowances for children nor did they receive the same family rebates as their German masters. In the incorporated territories Germans were free of stamp duties on the acquisition of immovables, the Poles, however, had to pay full stamp duties.

Also the Judiciary was in the service of the administration and germanisation apparatus. In civil as well as in criminal matters Germans enjoyed privileges whenever a party to the litigation was Polish. In case of litigation between a German
 x Pospieszalski, op. cit. p. 113

and a Polish party the instance court was bound to seek the direction^x of the President of a higher court (the Oberlandesgerichtspräsident was the competent authority) before the proceedings began. In case of doubt whether the verdict might have to be given in favour of the Polish party or be contrary to the German national policy, the matter could not be proceeded with. The Gauleiters or district governors opinions were equally conclusive and binding upon the courts.

The interpretation and application of the law had to follow the German *raison d'état* and statutes could be considerably departed from if this was required to fall in line with the opportunistic approach to the administration of justice.

This opportunistic principle applied in criminal matters as well. As already mentioned the German Criminal Law was introduced by the Army already at the beginning of the war. Formally this was done (or rather, recognised) by the decree of June 6, 1940. The said decree, however, introduced special provisions with regard to Poles. Accordingly they could be prosecuted in course of a retrospective application of the German law (e.g. for acts which were not crimes when committed) and they were subject to the death sentence for offences which were not capital crimes in case of German nationals. In this way, for instance, capital punishment could be meted out against Poles in cases of mere assaults against German officials, police, party men or even ordinary Germans.

The decree of December 4, 1941 made the Criminal Law still more severe in case of Poles and Jews. Accordingly Poles and Jews were subject to capital punishment (or in trifling cases, to long term imprisonment):

x Law of July 15, 1941

xx... "Der Richter muss auch von positiven Vorschriften abweichen wenn die Interessen des Aufbaues der Ostgebiete es erforderlich machen"... - § 4, Ostrechtspflege Verordnung, September 25, 1941

- a) if by hateful or seditious activity they manifested a hostile attitude towards Germans;
- b) if they expressed themselves unfavourably about Germans ("deutschfeindliche Äusserungen mache#");
- c) if they destroyed or damaged posters or notices put up by German authorities;
- d) if they tended to diminish the esteem or interests of the Reich or the German nation by any kind of activity.

In the case of Poles and Jews the German law did not protect juveniles, but treated them alike adults and with the same severity.

Poles and Jews were not treated as parties in judicial proceedings, but only as objects of prosecution; their evidence was not taken under oath^x and the whole mockery of administering justice was conducted on the principles of opportunism and personal discretion of judges and prosecutors ("nach pflichtgemäßen Ermessen").

Whereas the incorporated territories were blessed with all sorts of detailed laws and regulations emanating from the Führer himself (the principal source of law in Nazi Germany) and his Ministers, the General government was entirely entrusted to the care of its master of life and death, Dr. Hans Frank. This part of Poland was designed to house the expelled, provide slave labour for the Reich and serve as a country of colonisation and exploitation. Frank distinguished himself by an extraordinary zeal in his rôle of the bloody satrap of Poland and the chief executor of the germanisation scheme. Being an orderly German and also a lawyer Frank used, to clothe in a legal form the orders of the policy he personified. But his conception of law was quite peculiar:.. "Law is all that which serves the German people.

Illegality is all that which is harmful to that people^{xx}...

xDecree of January 31, 1942

xx quot. in The German New Order in Poland, Documentary publication of Polish Ministry of Information, London, 1942, p. 8

Already in January 1940^x he authorised confiscation of private property "if the public interest, and more particularly the defence of the Reich or the affirmation of the German domination demands it". The exploitation equal to a colonial system of the harshest type was ordered by his circular of January 25, 1940^{xx}; all schemes of recruitment of forced labour, religious persecution, national oppression, destruction of the intellectual classes, mass executions, mass destruction of human life, and similar devices were carefully prepared and put into operation with skill, precision and efficiency.

Frank's criminal legislation bore the stigma of death. His decree of October 2, 1943 announced that : "all persons who intending to interfere with, or halt the German work of reconstruction, break the laws are liable to capital punishment. Those who aid and abet are liable to the same punishment as the actual wrongdoer and an attempted act is punishable in the same degree as the crime committed".

It is needless to repeat the principles on which laws were administered by courts and administrative authorities. Cases were tried summarily by the Police Courts (*Standesgerichte der Sicherheitspolizei*) consisting of an officer of the SS, the local commandant of the Security Police and two members of the Security Police. Sentences were carried out immediately.

One can easily imagine the German rule in Poland in the light of those few examples of the German legislation mentioned above. Obviously, therefore the Polish Underground State vigorously opposed the German tyranny, and besides striving for revival of the national rule, built up effective counter-measures.

x The Black Book of Poland, op. cit. p. 271

xx by order of Goering, full text see

The Black Book of Poland, p. 278.

Soviet Occupation. Soviet Russia, unlike Germany, annexed the whole territory of Poland received under the German-Soviet treaty, with the exception of the Vilno district which was handed over to Lithuania in order to be swallowed later together with Lithuania proper.

Elections were swiftly organised in the occupied territory and conducted with the usual Soviet efficiency under the supervision of the omnipotent N.K.V.D. and army authorities. The Elections were ordered at a short notice by the Commander in Chief of the Soviet Army of Occupation to take place on October 22, 1939. The country was divided into two provinces Western Ukraine and Western Byelorussia, each having a "People's Assembly". The constituencies elected one representative each, but there was only one candidate nominated by the Soviet authorities and that candidate had to be chosen.^x No lists of candidates were published, but it is commonly known that among candidates were well known political personages, such as Mr. Molotov, Marshal Voroshilov and others. The voting was compulsory and consisted in throwing the ballot paper into the booths. If one wanted to vote against the candidate on his ballot paper he had to cross it in view of the officials supervising the voting.

According to official figures 93% of the electorate went to polls in Western Ukraine and 91% votes were cast for the Soviet candidates. In Western Byelorussia the respective figures were 97% and 91%.^{xx} So ended the "capitalist-bourgeois exploitation" of Western Ukraine and Western Byelorussia. By casting their votes for Soviet candidates the population "liberated from the Polish yoke" manifested its enthusiastic approval of what had happened. Hardly a different effect could be expected in the circumstances and there is no wonder that assemblies so elected in their only session unanimously requested incorporation into the U.S.S.R.

x for a vivid account of these elections see:

The Dark Side of the Moon, London, 1946, p. 46 et seq
xx Schmitt, op. cit. p. 441

Sovietisation of life began and collectivisation of land immediately followed. Expropriations and deportations marked the beginning of this new era together with political indoctrination and the vigorous activities of the "League of the Godless".

By virtue of a decree of the Supreme Soviet of November 29, 1939, issued on the authority of the law of nationality of August 19, 1939 all inhabitants of the incorporated territories who were present there on 1st and 2nd September 1939 became automatically citizens of Soviet Russia. Consequently a conscription of Poles into the Red Army began as early as the autumn of that same year^x.

To all intents and purposes the incorporated territories became Russian and the Polish population was subjected to the methods and designs of Soviet policy. Within two years, of the Russian occupation some 1,5 millions, apart from the prisoners of war^{xx}, were deported to the distant parts of the Soviet empire. Those who survived and managed to reach the free world bear testimony of horror and tribulations^{xxx}.

Notwithstanding the differences in method and technique both Germany and Russia aimed at the destruction of the Polish independent state and the assimilation of its population previously purged from patriotic elements. In the field of law their dominion completely obliterated not only the Polish constitution but also the whole legal system of the Polish state. From their point of view they simply introduced their law and institutions, from the Polish point of view they merely caused a "constitutional vacuum" in Poland.

^x R. Umiastowski, *Russia and the Polish Republic (1918-1941)*, London, 1944, p. 221-228; and

B. Kusnierz, *Stalin and the Poles*, London, 1949, p. 56

^{xx} According to official figures there were some 181,000 prisoners of war.

^{xxx} J. Czapski, *The Inhuman Land*, London, 1951

G. Grudzinski-Herling, *A World Apart*, London, 1952

T. Wittlin, *A Reluctant Traveller in Russia*, London, 1952

Constitutional When the Soviet troops marched into Poland ~~the~~ ^{vacuum.} the President and the Government left the country hoping to continue the struggle in exile at the side of Poland's Allies.^x They went to Rumania, another Polish ally, where they became interned contrary to previous arrangements. In the course of time some members of the Polish Executive managed to leave Rumania, and those who did not, were later handed over into German hands.^{xx}

The military operations both against German and Russian armies became pointless and virtually impossible since the last strategic position, that is the defence of the Carpathian stronghold backed by the Allies' supplies through Rumania, was untenable.

With the military collapse the state administration was also destroyed and Poland became a conquered country. The authority of the Polish state was thus temporarily destroyed and the existing legal order superseded by the de facto rule of the occupation authorities.

A constitutional vacuum ensued since the constitution of Poland was put out of operation in consequence of the collapse of the Polish state and the new rule forced upon the country. The sovereignty of Poland became de facto annihilated by the "coup de force". The legal position, on the other hand, had to receive international recognition since the German-Soviet agreement of August 23, and September 28, 1939 could not be considered as having legal force.

'Legally', though under temporary occupation, Poland did not cease to exist and as such she was recognised as a 'sovereign' belligerent state,

x Beck, op. cit. p. 243

xx Such e.g. was the fate of Joseph Beck, the Minister of Foreign Affairs who died in 1944 in German hands.

Sovereignty means the political independence of a state vis a vis its neighbours and the whole community of nations. The conception of sovereignty is an absolute one, that is to say, a state can only be sovereign or not sovereign. Sovereignty has a negative and a positive aspect. The former implies that a sovereign state is immune from any foreign influence on the course of its internal or external affairs. This immunity is absolute and a state is no longer sovereign if it has to yield to foreign demands to change its internal or external policy. The sovereignty is not, however, impaired in case of international agreements where a state voluntarily undertakes obligations and fulfills them of its own accord. The positive aspect of sovereignty means that a state is entirely free to shape its internal or external policy. This freedom is absolute, subject to ethical restrictions and the principles of International Law and requirements of good relations with other members of the Community of Nations. It consists of the unity and integrity of the state's legal system. The 'unity' of a legal system does not mean that certain branches of law (e.g. Civil Law) must be uniform all over the country - it means 'unity' in the sense that there is one 'Constitution' (either unitary or federal) in force within the political frontiers of the state and that the organs of the state and their functions are founded and based on that 'Constitution'; in other words, that there is one 'Constitutional Law' and that the authority of the state is derived from that law. The 'integrity' of a legal system means that it forms the 'integral' or total binding force within the political frontiers to the exclusion of any other force of legal character; in other words, there is no foreign element taking commands from abroad in the sum total of the rules of law binding upon the territory. Immunities, e.g. to foreign ambassadors, or foreign trade organisations, do not impair the unity and integrity of a legal system, because they only exist by express concession and may be withdrawn at any time.

Sovereignty means power or 'authority' over certain territory and population. In a politically independent state this authority acts directly and immediately - this implies co-existence and co-operation of the elements of the state (that is, people, territory and authority). In certain circumstances, such as temporary occupation by a foreign power, those elements are divorced and the legitimate authority is separated from the people and territory. It can, therefore, act only indirectly, and as long as it can rest on a legal basis of the Constitution and rely on the allegiance of the people to that Constitution.

Such was the situation of Poland occupied in 1939 by Germany and Soviet Russia: her sovereignty could not be directly exercised on her territory and her Constitution was banned. But abroad, there was her Executive and there were her Allies in war against Germany. Poland's sovereignty may thus be deemed in temporary abeyance as far as the territory was concerned, but still effective in the international sphere and with regard to her people.

The constitutional vacuum that ensued after the September defeat was filled by the two elements:

- 1) the constitutional representation abroad, and
- 2) the "Underground State".

Government The Constitution of April 23, 1935 contained in exile. adequate provisions to meet the contingency. Articles 13 and 24 of the Constitution authorised the President to appoint his successor in case of war and so to transfer his office on to another person in case of his incapacity to perform his duties. The President and Government were interned in Rumania and so incapable of continuing their work. The President then resigned and by his decree of September 30, 1939 appointed Ladislas Raczkiwicz to be his successor. The latter was in x Died in Britain on June 6, 1947

France at that time and there the nucleus of the Government in Exile formed. The new President accepted the resignation of the Prime Minister and Commander in Chief, interned in Rumania, and appointed new persons to these offices.

One of the first official acts of the new President was the dissolution of the Parliament and creation of a National Council to act in its stead. After the collapse of the state machinery it became obvious that the existing Parliament could not be convened or function as previously. The National Council was a body of distinguished men representing major political parties and designed to act as a substitute for Parliament.

Thus the political representation of Poland consisted of the President, Government and a National Council. This representation was based on the Constitution and constituted continuation of the state authority and its legitimate organs. Poland was then in a happy position having a Government instead of a sort of "National or Liberation Committee". That Government enjoyed the full status of an allied power both as a belligerent state and in the sphere of international treaties. Its original seat was Paris, but in November 1939 it moved to Angers, where by generosity of the French Government it was provided with a territorial immunity. This gesture, symbolical though it was, in fact supplied the Polish Government in Exile with 'territory'. Thus uniting the elements of a sovereign state. The sovereignty was never questioned and throughout the whole war, Poland was represented by her constitutional government, until July 1945 when the principal Allies withdrew their recognition^x.

The political system, as practised prior to the war, then underwent important changes. After consultations with the principal political parties the President in his broadcast to the nation on November 30, 1939 declared that henceforth the presidential prerogatives authorised by the Constitution would be

x There are still states (Spain, Eire, Lebanon, Cuba and Vatican) which recognise the "Government in Exile" as the Government of Poland.

exercised in close consultation with the Prime Minister. This declaration was made binding also on his successor General Casimir Sosnkowski. This declaration was the outcome of the so called Paris Agreement between the principal political parties on the manner of application of the provisions of the Constitution in matters where the President could act without ministerial assent. In itself it constituted a practice or convention of the Constitution and meant a considerable departure from the letter of the Constitution. Its value consisted in the abrogation of the ultra-presidential system of the Constitution and the restoration of the broken threads between action and responsibility in matters of state of the highest importance. In form it cannot be considered an amendment of the Constitution since it only purported to define the manner of exercising powers within the personal discretion of the President. As a convention of the Constitution it was as strong as the authority of constitutional practices, which are created in the course of the application of a statute and correspond to the requirements of the changes in life and circumstances.

The Government of General Ladislas Sikorski was a coalition Government consisting of members of the four principal parties, which traditionally controlled Polish political thought. Its primary aim was to restore the fighting forces following upon the pledges of the Prime Minister.

The plan of forming a Polish Army in France was discussed already in the spring 1939 and preparations were made during

the war in Poland. ("I wanted to get you over to France and

x Forced to resign under British pressure in 1944;

xx November 1939

xxx cf pp. 28 and 29 ante

xxxx sic Stronski, The Two Constitutions, op. cit. p. 8-12

contra Mackiewicz, Lata Nadziei, op. cit. p. 30

xxxxx Killed in an aeroplane crash at Gibraltar on July, 4, 1943

xxxxxx Peasant Party, National Party, Socialist Party, Christian Labour Party

xxxxxxx Sir W. Churchill, The Second World War, London, 1948, vol. I,

/p. 505

there to organise the Polish Army. My idea was that the Polish soldier should continue to take part in the war and that the Polish Army should represent Poland and her vital interests". said Marshal Smigly-Rydz, the Commander in Chief of the Polish Army, in his last Order of the Day on September 18, 1939, ordering his defeated troops to go to Hungary and Rumania and therefrom to proceed to France^x.) Accordingly already in the early stages of the war Polish troops took part in the Norwegian and North African campaigns as well as in Franceⁱⁿ 1940. The Polish Navy and Air Force operated chiefly under British command. To-day one can easily criticise the Government's decision of sending "for your and our freedom" the Polish troops into a lost battle with the consequential destruction of this ill-equipped army of 60.000 gathered together with such difficulty at the time when France was nearly forced to capitulate and wiser allies took effective steps to go their Dunkirk way, but this was apparently the spirit of the Franco-Polish alliance, as understood on the Polish side. To-day one can easily deride the Government's policy and belief that the destiny of Poland was to be decided on battlefields.

Among other activities of the Government, besides attending to current business, was the preparation of the new system of government to be introduced to the liberated country and the planning of a Central European Federation. The result of the former was the Declaration of August 30, 1944 which laid down the basic principles of the deliberations for the post-war Constitution, and the outcome of the latter was the approach to Czechoslovakia. At the outbreak of the war the international position of Czechoslovakia was far worse than that of Poland. The Czechoslovak leaders, forming no constitutional government, x quot. by W. Jedrzejewicz, Poland in the British Parliament (1939-1945), New York, 1946, vol. I, p. 24 420

found themselves rather isolated and had to strive for recognition as representative of their country. In such circumstances they gladly accepted the Polish initiative of forming a federation extended to them in October 1940. Discussion on this subject was concluded in 1942 and a common declaration was issued on January 23, 1942, to the effect that both countries shall constitute a union aiming at a federation. The idea, plausible in itself and useful, weakened in the course of time, when on the account of the Czech leanings to Soviet Russia, the two Governments became estranged and finally the federation died a natural death when the Czechoslovak leaders decided to return to Prague via Moscow. The idea, however, may revive one day, especially as both countries are now in the same boat since the coup d'état of 1948 which turned Czechoslovakia into another People's Democracy.

The National Council was created by the presidential decree of December 9, 1939 to act during the war in a consultative and deliberative capacity for the President and Government. Besides that it was a special duty of the Council to tackle the problem of the future Constitution and the Electoral Law and prepare proposals in those matters. Originally the Council was to consist of at least 12 and at most 24 members, but by the decree of January 15, 1942, its strength was raised to a minimum of 22 and maximum of 32 members. The members were to be appointed and discharged in specified circumstances by the President on the advice of the Prime Minister. Any discharge had to be confirmed by the Council as a whole. The Council itself chose its Chairman and officers (the first Chairman was Ignace Paderewski and acting vice Chairman Stanislas Mikolajczyk, the Prime Minister after Sikorski's death), and had the power of defining its internal constitution. The resolutions of the Council were passed by a simple majority in the presence of at least two thirds of its statutory number.

Underground State. The continuation of the Government abroad was comparatively easy, whereas the question of the restoration of the state authorities under occupation presented far more difficulties. It must be borne in mind that the state administration was literally smashed by the occupying powers and replaced by institutions of their own. If any institutions of political character opposed to the rule of foreign powers were to function they had to be created underground and remain secret. Thus the organisation of an "Underground State" took some time to shape and could by no means be perfect. Its very existence is a proof of the undaunted spirit of the nation, and its adherence to its own authorities and institutions. It is a flat denial of the widespread nonsense that "the Poles are not capable of governing themselves". The development of the Underground State would make the subject of a fascinating study; here it will be only briefly sketched.

It appears that the creation of an "Underground State" owed a lot to the idea of a "Secret Army". The resistance did not end with the military victory of the German-Soviet armies and the destruction of the Polish army. The war ended so rapidly that several regular units together with their equipment remained intact and isolated in consequence of the rapid development of the Blitzkrieg. Modern warfare, conducted chiefly by mechanical means, aims at a quick destruction of the main forces of the enemy and a paralysis of the centres of his life and resources. When the victorious army in a swift movement sweeps over a country it is bound to leave whole sectors untouched and small units of the opponents intact. It remains only with them to surrender or continue a war on their own. The geographical conditions and the attitude of the population contribute a great deal to guerilla warfare, besides the spirit of men. All those elements were present in Poland after the September

disaster. The cruelties of the occupation was another factor driving people into the forests. Guerilla operations lasted for a while after the collapse of the main forces of the Polish army, but with the consolidation of the occupation forces they ceased to have any prospect of success. The idea was taken over by political conspirators and members of the army.

Whereas the army provided trained military leaders the political parties greatly contributed towards the organisation of the rank and file. Initially all major parties had, so to speak, their own armed units. Such were the W.R.N. of the Socialist Party, W.I.N. of the National Party and the Peasants Battalions of the Peasant Party.

The resistance movement operated originally on a local scale, later it developed into a powerful machinery covering the whole country. Two incentives formed the origin of the secret Home Army ("Armia Krajowa") : the evolution of the local resistance cells and the direction from abroad. The former was the result of the natural development of the situation at home, the latter came from abroad as one of the activities of the Government in Exile.

Even to-day some self-styled "experts on guerilla warfare" think that in case of a military conflict between the West and East it will be enough to herald the magic word "freedom" to all so-called "satellite countries", parachute some arms and supplies and send liaison officers and those countries will immediately rise in arms. This is an absurd opinion. Besides organisation, there must be an ideology and unbroken contact between those who take upon themselves the enormous odds of a guerilla warfare and those who act as their legitimate representatives and authorities in the common service of the same goal. In other words, there must be a political direction and a firm conviction in its purpose.

The Government in Exile engaged in the struggle for the political independence of Poland and concerned chiefly with the restoration of the fighting forces did not underestimate the importance of the home front. The first task, of course, was the co-ordination of the efforts of the various resistance cells that had naturally arisen, and the creation of a policy. With the organisation of the military machinery tasks and duties arise which require the co-existence of civil authorities. In other words, besides purely executive machinery, there must be institutions of deliberative, advisory and directory character. Further development makes other requirements urgent and so arise the needs of propaganda, education and judicial institutions.

Thus the origins of the Home Army and the Underground State go back as far as the beginning of the resistance movement, that is closely following upon the defeat in September 1939. One was interdependent on the other and both worked closely together in common effort with the Government in Exile. The story of the Secret Army is an epic of its own,^x here we are concerned only with the development of the Underground State.

The statutory authority for the final shape of the organisation of the Underground State was the presidential decree of September 1, 1942^{xx}. This decree recognised the evolution and laid down principles of the administration in the territories of Poland then under the German rule, each of which had a different status.^{xxx} The Head of the Underground Government was a Delegate^{xxxx} of the Government in Exile (resident in Poland) with the rank of deputy Prime Minister of the Government in London and as the acting Prime Minister in Poland. Under his control as the x details see T. Bor-Komorowski, *The Secret Army*, London, 1950 xx full text see Mikolajczyk, op. cit. p. 306 xxx see pp. 38 and 39 ante xxxx The first Delegate Prof. Piekalkiewicz was murdered by the Germans and his successor J. Jankowski kidnapped by the Russians in 1945.

head of the Executive was the "Government" consisting of seventeen departments, and the whole administrative apparatus, some 30.000 persons^x.

The original "Directorate of Civil Action" controlling the civil side of the resistance was amalgamated on August 3, 1943 with the "Directorate of Armed Resistance" of the Home Army into one organisation, and, with the exception of military matters which fell within the competence of the Commander of the Home Army, subordinated to the Delegate. The Home Army was under the direct command of the C-in-C- in London, co-operating through his chief of staff with the Allied Chiefs of Staff. The Home Army, broadly speaking, had an independent status and only in matters of general policy was subordinated to the civil (or political) authorities^{xx}.

In the course of time an "Underground Parliament" developed. Here again the origins of the Underground Parliament rested on the evolution of the local forces and the creative function of the necessary organs of state. The destruction of the state apparatus did not annihilate the political forces that existed in the form of political parties. They soon revived their activities and being traditionally concerned first with the struggle for independence, then with the organisation of the state, they concentrated their efforts on resistance work. At a later stage, when co-ordination advanced, a need for the political representation of the whole nation was felt, and the legitimate channels thereof were, of course, the political parties. When the executive authorities were developed a deliberative and consultative body was needed not only to represent the nation, but also to give weight of authority to the decisions of the organs of the resistance and control their action.

The origins of the Underground Parliament go back to the "Committee of Political Co-ordination" founded in January 1940 by the four major parties: the Socialist Party represented by x H. Weber, Piec Lat Walki Narodu Polskiego, London, 1945, p. 40
xx Komorowski, op. cit. p. 41

C.Puzak,^x the Peasant Party by S.Korbonski,^{xx} the National Party by A.DebSKI^{xxx} and the Christian Labour Party, by F.Kwiecinski^{xxxx}.

This Committee functioned as a body co-ordinating the activities of the parties it represented until 1943 when it became more homogeneous. It took then the name of the "Political Home Representation" and resolved to act as a "Parliament". In the Declaration of August 15,^{xxxxx} 1943, the above mentioned parties defined their policy and objectives. They agreed to co-operate at home in the common effort to shake off the occupation, to support the Government in Exile, and work on a joint programme of activity for the duration of the war and afterwards. They pledged themselves to fight for a "free and independent" Poland in close co-operation with the constitutional authorities abroad, and with regard to the future, they agreed to act as "Parliament" during the transitory period, that is from the moment of the liberation until a new National Assembly was elected.

A few months later the "Political Home Representation" was joined by three other organisations^{xxxxx} and as the "Council of National Unity" it was enlarged to include in addition to the representatives of those seven parties^{and} also a representative of the clergy. A full programme was published on March 15, 1944, under the title "For What the Polish Nation Fights". This programme once more emphasised the support of the nation for the constitutional Government in Exile and briefed that Government to stand firm on the question of the frontier with Soviet Russia, namely to defend the status quo as defined by the Treaty of Riga. In matters of the future Constitution the Declaration of x One of the 16 underground leaders tried by the Moscow Court in 1945, died in prison, see p.105 and 112 xx lives now in the West xxx and xxxx both executed by the Germans xxxxx full text, Mikolajczyk, op.cit.p.297 at seq. xxxxxx. "Democratic Society", "Raclawice", "Ojczyzna".

March 15, 1944, resolved to maintain the Constitution of 1935 but effect its amendment by the first post-war Parliament, chosen on the basis of a new Electoral Law, in the sense of curtailing the extremes of the presidential system and restoring the parliamentary rule.

Another important feature of the Underground State was its Judiciary. The Underground Courts developed together with other institutions. The resistance movement had two principal aims: to fight the occupant and to preserve the national ideology and the faith in the resurrection of Poland. Underground Courts, observing all formalities of normal courts of law and administering Polish criminal law and procedure proved themselves to be a useful and important organ of the Underground State. The German terror and oppression raged throughout the country; it was thus the function of the Underground Courts to curb the criminal activities of certain Germans who excelled themselves in their bloody offices. When a German was singled out for his special zeal in the abuse of his position or was responsible for murders, a prosecution was initiated against him in the Underground Court. The first step was a warning issued to him on a special form bidding him to discontinue the criminal abuse of his powers under pains of a court proceeding against him. If this was ineffective the next step was a formal notification (a sort of a writ) where his crimes were specified in detail and informing him that criminal proceedings according to the Polish law were in progress. The Court then sat and after formal hearing (the defendant was, of course, absent) pronounced their sentence, which was delivered to the accused by post. If the sentence was death the accused was informed of this and was presented with a list of persons already executed. The execution was carried out by orders of the "Directorate of the Home Army".
 x According to statistics 1181 such sentences were carried out before the beginning of 1944, including 28 dignitaries, among whom was Kutschera the chief of the Gestapo in Warsaw, Komorowski, op. cit. p. 157; and H. Weber, *Piec Lat Walki Narodu Polskiego*, London, 1945, p. 44

This method had a tremendous psychological effect and proved to be very useful.

With regard to Polish nationals the Underground Courts acted whenever there was evidence of misbehaviour. The trial was arranged in the presence of the accused, usually in the place of his abode. He could defend himself and dispute the accuracy of the charge. If found guilty, the accused was reprimanded, or his name was published in the Underground Press; death sentences were very rare.

The Underground State organised schools of all kinds under its supervision and developed powerful propaganda and press centres. The idea was to preserve the spirit of the nation, continue education which had been brought to a standstill by the war and occupation and to inform the citizen of the true world situation. Thus the German propaganda was effectively checked and news circulated all through the country.

The Home Army, as previously mentioned, was the organ of the state and an effective weapon in the hands of the Executive. The command became centralised by the presidential decree of September 1, 1942 and the whole apparatus built up by General Grot-Rowecki covered the whole territory (except the Communist People's Army which did not submit to the Commander of the Home Army). The main tasks of the Home Army was the collection and despatch of information^{xx}, rescue of prisoners, sabotage, counter-terror and open military operations. At the beginning of 1944 the numbers of the Home Army were well over a quarter of million of men^{xxi}. A mobilisation system kept either in readiness, or in reserve, trained men and made possible several large scale operations in which enemy units of considerable strength were x Captured by the Germans on June 30, 1943, shot in August 1944; succeeded by General Bor-Komorowski, Komorowski, op. cit. p. 384
 xx e.g. plans of German assault against Russia, Sir W. Churchill, Memoirs, vol. 3, p. 349;
 rocket-propelled weapons, Komorowski, ibid. p. 151; and Churchill, vol. 5, p. 207-8; cf. B. Newman, They Saved London, London, 1952
 xxx Komorowski, ibid. p. 143 - 380,000 men.

engaged. This compelled Germany to keep in Poland several divisions instead of using them in other theatres of war. The last effort of the Home Army was the tragic rising of Warsaw (August 1-October 6, 1944) when the Soviet Armies reached the Vistula and liberation seemed near.

We exclude from the present discussion the Communist controlled organisation which far from co-operating with the Underground State developed into a rival body and ultimately, with the Russian help superseded the Constitutional Authorities.^x

This abridged sketch of the organisation of the Underground State illustrates the situation under the German occupation and proves how efficiently the constitutional vacuum was reduced to the very minimum. The Underground State represents not only the idea of one whole country unaffected by the German-Soviet partition of 1939, but also the proof of the existence of a legal continuity of the Polish state and its sovereignty, exercised at home as well as abroad. Only an external intervention recognised by the world could destroy the dominion of the Polish people over their territory and impose upon them an alien form of government.

x see p. 94 et seq

Chapter 5. Influence of International Relations on the
Formation of the Post-War Polish Constitution.

The post-war political system of Poland owes a great deal to certain international decisions, which decisions can well be summarised by the saying: "all about Poland without Poland".

It may appear paradoxical that the shaping of the constitution of a sovereign state could depend so much on international relations. Moreover, in the light of what has been previously said on 'sovereignty'^x, it might be inferred that a state nominally sovereign may for certain purposes be treated as a vassal state. We prefer to stick to the absolute conception of sovereignty, even though studying the events of the last war one can easily convince oneself of the curious position of Poland, which for the purposes of her war obligations and treaties was recognised as a sovereign state, but in matters of her external and even internal^{xx} policy was considerably limited in her freedom of action.

After the collapse of France, Poland having her sovereign Government installed in London came under the British tutelage discharged personally by the British Prime Minister. It was most unfortunate that the interests of Poland did not always correspond to British national interests and that the views of Polish leaders on what was vital for Poland were not reciprocated by the leaders of the Grand Alliance.

A review of international relations, taken in certain stages, will illustrate the influence of external factors on the formation of the post-war political system in Poland.

x see pp. 51 and 52 ante

xx see p. 69

September 17, 1939- As defined by the London Convention⁷ for July 30, 1941. the definition of aggression of July 3, 1933, initiated by Mr. Litvinov (then Soviet Commissar for Foreign Affairs), the Soviet assault against Poland on September 17, 1939, undoubtedly constituted an act of aggression. Thus Poland was at war with Soviet Russia. Poland's Ambassadors in London and Paris gave effect to this fact handing to the respective Governments an identical Note,^x which recited the course of events and reminded her Allies that the Polish Government would call upon them to fulfill their treaty obligations.

The Soviet aggression was condemned^{xx} in the free world and the British Prime Minister in the House of Commons refuted arguments sought to justify the Soviet attack. In view of the British obligations towards Poland the situation was very delicate. No one of good sense would then have suggested a declaration of war on Russia, but in view of this experience it would have been only wise to adopt caution and vigilance whilst dealing with Russia in the future.

The British-Polish Agreement of Mutual Assistance of ~~1939~~^{xxxx} was clearly directed against German aggression, but the Guarantee of March 31, 1939, as well as the provisions of Art. 7 and of the Secret Protocol of the Agreement may be fairly construed as safeguarding the sovereignty and territorial integrity of the contracting parties with regard to powers other than Germany. Anyway both the legal and moral obligations of the contracting parties at least implied that they would so shape their policy as to do no harm to the other contracting party. But even this very minimum was not accorded to Poland, though a good start was

x Polish White Book, op. cit. No. 177 p. 190

xx. cf. broadcast by Sir W. Churchill on October 1, 1936 and Hansard House of Commons, vol. 351, cols. 1855-1912; see also Hansard

House of Lords, vol. 114, cols. 1559-1566

xxx Mr. Chamberlain, Hansard, vol. 351, col. 976

xxxx see p. 36 ante

made by Sir Winston Churchill^x(seconded by Viscount Halifax^{xx}) when he became Prime Minister:.. "we do not propose to recognize any territorial changes which take place during the war, unless they take place with the free consent and good will of the parties concerned".

In matters relating to Poland the British Government spoke with four different voices: one sentimental to the members of the Polish fighting forces^{xxx}, promising them the fulfillment of their "heart's desire"; another suave (sometimes sharp) to the Polish Government assuring it nevertheless that there was no reason for worry because the "cause of Poland was in good hands"; a third, evasive and contradictory, to the British Parliament; and the fourth voice at the conference tables, compromising and indifferent to promises and obligations.

The voice of America was equally deceptive. President Roosevelt's "Poland is the inspiration of the world", his pre-election utterances designed to catch the votes of American citizens of Polish extraction and the sublime ideas of the Atlantic Charter were soon forgotten whenever the Big Three sat at the conference tables.

Only the voice of Russia was clear and unambiguous: her aggression in 1939, her territorial demands and conduct throughout the war simply aimed at the destruction of Polish sovereignty. But wishful thinkers did not want to see it, moreover they strongly resented^{xxxx} Polish representations to that effect. They brusquely brushed aside anxious voices about the future of Poland as well as of the Central and Eastern Europe and conveniently charged the Polish Government with sowing distrust among the Allies.^{xxxxxx}

x Hansard, House of Commons, vol. 365, col. 40

xx Hansard, House of Lords, vol. 117, col. 365

xxx cf It Speaks for Itself, published by the Polish Forces Press Bureau, London, 1946

xxxx as he himself intimated, see

A. Bliss-Lane, I Saw Freedom Betrayed, London, 1949, p. 38-9

W. Chamberlin, The European Cockpit, New York, 1947, p. 257-8

xxxxx cf discussions in the House of Commons on Polish Press

xxxxxx W.P. and Z. Coates, op. cit. p. 145

The Soviet-Polish dispute originated in the Soviet-German co-operation in liquidating Poland in 1939 and later revolved ostensibly around the question of the Soviet-Polish frontier, whereas in fact Poland's independence was at stake.

Britain took on the burdensome task of mediation^{xx}, trying at the same time to bring Russia into the alliance against Germany. Only the unexpected invasion of Russia on June 22, 1941, brought the mediation near completion and effected the automatic inclusion of Russia into the alliance.

The day after the German assault on Russia General Sikorski, the Polish Prime Minister, in his broadcast to Poland offered resumption of diplomatic relations with the Soviet Government under the following conditions: declaration of Russia of the annulment of her 1939 treaties with Germany; recognition of the Treaty of Riga of March 18, 1921^{xxx}; recognition of the Non-aggression Pact of July 25, 1932, and the Convention for the Definition of Aggression signed in London on July 3, 1933; and release of Poles from prisons and forced labour camps.

The British mediatory efforts indeed scored a success when the Maisky-Sikorski Agreement^{xxxx} was signed in London on July 30, 1941, and the Soviet Government agreed to resume diplomatic relations, consented to the formation of a Polish Army in Russia, granted amnesty to Polish prisoners and declared null and void the Soviet-German treaties of 1939.

Mr. Eden announcing the good news in the House of Commons added: "...I also desire to assure you that H.M. Government do not recognize any territorial changes which have been effected in Poland since August 1939^{xxxxx}..."

x see p.37 ante

xx Sir W. Churchill, Memoirs, vol. III. p. 348 et seq.

xxx This Treaty settled the Polish-Soviet frontier.

xxxx full text, Soviet Foreign Policy during the Patriotic War, Documents translated by A. Rothstein, London, 1946, vol. I, p. 81

xxxxx Hansard, vol. 373, cols. 1502-1504

A sigh of relief went through Parliament and the British Press as the feud seemed to be terminated and full cooperation of Russia assured without harming Poland.

In Polish circles, however, the reaction was quite different. First of all the mode in which the Agreement was made was inconsistent with the Constitution of Poland since Art.12 (g) of the Constitution provided that all international treaties were to be concluded by the President of the Republic. Secondly the ambiguous terms allowing various interpretations of the provisions of the Agreement caused considerable anxiety as to whether the Russians actually meant to recognize the status quo ante, or only in face of the German aggression concluded a treaty to further their own temporary interests. Consequently three prominent members of the Polish Cabinet resigned and the Prime Minister who had acted unconstitutionally would have had to go as well, but for the intervention of the British Government who insisted upon his remaining in office.

July 30, 1941- Within a short time the Polish anxieties proved April 25, 1941 substantiated, since before the ink on the Agreement dried there were already two quite differing interpretations of its terms. The Poles maintained that the Agreement recognized the status quo ante with regard to the frontier and that the principle pacta sunt servanda should obtain. The Russians, on the other hand, insisted that the question of the frontier was still open to discussion and that pacts should be interpreted in the Russian way. Thus the Agreement became practically reduced to a nullity!^a

The British Press adopted the Russian interpretation. Moreover, already in July and August 1941 The Times^{xx} put forward an ingenious theory that in the future "the leadership in Eastern Europe

x Mackiewicz, Lata Nadziei, op. cit. p. 116

xx The Times, July 14 and August 1, 1941. The same idea was advocated in a book of Sir Edward Grigg, British Foreign Policy, London,

/1944, p. 66

must fall either in Russian or German hands" and in a friendly way advised the Poles to chain themselves to the Russian chariot, authoritatively adding that "Russia can afford to be generous". It is needless to comment upon this gratuitous advice, except that to the Poles fighting for independence a Russian as well as ~~the~~ German "leadership" was tantamount to political slavery.

Notwithstanding the provisions of the Maisky-Sikorski Agreement that the German-Soviet partition of Poland was null and void, and General Sikorski's cordial reception at the Kremlin, the Soviet Government in its Note of December 1, 1941, to the Polish Ambassador declared that territories acquired by Russia in 1939 were considered part of the Soviet Union.

Furthermore during the very visit of the Polish Prime Minister in Moscow (December 1941) the so called "Polish Union of Patriots" sponsored by Russia, (which later aspired to rivalry, with the Constitutional Government) was called into being, thus reminding the Polish Government that any displeasure of the Kremlin may result in an appointment of another "Government".

Nothing could be done in London to intervene on behalf of Polish interests, because any reaction to the Soviet arbitrary, and by no means friendly, activities was brushed aside as likely to disturb "Allied Unity". In fact no independent policy of the 'sovereign' Polish Government was conceivable if it might have caused displeasure in Moscow. In the meantime the Soviet Government engaged in a vigorous diplomatic campaign to gain support for their territorial demands, the enormous war effort of Russia being their principal trump card.

All this was going on in the atmosphere of the lofty slogans of the Atlantic Charter signed in London by Russia together with other allied Governments on September 24, 1941. One has, however, to give credit to the Russians for their frankness and sincerity displayed on the occasion of signing the Charter by Mr. Maisky.

x Mikolajczyk, op. cit. pp. 26 and 27

In his lengthy declaration^x he set forth the ideas of his Government to the effect that they would interpret strictly the letter of the Charter in the case of other signatories, but reserve complete freedom of action in matters touching, what they consider, vital to Soviet interests.

The Soviet pressure on the British Government to recognize formally the Soviet annexation of half Poland was at first met with resolute opposition. On the occasion of Mr. Eden's visit to Moscow in December 1941^{xx} he was confronted with official demands to that effect. These demands were later renewed at the occasion of the signing of the British-Soviet Pact of 1942, and again refused.^{xxx} Yet a misplaced optimism of the British Prime Minister and the pro-Soviet bias in the British mediation were well recorded in Sir Winston's Memoirs^{xxxx} (... "We could not force our new and sorely threatened ally to abandon, even on paper, regions on her frontiers which she had regarded for generations as vital to her security... We had the invidious responsibility of recommending General Sikorski to rely on Soviet good faith in the future settlement of Russian-Polish relations, and not to insist at this moment on any written guarantees for the future"...).

One can only wonder why the Soviet territorial demands, which in effect, were nothing else but a continuation of the imperialist policy^u of Peter the Great and Catherine II throughout the XVIIIth century had to be met with such a sympathetic recognition from H.M. Government in the face of the British obligations towards Poland and the well known warbling^{xxxxx}:

"Who rules East Europe commands the Heartland;
Who rules the Heartland commands the World Island;
Who rules the World Island commands the World."

x cf D. Dallin, *Russia and Post-War Europe*, p. 136-141

xx Sir Winston Churchill, *Memoirs*, vol. III, p. 558 and vol. IV, p. 292

E. Stettinius, *Roosevelt and the Russians*, 1950, p. 18

C. Wilmot, *The Struggle for Europe*, London, 1952, p. 710

xxx Sir Winston Churchill, *Memoirs*, vol. IV, p. 296

J. Ciechanowski, *Defeat in Victory*, London, 1948, pp. 105 and 111

xxxx vol. III, p. 349

xxxxx H. Mackinder, *Democratic Ideals and Realities*, ed. 1942, pp. 70 & 105

The Soviet giant could by no means consider itself to be threatened in any way by the Polish dwarf, the disputed territory was, therefore, in common sense not vital to Russian security, but it was vital to the promotion of the "World Revolution", the first step of which was the subjugation of Poland^X. The theory of the German bogey seems unfounded as well since an independent Poland would constitute a wall between Russia and the West and thus provide a better security than common frontier with Germany. On the other hand, only complete domination of the whole continent would give relative security against real or imaginary foes of Russia.

The Russians knew very well that no patriotic independent Polish Government was in a position to renounce 48% of Polish territory acquired in the circumstances of the German-Soviet concerted aggression; therefore to further their aims they were determined to press the issue and were only too glad to find sympathisers in the Western protectors of Poland. They artfully pressed to decide the matter whilst German guns were heard in Moscow instead of deferring it to the post-war peace conference as suggested by the Poles and originally seconded by Britain^{XX}. Their move proved a masterpiece of diplomatic psychology and gave Russia the advantage of winning ^{the} war and ^{the} peace as well.

The Soviet-Polish war friendship did not last long. An opportunity to sever diplomatic relations with the London Government presented itself in the early 1943 following upon the Katyn affair^{XXX}. Katyn, another example of genocide, was one of the most unsavoury affairs of the last war, remaining untouched even by the Nuremberg Tribunal.

x see p. 90

xx Sir Winston Churchill, *Memoirs*, vol. III, pp. 349 and 558

xxx^{of} details see J. Mackiewicz, *The Katyn Wood Murders*, London, 1951
(an important chapter is missing from the English publication of Mr. Mackiewicz's work)

On April 13, 1943 the German radio broadcast a discovery by the German Army of some five thousand Polish corpses in mass graves in Katyn woods. The Polish Government decided to appeal to the International Red Cross for an impartial examination of the German revelations which, in disclaiming responsibility, had accused Soviet Russia of the crime. The Soviet reaction to this was a Note stating that they considered the Polish request to the International Red Cross to be a serious breach of Polish good will and promptly announced severance of diplomatic relations with the Polish Government^x.

The stand taken then by British public opinion gave another blow to the already fading sovereignty of the Polish Government in Exile, which losing their popularity could not count even on sympathy when the fate of Poland came to be decided in their absence. The British Press openly declared their bias^{xx}.

The Times^{xxx} announced that in the dispute over the responsibility for the Katyn massacre the German sources could not be relied on; The Daily Telegraph^{xxxx} decided this was a case of Poles exploiting a situation for the purpose of furthering their own territorial ambitions, and several speculations of the Evening Standard^{xxxxx} and the News Chronicle^{xxxxxx} deserve being quoted to illustrate their strange reasoning^{xxxxxxx}. Thus in the opinion of the British Press quoted above, a sovereign allied Government ought not to inquire into the cause of the massacre of several thousands of their nationals but should accept like Gospel the vague statement of one of the two possible culprits.

The prevailing opinion of the British Press announcing that
 x Mr. Molotov's Note of 25.4.1943, full text, Rothstein, op. cit. p. 202
 xx "The British are pro-Russian, even more than the Americans"
 wrote the New York Tribune on April 27, 1943
 xxx April 28, 1943; .xxxx April 27, 1943
 .xxxxx April 24, 1943; xxxxxx April 27, 1943
 xxxxxxxx for a more sober attitude of Neue Zürcher Zeitung,
 April 28, 1943

the Poles "fell into Goebbels' trap^x" made them responsible for the breach in "Allied Unity" and envisaged a reconstruction of the Polish Government to get rid of the "anti-Russian elements". On the other hand it was rightly pointed out at some occasions that the Katyn affair only provided the match to the fire of friction in which the question of the territory was the main fuel^{xxx}. One should add that besides the frontier the question of sovereignty of the Polish Government was involved since the Poles were not only shouted down in the name of "Allied Unity", but also forewarned of future events affecting their Government and Constitution^{xxxx}.

The House of Commons was similarly disposed^{xxxxx}. Though much restraint was shown at that time on the question of the Soviet-Polish dispute, drastic action aiming at the suppression of the Polish Press for daring to suppose that Soviet Russia might have something to do with the massacre, was advocated^{xxxxxx}.

April 25, 1943^c From the date of the breach of Soviet-Polish August 2, 1945. relations events swiftly moved towards the thwarting of the authority of the Polish Constitutional Government and the establishment of the People's Democracy in its stead. The Government in Exile, excluded from any talks on the future of Poland, ceased thereby to be the stumbling block and so the Big Three smoothly agreed to solve the Polish problem according to Soviet plans.

The care of the interests of Poland was then taken over by the British Government which was still trying to mediate and which brought considerable pressure on the "reluctant Poles" to yield to Soviet demands. The technique adopted by Sir Winston

x Daily Herald 20.4.1943; News Chronicle 20.4.1943; Times 28.4.1943

xx Manchester Guardian 28.4.1943; Daily Express 28.4.1943

xxx Daily Telegraph 27.4.1943; Manchester Guardian 27.4.1943;

Daily Mail 28.4.1943; Times 28.4.1943

xxxx cf comments on writings by Mme Wasilwska in Russian Press:

Daily Express 29.4.1943; News Chronicle 29.4.1943; N.Y. Times 29.4.43

xxxxx A small group of M.P.s led by Sir D. Savory excepted

xxxxxx Hansard vol. 389, cols. 30-32; col. 150; vol. 390, cols. 194-5

Churchill^f aimed at making them accept, of their own will, the Soviet conditions of co-operation. Undoubtedly the British Government was in quite a difficult position, primarily because it desired full co-operation with Soviet Russia even at the expense of minor allies and because the President of the United States favoured in effect the Soviet proposals.

The decisions at Moscow (1943) and Teheran (1943) doomed - the future of Poland as an independent, sovereign country since the Soviet plan received there the approval of the Grand Alliance. The Moscow Conference softened British resistance and prepared an adequate psychological atmosphere for the Teheran talks. Before the Teheran gathering the Polish Prime Minister^{xx}, invited to Washington, saw the British Foreign Minister and in a semi-official discussion was bluntly told that Poland must sign off part of her territory to Russia. Fearing that in the forthcoming Conference decisions might be taken to that effect and to avert the disaster, he in vain tried to gain access to the British Prime Minister^{xxxx}, who, however, consulted Dr. Benes on the Polish question and on "what the Russians would do for Poland".^{xxxxx}

The Declaration of December 1, 1943, following upon the Teheran Conference, was beautifully framed, but in slogan-like terms it only restated the old chants that have already faded away in practice. The bare truth of the then undisclosed agreement on world-wide strategy meant a division of the globe into spheres of influence - a dangerous precedent announcing a verdict of death for small states and sowing seeds of future antagonism between the mighty. As far as Poland was concerned, the line of Soviet occupation was to run through her territory^{xxxxxx} and she had

x Memoirs, vol. V, p. 357

xx Mr. S. Mikolajczyk who succeeded Gen. Sikorski on July 14, 1943

xxx Mikolajczyk, op. cit. p. 49; xxxx Mikolajczyk, op. cit. p. 51

xxxxx Memoirs, vol. V, p. 399

xxxxxx Sir W. Churchill, Memoirs, vol. V, pp. 319-20, 351, 356-7

W. Leahy, I Was There, London, 1950, p. 249

to come under the Soviet aegis after the cession of half of her territory to Russia.

The idea of abandoning Eastern Europe to Russian domination seems to have been endorsed then by the American policy, since Mr. Sumner Welles wrote^x: "The Soviet Government is as legitimately entitled to promote a regional system of Eastern Europe, composed of co-operative and well-disposed independent governments among the countries adjacent to Russia, as the U.S. has been justified in promoting an inter-American system of twenty-one sovereign American republics".

On January 20, 1944, the British Prime Minister granted an audience to his Polish counterpart and told him that the eastern frontier of post-war Poland must run along the so called Curzon Line^{xx}. Commenting on Britain's obligations towards Poland he stated that by the Agreement of 1939 Britain undertook to defend Poland against Germany but did not intend to fight for Poland against Russia, as, if the Polish requests to refrain from arbitrary decisions with regard to the territory of Poland really amounted to a demand of declaration of war on Soviet Russia.

A month later (on February 22, 1944), in the House of Commons Sir Winston so endeavoured to explain away his policy^{xxx}: "We ourselves have never in the past guaranteed on behalf of H.M. Government any particular frontier of Poland. We did not approve of the Polish occupation of Vilno. The British view in 1919 stands expressed in the so-called Curzon Line, which attempted to deal, at any rate partially, with the problem... I cannot feel that the Russian demand for reassurance about her Western frontiers, goes beyond the limits of what is reasonable and just"...

x The Time for Decision, London, 1944, p:257

xx Mikolajczyk, op. cit. p. 56

xxx Hansard, vol. 397, cols, 697 and 698

In the light of former statements^x, treaties and guarantees, in the light of the lofty slogans of the Atlantic Charter and the Teheran Declaration these words sound at least odd, especially as on January 26, 1944, Mr. Eden in the House of Commons once more emphasised His Majesty's Government's adherence to the Atlantic Charter and the former statements with regard to Poland^{xx}.

The Soviet-Polish frontier was not settled in 1919 but at the Peace of Riga (1921) by negotiations between the two countries, Poland taking far less of the territory offered to her by Lenin^{xxx}, and in fact occupied at that time by her army which had defeated the Red Army at Warsaw and driven it back to Russia. The frontier had been approved and ratified by the Ambassadors' Conference in Paris (March 15, 1923), Lord Hardinge having signed on behalf of Britain. Now, twenty one years later Sir Winston decided that the approval of the Ambassadors' Conference was null and the British signature void and set out to correct the historical error. Guided by "what is reasonable and just", and forgetting what he himself had written on the subject^{xxxxx}, he did what no Government of Poland could do without^{the} assent of Polish Parliament: sign away 48% of Poland's territory, and thinking that he was merely dealing in^{the} foreign land he bartered the sovereignty of Poland, because this was what was actually at stake.

Protests of the Polish Foreign Office in the British Foreign Office (Note of February 24, 1944) as well as previous Notes to the British and the United States Government were without effect. The anxiety of the Polish Prime Minister was readily smoothed by Sir Winston's assurance^{xxxxxxx}:.. "Don't worry Poland will.

x see pp.67 and 68 ante

xx Hansard, House of Commons, vol. 396, col. 663-4

xxx text of the Treaty see Polish White Book, no. 148, pp. 162-165

xxxx J. Weyers, Poland and Russia, London, 1943, p. 14

cf Hansard, House of Commons, vol. 407, col. 481-2

xxxxx see Polish White Book, no. 149, pp. 165-168

xxxxxxx W. Churchill, The Aftermath, London, 1929, p. 270

xxxxxxx Mikolajczyk, op. cit. p. 64

emerge from this war strong and independent". Equally reassuring was President Roosevelt's^x "I'll see that Poland does not come out of this war injured". This was said well after he had put his signature to the Teheran terms, but before the presidential election took place.

Whilst in Washington Mr. Mikolajczyk was unofficially approached to renew diplomatic relations with Moscow, but the preliminary condition, as later confirmed by the Soviet Ambassador Mr. Lebedev in his Note of June 23, 1944, could not be accepted by any free government. The Kremlin was ready to resume talks but first certain members of the Government in Exile as well as the President had to be deposed^{xx}. In other words, having ensured the partition of Poland the Soviet Government now wanted^a reorganisation of the Polish Government so as to have there only men of their choice^{xxx}. So the Hitlerite tactics^{xxxx} to be "willing to negotiate if there was a Polish Government which was prepared to be reasonable" were adopted by the Russians. There is no need to stress how grave was such a demand and that it had to be answered in the negative.

The Polish Government, always confronted with accomplished facts and decisions taken in its absence, seeing how ineffective were in practice the assurances of its Allies, sought a compromise by asking that definitive settlement of frontiers be postponed until the end of the war, and that the boundary demanded by Russia be regarded in the meantime as a temporary demarcation line, and by requesting the British and U.S. Governments to lend their good offices towards an honourable agreement. The reaction of the Polish fighting forces (many Poles, now in exile, had their

x Mikolajczyk, op. cit. p. 66

xxc President Raczewicz, Generals Sosnkowski (C. in C. §) and Kukiel (Minister of Defence) and Minister Kot (former Ambassador to Russia)

xxx cf Stalin's remarks at Teheran, Sir W. Churchill, vol. V, p. 348-9

xxxx cf Hitler's suggestion to British Ambassador on August 28, 1939; Sir Neville Henderson, Deux Ans avec Hitler, Paris, 1940

homes and families in the disputed territories) to the writing on the wall made visible by this development of the international situation cannot be adequately summarised in terms of a bitter resentment, but protests resulted only in a drastic action of the British Government, an example of which was the suppression of the paper "Wiadomosci Polskie^x".

On July 30, 1944, Mr. Mikolajczyk arrived in Moscow hopeful of some kind of accord, unaware that in the meantime Mr. Stalin made an agreement with his agents now transformed into the "Polish Committee of National Liberation^{xx}", who entered Polish soil with the advancing Soviet armies, installed themselves in Chelm and later transferred their seat to Lublin. Under this agreement the Lublin Committee was granted administration of the territories recaptured by the Red Army. (The Army of Marshal Rokossovsky^{xxx} advanced as far as to the suburbs of Warsaw.) Logically, therefore, Mr. Stalin told the Polish Prime Minister that in addition to renouncing the eastern half of Poland his Government must now come to an agreement with the Lublin Committee.

Upon his return to London Mr. Mikolajczyk worked out with his colleagues a [^]plan^{xxxx} of reconstruction of the Constitutional Government on a broader coalition basis including now the Communist representatives of the Lublin Committee and recognising the Communist Party (officially the Workers Party created under Soviet auspices in 1942) as one of the five major political parties from which new Government would be drawn. This plan approved by the British Government was sent to Moscow, only to be passed to the Lublin Committee and to remain unanswered.

x-Hansard, House of Commons, vol. 397, cols. 171 and 172

xx formerly the Union of Patriots established in Moscow in 1941
xxx since 1949 the C. in C. of Polish Army and Polish Minister
of Defence.

xxxx Mikolajczyk, op. cit. p. 102

During his second visit to Moscow (October 1944) Mr. Mikolajczyk had an opportunity of meeting together Messrs Stalin, Churchill, Molotov, Eden and Harriman and learning from this congregation the truth about the Teheran decision so far officially kept from him.^x In a dramatic scene he indignantly rejected the arbitrary decision with regard to the eastern frontier, incurring thereby the wrath of Mr. Stalin and the rebuff of his protector Sir Winston Churchill. The Anglo-Soviet Communiqué on the sojourn of Sir Winston and Mr. Eden in Moscow^{xx} was, however, full of deceptive optimism:.. "Important progress was made towards the solution of the Polish question which was closely discussed between the Soviet and British Government. They had consultations both with the Prime Minister and the Minister of Foreign Affairs of the Polish Government in London and with the President of the National Council^{xxx} of Poland and and the Chairman^a of the Polish Committee of National Liberation at Lublin. These discussions have notably narrowed the differences and dispelled misconceptions"...

This Communiqué indicates that the Soviet point of view prevailed and indeed this may be inferred for Sir Winston's account before the House of Commons^{xxxx}, that Poland's frontier was to run along the Curzon Line and a new Government capable of being approved by Russia was to be established.

On November 24, 1944 Mr. Mikolajczyk resigned his office and the first task of his successor Mr. T. Arciszewski, the Nestor of the Polish Socialists, was to seek agreement with Moscow. But the Kremlin saw no need for further discussions. Instead, it recognised on January 5, 1945 the Lublin Committee (which on

x Mikolajczyk, op. cit. p. 107 .

xx text see Rothstein, op. cit. p. 162

xxx The Communist body which appointed the Committee of National Liberation, see p. 96

xxxx Hansard vol. 404, cols. 493-495; and vol. 406, cols. 1478-1489

December 31, 1944 proclaimed itself the "Provisional Government of Liberated Democratic Poland") as the Government of Poland. The protest of the Constitutional Government against this action was only a voice crying in the wilderness.

Then came the Yalta disaster. The last effort of the Constitutional Government before the Yalta Conference was the Memorandum^x of January 22, 1945 addressed to the Big Three (and ignored by them) in which it requested that the question of territorial changes be deferred until hostilities were over and that no puppet government be recognised.

The Yalta Conference, in the opinion prevailing at present, was nothing else but a gathering worthy of another witch supper of Munich. This time Russia was the dominating power and the proceedings took place in an atmosphere of complacency and compliance to Russian dictation. Those who attended it record some resistance to Soviet demands^{xx}, but with regard to Poland they are unable to prove that anything inconsistent with the original Soviet proposals went through. Apparently the British and Americans, disagreeing between themselves on many points, finally accepted the settlement of the Polish question according to the Stalinist blueprint. One has, however, to give credit to Sir Winston, who in distinction to President Roosevelt, made the last effort to champion the lost Polish cause. President Roosevelt's rather queer attitude towards Polish constitutional problems, so greatly affected by the Yalta decisions, was recorded by his Secretary of State^{xxx} who wrote that: "...the President did, not attach importance to the continuity or legality of any Polish Government, since he felt that for some years there had

x text see Mikolajczyk, op. cit. p. 332 et. seq.

xx E. Stettinius, Roosevelt and the Russians, London, 1950, p. 192-3

J. Byrnes, Speaking Frankly, London, 1947, p. 31

Leahy, op. cit. p. 363

xxx Stettinius, ibid. p. 66, Leahy, ibid. p. 429

xxxx Stettinius, ibid. p. 157

been in reality no Polish Government"...This can only be attributed to the peculiar personality of the American President in whom the Poles in vain expected to find another Woodrow Wilson.

The Crimea Declaration of February 12,1945 is an interesting document recording noble ideas and jeopardising in advance their enforcement.Of special interest here are points 5 and 6 of the Declaration:

Point 5:"Declaration on Liberated Europe" - consisted of a restatement of the Atlantic Charter principle on self-government and pledge of the Three Powers to facilitate restoration of order and democratic institutions in Europe.

Point 6:"Poland",reads as follows:

"A new situation has been created in Poland as a result of her complete liberation by the Red Army.This calls for the establishment of a Polish Provisional Government which can be more broadly based than was possible before the recent liberation of Western Poland.The Provisional Government which is now functioning in Poland,should therefore be reorganised on a broader democratic basis with the inclusion of democratic leaders from Poland itself and from Poles abroad.This new Government should then be called the Polish Provisional Government of National Unity.

"Mr.Molotov,Mr.Harriman,and Sir A.Clark Kerr are authorized as a Commission to consult in the first instance in Moscow with members of the present Provisional Government and with other democratic leaders from within Poland and from abroad, with a view to the reorganisation of the present Government along the above lines.

"The Polish Provisional Government of National Unity shall be pledged to the holding of free and unfettered elections as soon as possible on the basis of universal suffrage and secret ballot.In these elections all democratic and anti-Nazi parties shall have the right to put forward candidates.

"The Three Heads of Governments consider that the eastern frontier of Poland should follow the Curzon Line, with digressions from it in some regions of five to eight kilometres in favour of Poland. They recognise that Poland must receive substantial accessions of territory in the north and west. They feel that the opinion of the new Polish Provisional Government of National Unity should be sought in due course on the extent of these accessions, and that the final delimitations of the western frontier of Poland should thereafter await the peace conference".

No comment seems necessary on Point No.5 of the Declaration. It was a programme, a fair statement of good principles, but doomed to frustration from its very inception since the Atlantic Charter has already been trampled under foot. Furthermore it concerned mostly countries situated in the Soviet sphere of influence which, therefore, either completely disappeared (e.g. Baltic States) or were in process of being turned into "People's Democracies" (Austria excepted simply because she happened to be under the Four Powers occupation at the time of the reconstruction of her government).

The Declaration on Poland, on the other hand, contained startling inaccuracies and false conclusions drawn from non-existent premises. Let us briefly examine its provisions :

1. It is incorrect to say that a new situation arose since Poland was completely liberated by the Red Army - The fact that the Red Army (supplied with allied equipment and indirectly assisted by the Polish Home Army) happened to drive the Germans out of Poland in a concerted action of all Allies (including Poland) neither constituted them sole liberators nor authorised Soviet Russia to receive special concessions with regard to Poland, just as Poland could not aspire to territorial benefits because her forces took part in liberating other countries or in the Battle of Britain. No new situation

has been created thereby, unless the Red Army was to be considered conqueror and Soviet Russia had to receive a reward at Poland's expense for defending herself against German invasion in 1941.

2. It is difficult to see why the presence of the Soviet Army should call for the formation of a "Provisional Government" - Throughout the war, in the allied camp there functioned the Polish Constitutional Government and at home, there was a political state organisation, which, if respected, would have co-operated with the Red Army. Their existence was not symbolic, but real, and their sovereignty was never officially questioned. They represented the fighting Poland and their record cannot be impeached even by the vilest tongues. Now, when the war was nearly won the Grand Alliance decided to ignore these facts and forgo the legal continuity of the Polish State.

3. The "Provisional Government" established under the auspices of Soviet Russia was to be recognised as the basis of the future government. Thus the native element of a sovereign state embodied in its Constitution had to be superseded by a foreign offspring naturally subservient to its creator. The Declaration said that this "Provisional Government" was already functioning in Poland; in fact, it was imported with the Red Army and if it did any administration during the operations of the Red Army it was due to the arrangements made with Soviet Russia in so much as a principal instructs his agent to carry out certain duties.

4. The Declaration constituted a Commission of Messrs Molotov, Harriman and Sir A. Clark Kerr and authorized them to supervise the reorganisation of the Soviet sponsored "Provisional Government". It instructed them to regard this "Provisional Government" as the nucleus of the new government, which other Poles, within their discretion, could be invited to join. In fact, the said Commission became invested thereby with a state

authority, contrary to the Polish Constitutional Law and all pledges including the celebrated Atlantic Charter (Art.2) expressly referred to in Point No.5 of the Declaration. And so, notwithstanding her independent status as sovereign state and ally, Poland was put under a sort of "Regency Council", where the leading rôle was assigned to the Soviet representative. In point of fact the Commission, in the course of its activities, was virtually dominated by its Soviet Chairman who always managed to get his plans through^x.

5. To embellish the grim reality the Declaration spoke of "free and unfettered" elections to be held soon by the "Provisional Government". In the circumstances of Russian military occupation of Poland and a Soviet-sponsored Government, the prospect of "free and unfettered" elections could have only an empty sound to gull public opinion in Britain and the United States where people might believe that if they, by their votes, put into power and dismiss their administration the same must follow in a country occupied by a foreign power anxious to establish a system of government on its own pattern. One would, indeed, have to be either overoptimistic or conveniently ignorant of the conditions necessary for free elections to suppose that this illusory power of the Polish electorate to decide the issue could exist at all. We must not forget that at stake is, not the question of which political party would hold the reins (as is the case in free and democratic countries), but whether Poland would have an indigenous form of government and retain independent status.

If the Big Three really wanted to supersede the Constitutional Authorities and create in their stead something new and original, but fair and truly national, they would have to organise

x Stettinius, op. cit. p. 275; Lane, op. cit. p. 57 et seq.
 Wilmot, op. cit. p. 686
 J. Deane, The Strange Alliance, New York, 1946, p. 294

a truly international (not Soviet) system of control and supervision supported by military contingents of the principal Allies (not only the Red Army), effect resettlement of millions of displaced persons and political refugees, bring home members of the Polish armed forces serving abroad and facilitate a democratic electoral campaign. Only in such conditions would the tutelage produce satisfactory results and ensure fair competition of the national political forces, whereas in the terms of the Declaration the tutelage prejudiced the issue ab initio and robbed the Polish people of the last chance of having a say in their most vital question.

6. The Declaration accorded the right to put forward candidates to "all democratic and anti-Nazi parties" - It would be helpful if the Yalta signatories indicated what they actually had in mind and which parties, in their opinion, were "pro-Nazi or anti-democratic". It was well known that of all German-occupied countries only Poland produced no Quisling and that the Polish nation suffered incomparably^x more than all other conquered nations, chiefly because there was no national collaboration with the enemy. It remains a puzzle for an average Pole which of the parties organised in the Underground Parliament or represented in the Government in Exile were supposed to be pro-Nazi or insufficiently "democratic", and if so why, furthermore which "democratic" principles were to constitute the test: Mr. Stalin's or somebody else's.

7. The organisation of the elections was entrusted to the nominees of Mr. Stalin, the man who never lost any elections but always won 99% of votes, and they were to decide who was allowed to stand for election and who was to be disfranchised. Thus the election, of which so much was expected, was doomed to be a bogus or an election à la Stalin.

x nearly six million Polish citizens were liquidated by the Germans.

The Yalta Agreement seems to have satisfied the British and American leaders. Sir Winston Churchill having discharged the burden of Polish tutelage placed his faith in the Soviet leaders who succeeded him in this task:.. "I feel also that their word is their bond, I know of no Government which stands to its obligations even in its own despite, more solidly than the Russian Soviet Government. I absolutely decline to embark here on a discussion about Russian good will^x"... Only a few months later his opinion completely changed^{xx}, but by then Europe was already divided.

President Roosevelt in his report to a joint session of Congress on March 1, 1945 declared:.. "I am convinced that the Agreement on Poland, under the circumstances, is the most hopeful agreement possible for a free, independent and prosperous Polish State^{xxx}"... Soon, however, his optimism withered away. On March 27, 1945^{xxx} he cabled to Sir Winston over "his anxiety and concern at the way the Soviet attitude had changed since Yalta", and on April 1, 1945 he sent a message to Mr. Stalin expressing disappointment at "the lack of progress made in carrying out the political decisions we reached at Yalta, particularly those relating to the Polish question"...

The British Press was jubilant because the danger of disagreement between the principal Allies seemed averted. But in the vigilant Parliament anxiety was voiced by the following amendment (moved by Mr. Kenneth Petherick, seconded by Sir Archibald Southby) to the motion approving the decisions of the Yalta Conference:.. "Remembering that Great Britain took up arms in a war of which the immediate cause was the defence of

x Hansard, House of Commons, vol 408, col 284

xx cf Fulton speech (March 1946) and letter of April 29, 1945

to Mr. Stalin, revealed in the House of Commons on December 10, 1948, Hansard, vol 459, cols. 1421-1422

xxx The Times, March 2, 1945

xxxx quot. by J. Gunther, Roosevelt in Retrospect, London, 1950, p. 378

Poland against German aggression and in which the overriding motive was the prevention of the domination by a strong of its weaker neighbours, (the House) regrets the decision to transfer to another power the territory of an ally contrary to treaty and to Art.2 of the Atlantic Charter^x"...The amendment was defeated by a crushing majority (396 to 25 votes),but it remains' on the record as a symbolical gesture and proof of understanding of the real meaning and importance of the Crimea capitulation.

Naturally enough Poles could not share the unwarranted joy over the decisions reached at Yalta.Even when the grim news transpired they were still required to continue fighting though the cause for which they stood throughout the war was so carelessly mismanaged.Only when hostilities were over were they told to ~~go~~^{xx}.

As far as Poland was concerned Yalta marked the last stage in the liquidation of her political independence and Constitutional Authorities.In the field of international politics it constituted nothing new,but a result of the Anglo-American policy of appeasing Soviet Russia at the expense of a defenceless ally.The world did not benefit by it and the prospect of a lasting peace was not thereby strengthened.The Grand Alliance won the war alright,but failed to free the world from the fear of another war.As a matter of fact the tension in Europe has developed since into a cold war and in the Far East into a shooting war.The European mosaic of national states lost its balance and a new Russian empire emerged from the smoke screen of long winded slogans and inspiring declarations.

It seems that the arbitrary decisions taken in the absence of the powers affected by them,the staggering difference between the idealistic wordings of declarations and the reality, failure to respect one's own pledges and disregard of others'

x Hansard,House of Commons,vol.408,cols.1421 and 1422

xx W.Anders,An Army in Exile,London,1949,p.256

right to decide their own fate, are the main reasons why the labours of the Grand Alliance so miserably failed. The task undertaken by the three great men seems to exceed the purview of a single individual and the triumvirate, as in the past, produced single domination. Humanity lost by the absence of a large council and wide discussions leading to considered ~~de~~ decisions, whereas the power which dominated the triumvirate scored considerable gains in advancing its policy.

In a recently published brilliant exposition^x of the activities of the Grand Alliance there appears a tendency to assess the amount of the respective responsibility of Sir Winston Churchill and President Roosevelt for being outsmarted by Mr. Stalin. In the case of Poland, as far as it was possible to ascertain by the present writer, this responsibility seems to be equally shared since it appears fair to attribute the question of the eastern frontier to Sir Winston^{xx}, and the question of superseding the Constitution to President Roosevelt^{xxx}. From a purely Polish point of view individual responsibility is not of great importance, all that matters is that the protectors of Poland had their own conception of what she needed and that they were determined to make the "Poles happy" even against their will. In consequence Poland became a state on wheels and a vassal of Soviet Russia. Her new Government, therefore, by necessity received the imprint of a derivative manufacture, which is an inevitable characteristic of political slavery.

x C. Wilmot, *The Struggle for Europe*, London, 1952

xx Sir Winston demonstrated his idea of moving Poland with the help of three matchsticks, see *Memoirs*, vol. V. p. 319-320.

xxx see p. 81-2 ante

Chapter 6. Destruction of the Underground State and
Elimination of Constitutional Authorities.

The process of the destruction of the Underground State ran parallel to the elimination of the Constitutional Authorities and was carefully timed with the Soviet moves in the international arena. Before we follow its course it seems useful to make a historical digression.

Russian Policy. No matter what the motives and ultimate end of Soviet policy its effect with regard to Poland was no different from the expansionist policy of the imperialist Russia and the method of annexation and establishment of subservient governments was simply an imitation of the tsars. Whereas in the past the subjugation of Poland was equivalent to the first stage of the conquest of the heartland of Europe, it appears nowadays to^{be} an important step in the fulfilment of the revolutionary mission of the Soviet State.

"In the West the fortunes of the world revolution are at stake"- exclaimed General Tukhachevsk^xy the leader of the Soviet offensive in July 1920 - "and over the corpse of Poland lies the way to world conflagration". Lenin confirmed this theory saying that "had Poland become sovietised, the system of the Versailles Treaty would have been destroyed likewise"

The scheme, notwithstanding the indirect support by the Spa Conference and Lloyd George's mediation^{xxx}, failed at the gates of Warsaw in 1920 and Poland was saved. Marshal Shaposhnikov^{xxxx} commenting on the Soviet defeat blamed the "insufficient revolutionizing of Poland which did not warrant an offensive against that country".

x in an order to his armies, quot. by Umiastowski, op. cit. p. 84

xx quot. by I. Matuszewski, Great Britain's Obligations towards Poland, New York, 1945, p. 65

xxx hence the celebrated "Curzon Line" suggested at Spa.

xxxx quot. by W. Baczkowski, Towards an Understanding of Russia, Jerusalem, 1947, p. 37

The position during the second World War was entirely different since there was no desperate need for an internal revolution. The revolutionary idea, however, was nurtured by the Polish Communist Party, which reviving from lethargy, constituted what one may call the indigentous element in the act of the introduction of the People's Democracy.

Polish Communist Party. The Polish Communist Party was created in Warsaw in December 1918 under the name of "Workers' Party". Ideologically it was much under the influence of what was then called "Luxemburgism" (i.e. ideas of Rosa Luxemburg opposed to Lenin's philosophy) and only in 1923 did it adopt Lenin's leadership, and changed its name to "Polish Communist Party" (K.P.P.).

During the Soviet-Polish war (1919-1920) the Soviet armies on their advance into Poland brought with them a "Provisional Revolutionary Committee" headed by Felix Dzierzynski, "the scourging sword of revolution and terror of international bourgeoisie", which Committee installed itself in Bialystok and in its Manifesto of July 20, 1920 urged the "workers and peasants to revolutionize". The "Workers' Party" anticipating the victory of the Red Army set itself forth to organize "Councils of Workers Delegates" on the pattern of the Soviets, but the Polish workers and peasants instead of "revolutionizing" successfully set their face against the Russian invasion.

Thus the Communists suffered their first defeat at the hands of the proletariat. Yet peculiarly enough they claim now to have had as many as 23 deputies in the Polish Sejm of 1926, though they admit that out of that number only six deputies represented x T. Daniszewski, Droga Walki K.P.P., Nowe Drogi, Warsaw, 1948, No. 12, p. 127

xx Daniszewski, ibid. p. 128

xxx the founder of the G.P.U. (forerunner of the N.K.V.D.)

xxxx from a resolution of the Polish Communist Party on the 25th anniversary of his death, Nowe Drogi, 1951, No. 3, p. 13

xxxxx A. Zawadzki, Istota i Rola Rad Narodowych, Nowe Drogi, 1950 /No. 2, p. 108

the K.P.P. whilst the rest came from allied parties such as the Ukrainian Selrob (four), Byelo-Russian Hromada (six) and the Independent Peasant Party (seven).

A contemporary official writer complains about sectarianism^{xx} within the K.P.P. as well as socialist influences^{xxx}. Another one brings a vote of thanks to Mr. Stalin for his personal intervention and "ideological rectification" of the K.P.P.^{xxxx} An attempt of the K.P.P. to amalgamate with the Socialist Party (P.P.S.) failed in 1937, the latter refusing co-operation on account of the K.P.P. being an "agency of ^{xxxxx}Russia".

The membership of the K.P.P. never exceeded ^{xxxxxxx}20,000, moreover owing to its foreign allegiance and anti-religious philosophy it could not count on support in Poland, a predominantly catholic and rather nationalist country. The K.P.P., however, claims certain successes in fomenting strikes and promoting distur-
^{xxxxxxxx}ances. Notwithstanding Mr. Stalin's personal attention to the K.P.P. and the purge of Trotskyites the K.P.P. was dissolved in 1938 by the Comintern, its actual master and source of authority, the official reasons being "Trotskyism and infiltration of Pilsudski's ^{xxxxxxx}men".

It is rather strange that the K.P.P. was left dead during the Soviet occupation of 1939-1941 and was called to life as the "Workers' Party" only as late as January 1942. Apparently it was not needed until then. Yet to fill the gap the present leaders of Poland pretend that in spite of its dissolution the K.P.P. fled the nation in the struggle against Fascism and Hitle-
^{xxxxxxxx}ism.⁹

x Daniszewski, op. cit. p.136; xx Daniszewski, ibid. p.140
xxx Daniszewski, ibid, p.131;
xxxx R. Zambrowski, Stalinowska Nauka, Nowe Drogi, 1949, No.6, p.150
xxxxx Daniszewski, ibid. p.141; xxxxxx Daniszewski, ibid. p.148
comparative figures: Hungary (30,000), Czechoslovakia (80,000)
xxxxxxx Daniszewski, ibid. pp.137-139 and p.142, also
B. Bierut, Podstawy Ideologiczne P. Z. P. R. Warsaw, 1952, pp.28, 29
xxxxxxx Daniszewski, ibid. p.146, Bierut, ibid. p.31
xxxxxxxxx Bierut, ibid. p.31

"Union of Polish Patriots" in Moscow. The Soviet policy of weakening the position of the Polish Constitutional Authorities with the purpose of liquidating them was well synchronised with gradual steps towards the formation of Soviet-subservient, pseudo-Polish authorities. The first move in this direction was the formation of the "Union of Polish Patriots" in December 1941 which coincided with the official visit of General Sikorski to the Kremlin.

At the head of that organisation stood a woman, Polish by birth, Mme Wanda Wasilewska, a communist writer, a colonel in the Red Army, a member of the Supreme Soviet, married at that time to Mr. Korneytchuk, a Minister in the Ukrainian Soviet Republic. A well known admirer of Soviet Russia, she and her husband played a prominent part in conducting an anti-Polish propagandā. The latter's writings in the "Radianska Ukraina" published in February 1943 provoked an exchange of Notes between the Polish and Soviet Governments on the question of propaganda relating to the eastern frontier.^{xx}

Already in 1940 the Soviet Government tried to organise within the Red Army units of the Polish Army from prisoners of war, but this idea failed for lack of support.^{xxx} The scheme revived upon the severance of diplomatic relations in 1943 and the remaining Poles^{xxxx} were incorporated into the so called Kosciuszko Division placed under the political authority of the Union of Patriots. Thus the Polish Government and Army in Exile acquired opposite numbers under the Russian mantle.

In 1943 the Union of Patriots gained more ground and came to dispose of a powerful propaganda apparatus, including

x The Daily Telegraph, April 28, 1943

xx text of two Polish Notes, Mikolajczyk, op. cit. pp. 292-293

cf extracts from the Pravda, Rothstein, op. cit. pp. 264-268

xxx Kusnierz, op. cit. p. 106-107

xxxx out of some 1,8 million of deportees and prisoners of war about 125,000 were evacuated to the Middle East

the Kosciuszko broadcasting station behind the Soviet lines. Defamatory attacks of the Patriots were directed against the Home Army which was accused of "inactivity" (notwithstanding the great help rendered to the Soviet armies both in information about movements of German troops transmitted through London^x and sabotage of German supplies and communication lines) and against the leaders of the Underground State, who were charged with a "passive policy". This was the harbinger of future events, the most important of which was the march of the Red Army towards the Polish frontier.

"Workers' Party". The revival of the Polish Communist Party was the first step towards the creation of a rival organisation to the Underground State. In January 1942 the so-called "Polish Workers' Party" (P.P.R.) was established to resume the traditions of the K.P.P. under direction of the Soviet authorities.

The P.P.R. accepted Marxism-Leninism^{xx} as its ideological basis and started forming armed units (the so-called "People's Guards") with the help of Colonel Glebov of the Red Army^{xxx}. The P.P.R. accentuated the class character of its activities and in its programme "For What We Fight" declared that it stood for a "People's Poland ruled by the proletariat"^{xxxx}. The first diversionary action of the P.P.R. with regard to the Home Army was the creation of its own subsidiary formations such as the R.P.P.S.^{xxxxx} to attract the left-wing socialists and the Wola Ludu ("Will of the People") to draw radical elements away from the "Peasant Battalions"^{xxxxxx} controlled by the Peasant Party.

In the course of negotiations with the Communist Group the Home Army was told of the two conditions under which the former

x Sir W. Churchill, Memoirs, vol. III. p. 348

xx Bierut, op. cit. p. 34

xxx Komorowski, op. cit. p. 122

xxxx Bierut, op. cit. p. 35

xxxxx "R.P.P.S." = "Workers' Polish Socialist Party"

xxxxxx Bierut, op. cit. p. 36

was ready to co-operate^x. They were: repudiation of the 1935 Constitution by both the Home Army and the Government of the Underground State and the immediate commencement of an open war against the Germans. To neither of those conditions could the responsible leaders of the Underground State agree. The former meant breaking away from the Constitutional Government to whom the Home Authorities were loyal and the latter meant self-destruction, because the situation in 1943 was not yet ripe for a general rising^{xx}. In reply the Home Authorities urged the Communist Group to submit themselves to the Constitutional Government and to declare openly whether they constituted a patriotic Polish resistance movement or simply a foreign agency directed from abroad and disloyal to the Polish state.

Apart from isolated skirmishes no civil war ensued between the Home Army and the People's Guards as was the case in Yugoslavia. Moreover it is difficult to ascertain the actual strength of the People's Guards (official sources are silent on this subject) before they became amalgamated with the Polish Army under Soviet Command into the so-called "People's Army" in 1944.

The available official figures^{xxx} show the total strength of the whole Communist movement at the beginning of 1945 to be about 20,000, this including about 8,000 men arriving in Poland with the advancing Red Army. We can, therefore, safely assume that the Communist People's Guards totalled not more than 12,000 men (provided, of course, that every member of the P.P.R. was also a soldier). This figure, as compared with the strength of the Home Army^{xxxx} (380,000 in 1944), virtually excluded the possibility of a civil war. Whereas the actual struggle for power took place

x Komorowski, op. cit. 128

xx Even a year later when the Red Army was at the gates of Warsaw the rising was completely liquidated by the Germans.

xxx A. Alster and J. Andrzejewski, W Sprawie Składu Socjalnego P.Z.P.R. Nowe Drogi, 1951, No. 1. p. 235

xxxx see p. 63 ante

in the political field, the extermination of what had been left of the Home Army after the Warsaw rising was initiated by the Soviet partisans and the Red Army and completed by the "Provisional Government of National Unity."

The Communist Home Communist activities were intensified by National Council. the end of 1943 as a consequence of the improvement of the situation on the Russian front. At that time a reorganisation of their armed units took place and the political direction was taken over by Mr. Bierut who became Chairman of their "Home National Council" (K.R.N.) created on December 31, 1943 and designed to be the rival body to the Underground Parliament. This coincided with the Teheran Conference, where Mr. Stalin was given a free hand in Eastern and Central Europe, and with the crossing of the Polish frontier by the advance units of the Red Army.

The struggle for the Constitution then became acute since the Communist Group in December 1943 openly denounced their loyalty to the Constitution of 1935. This was reiterated at the first session of their "Home National Council" on January 1, 1944 when a resolution was passed to the effect that in as much as the Constitution was repudiated because of its "totalitarian character" the Government in Exile, being based on that Constitution, was no longer recognised either.^{xx}

The logic of the situation was plain. Denouncing the Constitution and the Constitutional Government the Communist Group combatted at the same time the Underground State which was based on the Constitution and loyal to the Government in Exile. If they managed to destroy the legal basis of the Home institutions they would contribute to the creation of a constitutional vacuum and prepare favourable ground for putting themselves into power. In the absence of Home authorities the administration of the territories re-conquered by the Red Army
 x see p.75-76 ante
 xx I Posiedzenie Plenarne K.R.N. p.39

would readily pass into their hands as organised representatives of the Kremlin ideology.

The reaction of the Underground State against the resolution of the K.R.N. was expressed in a joint declaration of 23 political organisations in January 1944 branding the P.P.R. with pro-Soviet tendencies and anti-Polish activities. The P.P.R. was thus condemned as a "foreign agency" and exposed as a "fictitious body" designed to pave the way for Soviet domination.^x Plight of the Home Army Upon the advance of the Red Army the question of liaison and co-operation with its units became of prime importance for the Home Army. Anticipating this necessity, and anxious about the evolution of the situation, the Prime Minister already in October 1943 approached Mr. Eden with the intention of resuming diplomatic relations with the Soviet Government and arranging this important matter with the Soviet command. The British Foreign Office then communicated the following reply of the Soviet Government:^{xx}

"...The Soviet Government would be willing to discuss the renewal of diplomatic relations, but only with such a Polish Government as would be favourably disposed towards the Soviet Union. Neither the Polish Government in London nor the Commander in Chief, General Sosnkowski, fulfils that condition..." Thus the attempt at finding a platform of co-operation was subjected to an unacceptable condition, because if accepted it would only prejudice the struggle for Poland's independence and replace the Constitutional Authorities by Soviet nominees.

Nevertheless orders from London were issued to the Home Army in October 1943^{xxx} to enter into liaison and co-operate with the advancing units of the Red Army. The Civil Authorities were
xWeber, op. cit. p. 44

xx quot. by Komorowski, op. cit. p. 179

xxx cf broadcast of Mr. Mikolajczyk, January 5, 1944, full text

see Mikolajczyk, op. cit. p. 305

Strategicus, A Short History of the Second World War, London, 1950, p. 231

similarly instructed and the Commander of the Home Army ordered his troops to avoid friction with Soviet partisans and to establish contact with the O.C.s of the Red Army^x.

The results of this decision were deplorable. General Bor-Komorowski, the Commander of the Home Army, recorded in his book several cases of appalling consequences to his units seeking co-operation with the Soviet partisan groups or the Red Army^{xx}. In Volynia, e.g. several commanders of the Home Army units and their staffs were murdered by Soviet partisans as soon as the common operation was completed^{xxx}. The prospects of co-operation with the Red Army were more promising, but always, whenever the operation was concluded, the commanders of the Home Army units and their accompanying officers would be invited to meet the Russian commandant and invariably never returned from such interviews, thereupon their men were disarmed and detained^{xxxx}. The Russian tactics were to use the Home Army for the purpose of common action against the enemy, then arrest the leaders, disarm the men and enlist them into the Polish Army under the Soviet Command^{xxxxx}, whereas those who were reluctant to join were deported to Russia^{xxxxxx}. This method, no matter its moral turpitude, was an effective means of decimating the strength of the Home Army and undermining the confidence of its members in their leaders and the Civil Authorities who were responsible for the political direction of the resistance. At the same time the exposure of this method is a serious indictment of Soviet Russia which stopped short of no means to promote her political designs.

x Komorowski, op. cit. p. 178

xx there are similar allegations against the Home Army. cf Trial of Sixteen, The Times, 19.6.1945

xxx Komorowski, ibid. pp. 183, 188

xxxx Komorowski, ibid: pp. 186, 188, 194, 195, 197

xxxxx Komorowski, ibid. p. 198

xxxxxx some 50,000 were deported at that time, Kusnierz, p. 211

Whilst this was going on in the front, the Kosciuszko broadcasting station appealed to the Home Army for co-operation with the Red Army and insisted on an open rising to give hand to the approaching Red Army units.^x Simultaneously the Soviet propaganda apparatus did its best to discredit both the Home Army and the political Authorities accusing them of inactivity and even collaboration with the enemy. This produced a highly confusing picture of the real situation since the Soviet propaganda had quite a strong hold and a warm reception abroad.^{xx} Even during the Warsaw rising the British Daily Worker reflecting faithfully the Soviet news announced on August 7, 1944 that the rising was a humbug, and a result of imagination of the "Polish emigré circles in London!"^{xxx}

Moscow Talks. In this atmosphere the Polish Prime Minister was invited to Moscow only to be told by Mr. Stalin that he had just concluded an agreement with the Communist Group, under which they received administrative authority over Poland's territory snatched from the German hands by the Red Army, and that this Group was considered to form the future government of Poland.^{xxxx} Mr. Mikolajczyk was then referred to the Communist representatives present in Moscow, who on their arrival were greeted with the honours customarily given to a government, whereas the Prime Minister was received like a private person.^{xxxxx}

There he learned that Mr. Bierut was predestined to become the President of Poland and even got a tentative offer from the latter to become Prime Minister under his presidency.^{xxxxxx} In the new government 14 Ministries were to go to Mr. Bierut's associates and only four to persons accepted by them and
x Scaevola, A Study in Forgery, London, 1946, p. 41

Y. Gluckstein, Stalin's Satellites in Europe, London, 1952, p. 144

xx An English writer went even as far as to describe the Home Army as "fascists"! - D. Warriner, Revolutions in Eastern Europe, London, 1950, p. 6

xxx Hansard, House of Commons, vol 403, cols. 233, 234

xxxx Mikolajczyk, op. cit. p. 80

xxxxx Rothstein, op. cit. pp. 98-100, 140, 142, 152

xxxxxx Mikolajczyk, ibid. p. 84

representing non-communist parties. Upon his rejoinder that an agreement must be reached with the Underground Parliament to solve the problem in a constitutional manner he was bluntly told by Mr. Bierut: "...If you want to go to Poland as a friend, in complete agreement with us, we will accept you. If you attempt to go as Prime Minister of the Polish Government which is no longer recognised by the U.S.S.R., we'll arrest you"...

The situation was clear : whilst the Soviet army overlooking the Vistula passively watched the agony of the rising in Warsaw in which the cream of the Home Army was destroyed^{xx}, the Prime Minister was told that the future of his Government had already been decided in Moscow and that new authorities outside the Constitution were being established under Soviet patronage. In fact such authorities had already been nominated before Mr. Mikolajczyk arrived in Moscow.

Committee of Liberation. On July 21, 1944 the Communist "Home National Council" under the chairmanship of Mr. Bierut passed a resolution creating the "Polish Committee of National Liberation" as the "interim executive authority to direct the struggle for independence and restore the Polish state"^{xxx}.

This Committee consisted of fifteen persons (including Mme Wasilewska) and was organised on the pattern of a government (functions were distributed as to government departments). The personal composition of this body leaves no doubt about its nature since the resolution frankly stated that the "Home National Council" appointed "leaders of the underground movement as well as activists from among Poles settled in Russia" to the Committee.

x Mikolajczyk, op. cit. p. 65

xx Even the energetic efforts of Sir Winston Churchill and President Roosevelt to persuade the Soviet Government to help organise a shuttle service in aid of the insurgents were without effect and no allied planes were allowed to land on territory occupied by the Red Army.

xxx full text, Systematyczny Przegląd Ustawodawstwa Polski Odrodzonej, Warsaw, 1946, pp. 3 and 4

Communist Manifesto. The Committee promptly proclaimed a Manifesto to the nation.^x This lengthy document contained startling statements: The nation was told that "it (i.e. the nation) has created its representation, its underground parliament, namely the K.R.N. consisting of democratic parties, such as the Peasant Party, the Democratic Party, the Workers' Party and others" and that "Polish organisations abroad submitted to the K.R.N., which is the only legal source of authority in Poland". The nation was further told that the "Emigre Government in London and its Delegate in Poland were self-appointed, illegal authorities, because they derived their existence from the illegal Constitution of 1935".

The Committee declared its adherence to the Constitution of 1921 and proclaimed that both "K.R.N. and the Committee act on the basis of that Constitution - the only binding and legal Constitution" and pledged itself to obey the Constitution of 1921 until the "new National Assembly elected by a general, direct, equal, secret and proportional suffrage passes a new Constitution"

On the question of the frontier with Soviet Russia the Manifesto discreetly but vaguely stated that the "new boundary must be the line of good neighbourly relations and that it will be settled in an amicable agreement with Russia .

The Manifesto announced that the Committee was going to take over the administration of territories liberated by the Red Army and added that "in these territories no other administrative authority can exist". This was clearly an allusion to the Underground State now scheduled to be wiped out with the help of the Red Army.

The Committee ordered the creation of provincial, district and communal "National Councils", through whom it proposed to act, thus replacing the territorial self-government system by an organised party element. In consequence of this step the

^x full text, *Systematyczny Przegląd*, op. cit. pp. 5-10

(The word "communist" cannot be found in the Manifesto.)

the Central Administration would gain control of local affairs on purely political lines. It ordered the dissolution of the police and the creation in its stead of a Militia to act under authority of those Councils. The abolition of the institution of the national police force paved thus the way for the formation of a political militia, which in turn became the creative force for the political (so called security) police in the hands of the Executive.

The Committee solemnly proclaimed the restoration of "all democratic freedom, equality of citizens without distinction of race, religion and nationality, freedom of political and professional activities as well as freedom of the Press and conscience", but sternly added that "those freedoms could not serve the enemies of democracy" and warned the nation that "fascist organisations will be ruthlessly exterminated". Who constituted that fascist bogey was later answered in practice.

The Committee promised an agricultural reform, restoration of private property and distribution of land to the small-holders.

All citizens who found themselves abroad were promised assistance for their repatriation, "the hitlerite agents and those responsible for the September 1939 defeat excepted". No rules of classification were added, hence practically anyone within the purview of the Committee's propaganda machine could to his surprise find himself in this category of outlaws.

Memorandum of the Government in Exile. When Mr. Mikolajczyk went to Moscow in August 1944 the dice was already cast and only an international recognition of the de facto situation was sought by the Kremlin. In the circumstances a Memorandum of the London Government (agreed-upon with the Home authorities) proposing x of the Communist Manifesto of July 20, 1920, p. 91 ante xx see p. 119-122
 xxx e.g. according to the "Soviet War News" of January 8, 1945, the Government in Exile was a "flunkey of Hitlerite Germany, cf Hansard, House of Commons, vol. 407, col. 136
 xxxx full text, Mikolajczyk, op. cit. p. 328 et seq.

a basis for understanding and co-operation with Soviet Russia with a view to forming the new Government was only a belated attempt, which notwithstanding its British and American support was turned by Moscow over to the Lublin Committee and naturally was accorded no reply.

The Memorandum of August 30, 1944 provided for a new Polish Government based on equal representation of five parties including the four traditional national parties and the Communist Party sponsored by Russia. Representatives of these five parties when assembled in Warsaw would nominate their candidates for ministerial offices and the President upon motion of the Prime Minister would appoint a new Government. The programme of this new Government had to include:

1. resumption of diplomatic relations with Soviet Russia;
2. conclusion of a pact of friendship with Russia;
3. organisation of general election of the National Assembly to work out a new constitution, on the authority of which a new President would be elected;
4. convention of a National Council of representatives of those five parties to act in^{an} advisory capacity until a new Parliament was elected; and
5. settlement of the Polish-Russian frontier by the new National Assembly.

The Memorandum, standing on the principle of the legal continuity of the Polish state and insisting on a constitutional solution of the problems of a new government and frontiers, did not fit into the Soviet scheme with regard to Poland. It had, therefore, to be rejected. Soviet leaders having already their "Committee of Liberation" had no need for further discussions and as far as they were concerned the matter was settled.

x Peasant Party, National Party, Socialist Party, Christian Labour Party

Lublin Proclamation. On December 31, 1944 the Committee of Liberation proclaimed itself the "Provisional Government of Liberated Democratic Poland" and established its seat in Lublin. Lublin had a symbolical significance bringing back the memory of the first national government proclaimed under Socialist lead in November 1918^x, though the Committee of Liberation had its true forerunner in the Bialystok "Revolutionary Committee" of 1920^{xx}.

The Lublin Committee was recognised by Soviet Russia in January 1945 as the "Provisional Government of Poland". Thus coming to the Crimea Conference Mr. Stalin was already equipped with a Polish Government of his own creation, and without difficulty pressed his point through, having that Government recognised by the co-signatories as the basis of the future political system of Poland.

The rest of our story is of comparatively small importance since it relates the inevitable, ~~was~~ final destruction of the Underground State and the coup de grace given to the Government in Exile.

Invitation to Moscow. The bulk of the Home Army was destroyed during the 63 days of fighting in Warsaw; the destruction of the Underground State soon followed. In the spring of 1945 leaders of the Underground State were approached by high-ranking Red Army officers with a view to meeting the Soviet authorities in Moscow. to implement the provisions of the Yalta Agreement to "invite the democratic leaders of Poland to form the "Provisional Government of National Unity"^{xxx}". They were offered safe conduct to Russia and promised facilities to contact the London Government.

x see p.15 ante

xx see p.91 ante

xxx see p.82 ante

On March 17, 1945 the deputy Prime Minister J. Jankowski (the Delegate of the Government in Exile and acting Prime Minister of the Underground State), the Speaker of the Underground Parliament K. Puzak and Col. S. Okulicki the last Commander of the Home Army met Col. Pimonov, a representative of Col-Gen. Ivanov of the Red Army in the suburbs of Warsaw. From this meeting they did not return. The next day 13 other prominent members of the Underground were invited for a meeting and failed to return as well. Protests of the London Government remained unanswered and the mystery of the sixteen Underground leaders was unsolved until May 4, 1945 when at San Francisco Mr. Molotov admitted their arrest. His admission was followed the next day by an official comment of the Agency Tass, that the arrested men were guilty of "diversionary tactics in the rear of the Red Army" and were to be put on trial before a Soviet Court.

The arrest of the sixteen deprived the Underground State of its most important leaders and announced an era of ruthless persecution and extermination of all signs of Constitutional Authorities. It was in fact the end of the Underground State.

The kidnapping of those men, who in Mr. Eden's words ^{XX} "maintained an excellent record of resistance against the Germans throughout the war, and most of whom were just the type who should, in our view, have been consulted about the new National Government in Poland", was timed to coincide with the vital discussions which according to the Yalta Agreement were to lead to the formation of the new Government of Poland.

The two remaining Yalta signatories protested against this outrage vigorously, but without effect, the imprisoned men being neither allowed to take part in the discussions, nor released. x of verbatim report of the trial published by the Publishing House of the People's Commissariat of Justice of the U.S.S.R. Moscow 1945

xx quot. by Mikolajczyk, op. cit. p. 126

Moreover the Soviet leaders were adamant in their choice of men eligible for the Polish Government. The Commission of Three, dominated by its Soviet Chairman, laboured in a complete deadlock until it finally yielded to Soviet dictation at the instance of Mr. Harry Hopkins, a special envoy of President Truman. As a result of this compromise the new Government "on a broad democratic basis" was to consist primarily of the Soviet-style democrats grouped in the Lublin Committee (now self-appointed Provisional Government) to whom might be added some of the four invited "London Poles" and perhaps some other non-communist leaders resident in Poland.

The status of Poland with regard to Russia became defined by a treaty between the Soviet Government and their agents in Poland. Already on April 21, 1945^{XX}, that is before the formation of the Yalta Government of National Unity, a Soviet-Polish treaty of friendship, mutual assistance and post-war co-operation was signed by Mr. Stalin and Mr. Bierut^{XXX}. The importance of this treaty was that without parliamentary sanction it accepted the arbitrary settlement of the frontier and formally recognised the subjection of Poland to Soviet Russia. Apart from the fact that the body who negotiated it on behalf of Poland could not be deemed to have a treaty making power, its occurrence constituted a simple copy of the tactics employed by Catherine II after the second partition in 1795^{XXX}:.. "She was firmly determined to rivet her claims upon what was left of the unhappy Republic doomed not only to cede more than half of the national territory, but also to sign a bond of servitude (the treaty of friendship), surrendering what remained to guardianship and the scarcely disguised domination of Russia"...

x Of those only Mr. Mikolajczyk and Mr. Stanczyk were for a short time members of the Government.

xx Systematyczny Przegląd, op. cit. p. 815

xxx In Mr. Mikolajczyk's words "this was a case of a Russian leader making a treaty with a Russian citizen who was posing as a Pole", Mikolajczyk, op. cit. p. 127

xxxx R. Lord, The Second Partition of Poland, pp. 454, 458, 461

The Last Days of the Government in Exile. With the Kremlin boosting their proteges , who in turn vaunted their "democratic qualities", the struggle for the independence of Poland became concealed from the eyes of the Western Allies who, applying a false analogy to their own peace-time domestic political wrangles, saw only a contest between "two Polish parties, each trying to establish itself in Warsaw". Whilst sympathising with the Government in Exile , which stood with them all through the war, they were apt to underestimate the real issue and were inclined to support the views of their gallant and powerful ally, Soviet Russia, interested "only in having a friendly government in Poland". Whereas grave constitutional issues were at stake the Soviet-Polish friction was frequently oversimplified and reduced to a mere contest of personalities. Thinking that the Constitution of 1935 prevented agreement they argued that by throwing it overboard the London Poles might safely return home and there embark on the contest for power in the forthcoming elections.

Debates in the British House of Commons are particularly interesting , since in several discussions of Polish problems some Members^{xx} indulged in authoritative classifications of the "democratic qualifications" not only of the Polish Constitution, or the pre-war régime, but also the Government in Exile, and in those speculations they sought to solve the difficulty of reconciling the Soviet and Polish views. For most of them there was a purely personal contest between the imaginary "reactionary forces" grouped in London under the mantle of the 1935 Constitution and the "new leaders" begotten of a Moscow inspiration. They demanded "statesmanship" of the ~~XXXX~~ emigré Poles of H. Seton-Watson, The East European Revolution, London, 1952, and The Economist, March 15, 1952, p. 653 /p. 156

xx On the other hand the Lublin Committee was occasionally described as bogus (Hansard, vol. 406, cols. 1509, 1515, 1524) and the "Soviet War News" rebuked for abusing the Polish Government (Hansard, vol. 407, col. 136)

that "statesmanship" being submission to Moscow, and were greatly annoyed at having found no enthusiastic response among the London Poles. Even appeasement,^{dx} advocated by the British Prime Minister, was only an illusory scheme based on an unwarranted belief that the right way to Warsaw was the return via Moscow. This, to Sir Winston Churchill, would have meant casting aside some "reactionaries" and joining the Kremlin's nominees on the basis of the Curzon Line. In such a fusion he saw the solution of the problem and resenting the fact that his advice was not immediately followed, he cast the blame for failures on the London Government^x.

For the London Poles the situation appeared more complex than for their British friends, and their fears of Russian domination made them suspicious of the Russian insistence on the arbitrary fixing of the frontier and composition of the Polish "sovereign" Government. Mindful of the task imposed on them by their Constitution and desirous of preserving sovereignty they were sluggish in fitting themselves into the Soviet pattern and slow in catching up with the progress of Soviet demands, thus incurring a jibe of the "New Statesman and the Nation"^{xx} that "they were always one river too late".

For them there was no return to free Warsaw via Moscow, for such a decision would mean the end of the vision of a "free and independent Poland". The sad fate of Czechoslovakia and her leaders Edward Benes and John Masaryk, who were always praised for their "realism" and given as example to the Polish "romantics", and who embarked on that dangerous though apparently easiest road, should give an answer to all speculations on this subject.

x Hansard, House of Commons, vol. 404, cols. 494-5 and vol. 408, col. 1282
xx August 16, 1947

It is difficult to see whether the British Government had a clear picture of the Polish situation notwithstanding the fact that all through the war they kept the destiny of Poland in their hands and were determined to carry on in their fashion to the bitter end. They knew that their policy did not satisfy their protégés, the London Poles, of whom Sir Winston Churchill sarcastically said that nothing would ever satisfy them^x, and they must have realised as well (at least at a later period of the war) the danger of playing with the fire of Soviet diplomacy with regard to Poland. Yet they preferred to rely on verbal acrobatics and hoping for the best, rather than the safer method of using the prestige of Britain, and the weight of the British part in the war, to pursue a policy formulated on the principles for which Britain took up arms.

Having put their signature to the Yalta Agreement, which in clear terms recognised the Lublin Committee as the basis of the future Government of Poland^{xx}, they declared only a few days later, through the Foreign Secretary, Mr. Eden^{xxx}, that:

... "The British Government have in no case recognised the Lublin Committee. They have no intention of recognising it. They do not regard it as representative of Poland at all and when Mr. Churchill and myself met representatives of this Committee in Moscow, the members of the Committee did not make at all a favourable impression on us..."

Nevertheless on July 6, 1945 the House of Commons welcomed the establishment of the Polish Provisional Government of which two-thirds were Lublin men. By midnight^{on} July 5, the Government in Exile ceased to be recognised.

x Sir Winston Churchill, *Memoirs*, vol. V, p. 357 ,

xx see pp. 82 and 84 ante

xxx Hansard, House of Commons, vol. 408, col. 1669

Chapter 7. Establishment of the People's Democracy.

Moscow Talks. Whilst the sixteen Underground leaders were awaiting trial by a Soviet Military Court deliberations on the formation of the Provisional Government of National Unity took place in Moscow. The stage was set in a masterly fashion: The Soviet-sponsored Provisional Government, strongly represented in the Moscow talks acted in Poland; those who should have sat at the table were in a Russian gaol, and the Commission of Three to direct the proceedings was Soviet dominated.

Among the Polish participants in the deliberations the chances were unevenly balanced in favour of the Lublin Poles, who actually decided whom to invite from the other side. Owing to their numerical superiority they could easily outvote their opponents and put themselves into key positions of the interim administration. After much bargaining an agreement was reached on the principles of the Provisional Government, the chief points of which were^x:

Art. 1. All parties entering the coalition have full freedom of organisational work, freedom of assembly, press, and propaganda.

Important decisions are to be arrived at by means of an understanding, not by a majority vote. The basic foreign policy is friendship, co-operation, and alliance with democratic states, especially with the Soviet Union, Great Britain, France, and friendship with the United States of America. At the same time it is based on a Slavonic and Anti-German front, having especially in view an alliance with Czechoslovakia.

Elections to the Sejm, on the basis of universal, equal, direct and secret ballot will be made as soon as possible, possibly before the end of 1945.

x full text see Mikolajczk, op. cit. pp. 141-142

An amnesty is declared for political prisoners, except national traitors who collaborated with the German invaders.

The Red Army, as well as other civilian, party, and security organs of foreign powers will be evacuated.

Art. 2. The Peasant Party's participation in the Government should be at least one-third, its candidates to be designated by its competent authorities.

The National Council^x will be enlarged and the Peasant Party will participate in it in the ratio mentioned above. Vincent Witos^{xx} will be first vice-President of the National Council and Professor Stanislas Grabski^{xxx} its third vice-President. Six members of the Peasant Party will hold Cabinet posts. The presidency of the Supreme Chamber of State Control will be awarded to the Peasant Party.

The Peasant Party will provide under-secretaries in Cabinet posts in the ratio of one third.

The Peasant Party will receive an allotment of paper for party publications.

From this declaration we can see that the Communist Group managed to maintain a lead at this important juncture. The Constitution became thus finally superseded and replaced by a vague agreement between the Communist Group sitting firmly in the saddle and Mr. Mikolajczyk on behalf of the Peasant Party. Institutions established by the Communists became the basis of the administration in which the Peasant Party could at best count on only one-third influence. There is no mention of the other political parties which traditionally controlled Polish political life. Thus the first round of the internal struggle was won by the Soviet-sponsored Communist Group, victory in the external contest being already ~~xx~~ secured for them by Russia.

x This is the communist K.R.N., which, now enlarged by members of the Peasant Party was to function as "Temporary Parliament"
xx Founder of the Peasant Party, who declined to co-operate.
xxx a "London" Pole.

The Committee of Three accepted the agreement and the Provisional Government was promptly recognised by the Allies. In the meantime a well staged trial of the Sixteen took place. The Military Collegium of the U.S.S.R. Supreme Court found twelve of them guilty of anti-Soviet activities and sentenced them to terms of imprisonment ranging from four months to ten years. Only one of them, Mr. Z. Stypulkowski, who conducted his own defence throughout the trial, managed subsequently to reach the free world. His book on the "Invitation to Moscow^{xx}", setting out in detail all what happened at that time is a serious indictment of Soviet policy towards Poland and Russia's rôle in the destruction of Polish sovereignty.

Potsdam Conference. At Potsdam the Big Three took "note with pleasure of the agreement among representative Poles from Poland and abroad which has made possible the formation, in accordance with the decision reached at the Crimea Conference, of a Polish Government of National Unity recognised by the Three Powers^{xxx}". They further reminded the Polish Government of their pledge to hold free and unfettered elections at the earliest possible date and expressed hope that repatriation of Poles from abroad will be facilitated and that those who return "shall be accorded personal and property rights on the same basis as all Polish citizens^{xxxx}."

In matters of reparations the Potsdam Declaration stated that "the U.S.S.R. undertakes to settle the reparation claims of Poland from its own share of reparations".

Thus the Big Three took care to express hope that no discrimination would be made at home against those Poles^{who} throughout the war had risked their lives in the service for Poland x Though most sentences should have by now expired there is no news of the men, except that Casimir Puzak, the socialist Speaker of the Underground Parliament had died in prison. xx Z. Stypulkowski, Invitation to Moscow, London, 1951 xxx text of the Declaration on Poland, Mikolajczyk, op. cit. p. 337 xxxx Service abroad under orders of the Government in Exile was considered almost a crime by the Communists.

and the allied cause. There is no need to say how these Poles received this statement. The decision on reparations, on the other hand, put Poland under the economic supervision of Soviet Russia.

The Big Three gave Poland administration of the German territory east of the Oder and Western Neisse rivers as compensation for the territory lost to the benefit of Russia. This matter was to be definitively settled later, but Poland was immediately to receive a part of the Soviet zone of occupation along with some parts of East Prussia, which in the main fell into the Soviet lap. Therefore in matters of territorial re-adjustments the Potsdam decision gave the impression that only Soviet Russia was the champion of Polish interests, whereas other Allies, by their hesitation wanted to keep the pistol of future German revindications at the Polish head.

At Home. At home the process of the imposition of the Communist régime was making steady progress. Already when the personal composition of the "Provisional Government of National Unity" was announced on June 2, 1945, it was evident that it was dominated by the Lublin Poles. Out of 21 ministerial posts 14 were awarded to them, but to the list previously agreed at Moscow two new ministries were added with Lublin men at their head. Thus the promised one third Peasant Party share dwindled away. The process of watering down the influence of the Peasant Party within the Government was facilitated by the fact that the arrangement of business within the authority of a given department was in the hands of the key men (that is the Lublin Poles) who took care to leave in the purview of their Peasant Party colleagues only nominal posts without real powers or extensive functions allocated to their departments. Therefore, when another

x A startling example of the economic exploitation of Poland by Soviet Russia is given by Mr. Mikolajczyk in his account of the Soviet-Polish Trade Treaty of ~~August~~ June 7, 1945.

see Mikolajczyk, op. cit. p. 157 et seq. and also
Gluckstein, op. cit. pp. 61 and 62

ministry was created for the "Regained Territories" most of the business, hitherto under the authority of Mr. Kiernik, the Peasant Party Minister of Public Administration, was transferred to the new department, and the Ministry was thereby practically reduced to a registry of deaths, births and marriages.

Amnesty. On the occasion of the anniversary of the creation of the Communist Committee of National Liberation a general amnesty, extending also to the ex-members of the Home Army, who were treated as outlaws by the new régime, was proclaimed on August 2, 1945^x. The amnesty had mainly a political significance and purported to grant a reprieve for acts made crimes under the legislation^{xx} of the Lublin Administration before the Yalta Conference elevated it to the position of a Provisional Government.

Under the decree of October 30, 1944^{xxx} on the "Protection of the State", Arts. 1 and 8, membership of organisations aiming at "suppression of the democratic system of the Polish State", or organisations "aiming at crimes or designed to remain secret" was illegal and entailed the punishment of imprisonment or death meted out by Military Courts under the authority of the Lublin Committee. By Art. 4 of the same decree persons who were in possession of arms or ammunition were equally liable to the punishment by death or imprisonment. People possessing or making use of wireless apparatus incurred the same punishment (Art. 6). Imprisonment or death awaited also those found guilty of "obstructing the administration or sabotaging the military effort of the Red Army or Polish units under its command" (Art. 5).

This decree must be construed as a political weapon in the hands of the Lublin Committee ready to be employed against any

x By the law of July 22, 1945 the 22nd of July became a National Holiday.

xx In particular decrees of October 25, 1944; October 30, 1944; November 20, 1944; December 12, 1944; and the new Code of Military Law of September 23, 1944.

xxx full text, Systematyczny Przegląd, op. cit. pp. 181-184

rival body, notably the Underground State and the Home Army. It was the Communist Group which appointed itself to be the "lawful authorities" and it arrogated to itself the monopoly of "democracy". The Home Army, as well as the institutions of the Underground State opposing the designs of the Communist Group, naturally incurred their wrath and consequently, apart from being besmirched as "anti-democratic", became subject to criminal "legislation" and persecution as soon as the advance of the Red Army made possible the execution of the decrees of the Lublin Committee. Suffering at the hands of the Soviet partisans and the Red Army, members of the Home Army were then subjected to an extermination policy by the ostensible "Polish" authorities.

The amnesty decree of August 2, 1945 applied only to the rank and file of the Home Army. Leaders were expressly excepted by the provision of Art. 7, § 1. Apart from the patent injustice of this highly unfair "amnesty" the responsibility for the patriotic stand of the Home Army was now placed on its officers, probably to placate the rest and to break the solidarity between the leaders and the led. The Home Army, however, was disbanded earlier (by the decree of the Government in Exile of February 7, 1945) and its members went out into the open, most of them to suffer discrimination^x notwithstanding the generosity of the amnesty decree.

The Opposition. Apart from people to whom Communism was repulsive on ethical, religious or other grounds, the subsisting elements of the Underground State and Home Army were in natural opposition to the new régime. The "amnesty" discussed above could not solve the problem of armed resistance, which was

x The Polish Radio announced on August 18, 1945 that 1692 persons were put on trial in Warsaw for political reasons, see Hansard, House of Commons, vol. 413, col. 1124 and debate, , on conditions in Poland Hansard, vol. 413, col. 1099 et seq; vol. 408, cols. 643-4, 1334-5, 1434, 2000-2001.

taken up in certain areas notwithstanding the decree disbanding the Home Army and the hopelessness of any action of this sort. The Government confirmed open warfare with three underground groups^x, operating particularly in central Poland^{xx} and announced that between January and July 1946 some 1735 "terrorists" were killed and another 10,000 arrested, the Government losing 1051 men. The presence of Russian troops as late as the summer of 1947 and the continued activities of the Russian N.K.V.D.^{xxx} certainly left no doubt that the régime was controlled and supported by Russia, and this fact caused clashes between Poles and the Red Army troops^{xxxxx} as well as open anti-Government demonstrations^{xxxxxx}.

Political opposition, as far as can be ascertained from scanty reports of main political trials and mass arrests, was unsuccessful and virtually impossible, since it was construed as a crime of anti-Government activities. On those occasions the Exiles^{xxxxxxx} were blamed for the political unrest, thus being credited with an influence at home they probably themselves never claimed to command to that extent. The true position seems to be that the Soviet-sponsored régime could by no means count on popularity with the general public and that the average citizen was in a serious dilemma as to where his allegiance lay. In such conditions the Peasant Party, though participating in the Administration, was looked upon as the only force able to counteract the ensuing introduction of the Soviet type of state and to restore parliamentary government. The Peasant Party consequently received support from all anti-Communist quarters, and on that support
 x Manchester Guardian, 9.8.1946; xx The New York Times, 25.11.1946
 xxx Daily Mail, 17.6.1946;
 xxxx admitted by the Minister of Public Security, see
 The New York Times, 22.7.1946
 xxxxx Manchester Guardian, 1.4.1946; Times, 13.6.1947
 xxxxxx of demonstrations in Cracow in May 1946 where Russian tanks were used to disperse the crowds, New York Herald Tribune, 8.5.1946 and 11.5.1946.
 xxxxxxxx cf Manchester Guardian, 8.8.1945: "the irreconcilables here are aiming at preventing the political situation from achieving any kind of stability"...

they calculated (and miscalculated) their chances of winning the General Elections and ousting the communist régime. Soon, however, from an unequal partner in the Administration the Peasant Party stepped into opposition and before the Elections came, had to face an alternative of submission to the régime or gradual extinction.

Destruction of the Opposition. Once put into the saddle the next step of the Communist Group to seize full power and establish a "dictatorship of the people" was the destruction of any opposition "legal or illegal". Their task was comparatively easy. Backed by Soviet friendship (units of the Red Army, apart from occupying East Germany, were stationed in Poland) they had in their hands the Executive (that is the Central Administration and Local Councils), they dominated the Legislative (i.e. the "Temporary Parliament", as agreed in Moscow^{xx}), they had an Army commanded chiefly by Russian officers and the Security Police as well as a Propaganda Ministry. The Judiciary was already reorganised to suit the political changes^{xxx}. The only task was to 'prepare' the General Elections as pledged at Yalta, and secure victory at the polls. In doing this they did not hesitate to stop short of intimidation and physical violence^{xxxx}.

The preparation for the Elections, which at Yalta seemed possible within a month^{xxxxx}, and in Moscow were planned to take place before the end of 1945^{xxxxx} took, however, nearly two years. Those two years became a purgatory for the Polish people - an indispensable stage in the growth of the People's Democracy on a difficult ground. The delay in the Elections, and the sharp

x Lane, op. cit. p. 163; cf Hansard, House of Commons, vol. 419, cols. 1332-1337

xx see pp. 110 and 111; see xxx see p. 162 et seq . 1 ,
xxxx cf Hansard, House of Commons, vol. 410, col. 1384.

xxxxx Lane, op. cit. p. 115; Byrnes, op. cit. p. 31; Stettinius, op. cit. p. 202
xxxxxx see p. 110 ante

practices preceding them, can only be explained by the determination of the régime to avoid a result similar to that experienced in Hungary during the elections of 1945 when the Communist Party polled only a fraction of the votes (17%).

The terror^{xx} was particularly directed against the Peasant Party which constituted the backbone of the "legal" opposition^{xxx}. Mr. Mikolajczyk, ex-Premier of the Government in Exile who upon the death of Vincent Witos, the founder and leader of the Peasant movement, became the Chairman of the Party, presents a hair-raising record of atrocities committed by order of the Communist authorities to thrust the Peasant Party out of their way^{xxxxx}.

The Moscow Agreement of July 1945^{xxxxx} existed only on paper because when the "Temporary Parliament" was called the Peasant Party was given only 30 seats instead of 145 seats as was then agreed. The Peasant Party, therefore, boycotted the first session. For the next session (December 1945 and January 1946) the Peasant Party was offered 52 seats and this time they decided to attend, at least to let their voices be heard in protest against the totalitarian system established in Poland.

The Peasant Party put up a hard fight in spite of the fact that their offices and printing establishments were frequently raided and several district chairmen murdered^{xxxxxx}. In their Congress of January 1946 they demanded the abolition of the Ministries of Security and Propaganda, the restoration of independent courts and the abolition of the Military Tribunals employed by the Administration for political reasons.

x see F. Nagy, *The Struggle behind the Iron Curtain*, New York, 1948
 xx cf protests by Mr. Byrnes at political murders and activity of the Security Police, *New York Times* (1.2.1946) and *The Daily Telegraph* (1.2.1946)

xxx see Hansard, House of Commons, vol. 416, col. 2755; vol. 418, cols. 142-143; vol. 419, cols. 1243-4; vol. 421, cols. 2-3; vol. 423, col. 299; vol. 424, col. 665; vol. 425, col. 366; vol. 427, col. 1249 et seq. vol. 430, cols. 498 and 1235.

xxxx Mikolajczyk, op. cit. p. 162 et seq; xxxxx see pp. 110 and 111
 xxxxxx *Duchess of Atholl, Polish Elections: The Background*, London, 1946, p. 7; and of Hansard, House of Commons, vol. 418, cols. 142-3, vol. 419, cols. 1243-4; vol. 421, cols. 2-3; vol. 425 col. 366

These demands caused, however, another wave of terror. Moreover, in view of the impending Elections (the Peasant Party wanted to force the Government to hold them before the end of July 1946) the Peasant Party was informed that it must either join the Government Bloc by March 1. 1946 or await total destruction^x.

In April 1946 two further measures were applied to secure the hold of the régime. First was the Referendum to avoid of postpone General Elections, second the expansion of the Security Police by another selected 120,000 militia men. This was the birth of the O.R.M.O. or the "Voluntary Reserve of the Citizens' Militia" designed to fight the Underground as well as the Peasant Party branded with subversive activities^{xx}. The pre-Election campaign developed into what was called "a class struggle", in which some 350,000 members of the Communist Workers' Party took^{an} active part, and some 50,000 of them fought in the ranks of the O.R.M.O.^{xxxx}.

Referendum. The Referendum took place on June 30, 1946. In view of the innocent and unimportant questions put before the nation, one can only infer that it was staged for collateral purposes. The three questions were:

1. Are you in favour of the abolition of the Senate ?
2. Are you for making permanent, through the future Constitution , the economic system instituted by the land reform and nationalisation of the basic industries with maintenance of the rights of private enterprise ?
3. Are you for the Polish Western frontiers as fixed on the Baltic and on the Oder and Neisse ?

Only the first question had a constitutional significance and a controversial character since the question of a uni-or
^x Mikolajczyk, op. cit. p. 170
^{xx} R. Zambrowski, Stalinowska Nauka o Sojuszu Robotniczo-Chlopskim, Nowe Drogi, Warsaw, 1949, No. 6, p. 128
^{xxx} Zambrowski, ibid. p. 128
^{xxxx} Figures given by B. Pierut, Podstawy Ideologiczne P.Z.P.R. Warsaw, 1952, p. 40

bi-cameral Parliament was always considered a matter of opinion^x. A positive answer, however, would give the Government a free hand since they might interpret it, as they did, as authorisation to abolish forthwith the Senate, which under the Constitution of 1921 took part both in legislation and the election of the President. The remaining two questions were not controversial and actually had no political meaning, except perhaps to give a vote of confidence to the Government's policy with regard to the regained Western territories and the promised programme of just legislation.

The Peasant Party decided to instruct its members to vote in the negative for the first question. The atmosphere of the Referendum was far from being propitious to manifesting freely one's own ideas since the Government was determined to obtain 'yes' answers to all three questions and duly applied their propaganda and means of compulsion[!]

Official figures in reply to the first question were published as 32% No's and 68% Ayes, thus showing a victory for the Government. In fact there is ample evidence of irregularities^{xx} which took place and the Government machine was charged before foreign correspondents with direct fraud, the true figures being according to Mr. Mikolajczyk 83,54% No's and only 16,46% Ayes^{xxx}, thus showing the reverse of the official figures.

The Peasant Party and its leaders incurred, of course, the whole wrath of the Government controlled Press and were described as "anti-democrats and traitors". The Referendum, though showing no useful purpose apart from feeding the foreign Press with news of some "voting" in Poland, was actually a test of strength and efficiency of the Government machine before a major battle - the General Elections.

x cf p.17 ante

xx cf Lane, op.cit. p.153 et seq

xxx Mikolajczyk, pp.183 and 184; similar figures Kusnierz, op.cit.

General Elections. The situation in Poland began to disquieten the Western Yalta signatories. The promised "free and unfettered elections" on which they staked their illusory hopes were not forthcoming. Sharp Notes of the British and American Governments were sent to Warsaw in August 1946 expressing concern about the "irregularities" of the Referendum and the "oppressive acts which prevent normal democratic activity". In reply the Warsaw Government sent a rebuff protesting against "this infringement of Poland's sovereign rights" and accusing them of "interference with Poland's internal affairs".

Preparations for the Elections went on to the accompaniment of abuse mounted by the Government controlled Press agitating against the opposition and denouncing them as "traitors and anti-democrats". The unfortunate wording of the Yalta Declaration that "all democratic and anti-Nazi parties shall have the right to take part in the Elections and put forward candidates", served as ammunition in this well organised opposition-killing, pre-Election campaign. Consequently practically everybody who was not a person grata to the Soviet-style democrats could be (and actually was) stigmatised as "anti-democrat and pro-Nazi". The opposition papers, especially the organ of the Peasant Party "Gazeta Ludowa" was subjected to censorship and suffered in the allocation of paper.

The most important move in staging the Elections was the organisation of a Government Bloc. This measure aimed at deciding the issue before the actual voting took place. Of course, only the "democratic parties" (i.e. those approved by the Government) could put forward candidates. Now they were invited to join the Bloc which would allocate them their number of seats in the future Parliament: The Peasant Party was told that if they joined they would receive 25% of ^{the} seats, and if they did not only 10%^x;

x Mikolajczyk, op. cit. p.190

the actual numerical vote would thus be without importance. If this had happened, Communists and their associates would have received 75% of seats, whereas the opposition would be granted only 25%. One can easily imagine what kind of Parliament it was to be if this was arranged before the citizens went to the polls.

Whilst the Peasant Party was invited to join the Bloc the Christian Labour Party was by a simple process wiped out of the political scene.^x Its Chairman was replaced by a Government man and a motion of expulsion was tabled against members holding mandates in the "Temporary Parliament". In face of the Government's overwhelming majority and having no hope of saving their seats, they walked out of the Chamber.

The new Electoral Law was superficially based on the Constitution of 1921, which provided for "universal, equal, direct, secret and proportional suffrage". The new Parliament was to consist of 444 members, 372 members to be chosen from 52 constituencies and the remainder (72) from the so-called "State List". State List candidates needed the signature of 500 registered voters to become eligible, other candidates needed 100 supporting signatures.

The most important flaw in the Electoral Law was in the provision with regard to eligibility (Art.2). It debarred from voting and standing for election all those "under accusation of being in contact with the Underground, or having gained material profit from collaboration with the Germans during occupation".

The Government-appointed Election Commissars could, therefore, exclude practically everyone who was a member (or reputed member), or was connected with resistance, or the Home Army as well as those who earned their livelihood in any work under German authorities, mere accusation being a sufficient ground for disqualification. Though the régime professed their adherence to
 x Mikolajczyk, op. cit. p.195

the Constitution of 1921, Art.12 of that Constitution^x was grossly violated, and the question of electoral rights was left to the discretion of Government appointed officials who, on the basis of the elastic and vague provisions of the Electoral Law, were to be guided by political, not legal principles. Accordingly the Government Press and Radio accused the Peasant Party of contacts with the Underground and Mr. Radkiewicz^{xx}, the Minister of Security and chief of the régime's N.K.V.D. system, suspended on June 6, 1946 four branches of the Peasant Party whom he charged with collaboration with the W.I.N. and N.S.Z.^{xxx}

The geography of the Elections was also arranged in favour of the régime, since in certain districts 20,000 votes sufficed, to secure a seat, whereas in other constituencies even as many as 120,000 votes were needed.^{xxxx}

The attempt to organise an all-party supervision of the Elections was turned down by the Communist dominated "Temporary Parliament"^{xxxxx}.

The Peasant Party decided not to join the Government Bloc and continued the contest on its own. As a reaction the Communist terror concentrated on the Party. A list of 26 protests against this terror^{xxxxxx}, constituting a heavy indictment of the Government methods, placed before the "Temporary Parliament" was ignored. Mr. Mikolajczyk then appealed directly to Mr. Stalin^{xxxxxxx}, and when this was without effect to the remaining signatories of the Yalta Declaration (December 1946). He revealed that, as of December 1, 1946, 670 members of Peasant Party local executive committees, 147 members of district committees, 7 members of provincial committees, 22 members of the Supreme Council of the

x By Art.12 a citizen could be disfranchised only by a court sentence, grave crimes enumerated in the old Electoral Law being the reason for disqualification.

xx R. Betts, Central and South East Europe (1945-1948), London, 1950,¹³⁹

xxx Two Underground organisations who did not take advantage of the "Amnesty" of August 2, 1945 and remained secret.

xxxx Mikolajczyk, op. cit. p.196; xxxxx Mikolajczyk, ibid. p.197

xxxxxx Mikolajczyk, ibid. p.198; xxxxxxx Mikolajczyk, ibid. p.399

Party and thousands of ordinary members were imprisoned^x. These facts naturally weakened the forces of the opposition.

To add some spice to the monotonous process of pre-Election oppression some trials were arranged on great publicity lines chiefly to implicate not only the Peasant Party and the Underground, but also the United States and Great Britain. First of them was the trial of Mme Dmochowska, an employee of the U.S. Embassy on charge of having attempted to smuggle out of the country the murderers of the General Secretary of the Peasant Party Boleslas Scibiorek^{xx}, murdered in fact by the Security Police on December 5, 1945^{xxx}. Then Baczak and Grocholski were tried and sentenced to death for passing secret information to the British Ambassador. Baczak was a member of the Peasant Party Youth organisation "Wici" and Count Grocholski a personal friend of the British Ambassador Mr. Cavendish-Bentinck; the former was executed for "revealing to the Ambassador details of the Polish-Soviet Trade Agreement", the latter for "acting as a liaison officer between the British Embassy and the Underground". The third trial of Col. Rzepecki^{xxxx} was directed against the already disbanded Home Army, which was accused of "persisting in fighting the Provisional Government". In the fourth trial on the eve of the Elections^{xxxxx} Col. Lipinski was accused of "carrying a letter to Mr. Mikolajczyk advising him to boycott the Elections".

In the meantime the Central Electoral Commission under the chairmanship of Mr. Bzowski began its work. The communist chairman appointed chairmen of the District Electoral Commissions and their deputies, who in turn appointed 5200 Local Electoral

x Altogether some 100,000 persons were imprisoned and some 200 members of the Peasant Party murdered, Kusnierz, op. cit. p. 257.
 xx Mikolajczyk, op. cit. pp. 166 and 203; cf The Times, 6.11.1946
 xxx New York Times, November 20, 1946
 xxxx New York Times, February 4, 1947
 xxxxx The Scotsman, January 9, 1947

Commission chairmen and an equal number of deputies. To secure their supervision the communist-controlled Presidium of the National Councils then appointed three members and three deputies in each Constituency and every local Commission. Where they did not hold a sufficient majority they first effected expulsion of the non-communist members of the National Council and then duly appointed their nominees^x.

The Electoral Law provided only ten days for the submission of lists of candidates and those had to be supplied with signed statements and details of the candidate's past. The Commissions were empowered to strike out the names of candidates and annul the signatures if they thought the candidates or their sponsors were not eligible under the elastic provisions of the Electoral Law. The effect of this manipulation of the Electoral Law was that in eleven out of 52 Constituencies candidates of the Peasant Party were excluded, a total of about two million electors were struck of the registers and 246 candidates from the Electoral Lists^{xx}. The annulment of lists of candidates in 76 districts with a decided opposition majority gravely prejudiced the result of those "free and unfettered elections".

To confuse the issue the régime created at the last moment another party which ran under the name of the "Polish Peasant Party - New Liberation"^{xxx} (the name of the genuine Peasant Party was the "Polish Peasant Party") and entered outside the Government Bloc. Besides that another "Peasant Party" (so called "People's Party") appeared on the lists as well, this being already a member of the Government Bloc.

In this turmoil the genuine Peasant Party fought against enormous odds, but were confident of securing a substantial number

x This was the case in Poznan province.

xx Figures from Kusnierz, op. cit. p. 258

xxx A false "Socialist Party" was also created by the régime, see Lane, op. cit. p. 71

of seats. To prevent further intimidation their lists of candidates were withheld, to be delivered to the 52 Constituency Commissions at the last moment. The Peasant Party members of the "Temporary Parliament", protected by their immunity, were to be used to deliver the lists, but even this immunity was not honoured and four of them were arrested^x.

Even the Army was employed in the pre-Election campaign on behalf of the régime. Its Chief of Staff (a Russian general named Korczyc) issued an order^{xx} to "form and train Defence and Propaganda Units to fight the Peasant Party". He instructed the Army to organise mass-meeting and attack the Peasant Party along the following lines: ".members do not pay taxes or offer public rehabilitation services; they support the Underground gangs; they soon will be liquidated by the Government"... Discussions had to be kept hostile to the Peasant Party and anybody "asking undesirable questions" or defending the Peasant Party had to be shouted down as an "instigator, provocateur and hostile towards the Government and the State".

In such conditions the régime could not possibly lose the Elections and from the account of what happened on the polling day (January 19, 19~~47~~^{xxx}) one can only infer that the result of the masquerade organised two years after the Yalta Conference had no bearing upon the actual situation.

Foreign correspondents anticipating the result already at the beginning of January 1947 announced that the Elections would constitute a mere formality (Miss Marguerite Higgins^{xxxx} on January 2, 194~~7~~ in her dispatch from Cracow to the New York Herald Tribune: ".The outcome is being decided now. To ensure its victory, the left-wing bloc in the government is conducting

x Mikolajczyk, op. cit. p.

xx Mikolajczyk, ibid. full text of the order, pp. 342-344

xxx Mikolajczyk, ibid, p. 219 et seq

xxxx quot. by H. Chamberlin, The European Cockpit, New York, 1947,
/p. 266

mass-arrests,disfranchising opposition voters and arranging in many places for evasion of the secret ballot provisions"...and Mr.Sydney Gruson^x so cabled on January 3 from Warsaw to theNew York Times:"..Mass-arrests of members of the Polish Opposition party,intimidation of anyone and everyone who might be unwilling to accept Communist leadership and the ban on the candidacy of some Opposition leaders have reached such a point that voting on January 19,will be meaningless..." The British Daily Telegraph and Daily Herald correspondents also reported several cases of physical violence and intimidation.).

A British enthusiast of the People's Democracy though admitting terrorism at Elections^{xxx} and disfranchisement of the Peasant Party candidates in several constituencies,comes,however,to a startling conclusion that "it is impossible to tell how far the election was fair or unfair"^{xxxx}. The learned lady further adds that "...in reality,of course,the elections had to be won,if the country was to exist"..,quoting Mr.Gomulka^{xxxxx}, that in case of victory by the Peasant Party the country would be plunged into chaos and this would cause Soviet intervention. Miss Warriner apparently mistakes Poland for the Communist clique,who had to win the Elections or go back wherefrom they came.Whether their victory was necessary for the "existence of the country" is very doubtful.There is,however,a good reason to suppose that the country would have been plunged in a civil war if by some miracle the Peasant Party had been allowed to win at the polls.The régime having at hand the Security Police of a considerable strength trained and commanded by the N.K.V.D., as well as the Army under Soviet command,would certainly not
 x Quot.by Chamberlin,op.cit.p.266
 xx cf issues of 3rd and 6th January 1947
 xxx D.Warriner,Revolution in Eastern Europe,London,1950,p.24-25
 xxxx Warriner,ibid,p.25
 xxxxx then one of the leaders of the Polish People's Democracy now deposed for "titoism and ideological deviation".

have abided by the decision at the polls, No direct Soviet intervention would have been necessary, unless Generalissimo Stalin had allowed his troops stationed in Poland and East Germany to be used for a speedy restoration of the communist rule.

History may not repeat itself, but the situation of 1947 greatly resembled that of 1793 when a Russian-sponsored régime was established in Poland under the patronage of Catherine II.^x

The signatories of the Yalta Declaration took cognizance of the facts. Notes from the United States and Great Britain^{xx} declared that those countries did not consider the conditions of Yalta to be fulfilled and the Elections of January 19, 1947 to be a true reflection of the will of the Polish people. Soviet Russia, knowing the results long beforehand and having a different conception of elections, was the only unsurprised and satisfied signatory of the famous Yalta Declaration which indeed introduced a new order in Central and Eastern Europe.

For Poland the Elections^{xxx} were of little importance, her fate having been decided elsewhere. The date of January 19, 1947 marks, however, the final establishment of the communist régime. It is also the closing date of a period of the external consolidation of the People's Democracy.

x cf Lord, op. cit. pp454, 458, 461

xx cf Hansard, House of Commons, vol. 432, col. 1376

xxx According to official figures the Government Bloc received 382 seats, a group of splinter parties collaborating with the Bloc 31 seats, pro-régime "catholics" 3 seats, 1 independent Socialist and 27 Peasant Party Members constituting the Opposition in Parliament.

Chapter 8. Foreign and Indigenous Elements in the Introduction
of the People's Democracy into Poland.

Vienna and Yalta. To complete the story of the genesis of the Polish People's Democracy let us weigh up the various factors which contributed towards the creation of the system. As one can see from the foregoing pages the foreign element exerted an overwhelming influence all through the process of the elimination of the Constitutional Authorities and introduction of the new régime. In this respect relevant international decisions can well be compared with the Congress of Vienna (1814-1815), which in the history of Poland bears the name of the fourth partition. Though the result of Vienna and Yalta was more or less identical - Russian domination over a mutilated Poland - there are some salient points to note.

The Congress of Vienna gathered to put Europe in order after Napoleon's eclipse, Yalta was a war-time conference with a purpose of giving the finishing touches to the machinery of victory and bringing peace to the troubled world after the Axis had been broken. In both cases the subject of Poland occupied quite a substantial part of the time-table. Yet in 1814 Poland was an "enemy state" whereas in 1945 she happened to be one of the earliest allies on the victorious side. In neither case were Poles represented: at Vienna Viscount Castlereagh objected to Count Czartoryski advising the Tsar on Polish questions and at Teheran Sir Winston Churchill^{xx} suggested to Mr. Stalin that Poles ought to be excluded from the discussions. (If Mr. Stalin disagreed a thorny question would have arisen as to which "Poles" to invite, since he did not want to have anything to do with the Constitutional Government.) At the Vienna Congress Poland had no treaty with Britain but had the warm support of the British people, during the second x C. Webster, The Congress of Vienna (1814-15), London, 1934, p. 58
xx Sir W. Churchill, Memoirs, vol. V. p. 319-20

World War there was a bilateral treaty in force and British public opinion swayed in favour of Russia. Castlereagh only vaguely desired the independence of Poland^X and wanted to appear as little responsible as possible for Polish partitions^{XX}, Sir Winston was a champion (in his particular way) of what he used to call a "strong and independent Poland", but, much to Polish bewilderment, insisted on arbitrary fixing of Poland's frontier which incidentally tallied with Russian demands. In constitutional matters Castlereagh was not concerned with the system, but in a Russian-sponsored constitution he saw an instrument of domination^{XXX}. Sir Winston, on the other hand, seems to have ignored the significance of a national constitution, readily agreed on Soviet "leadership" on the continent and fallen for the prerogative of a big power to select "friendly governments" for its small neighbours.

Castlereagh in discussions on Poland had to deal with three powers each trying to enhance its position at the expense of Polish territory. Sir Winston had to cope only with Soviet demands, but had at his side a very dubious asset in the person of President Roosevelt, who favoured Stalinist plans and sometimes (which makes sad reading to-day) used his wit to amuse Marshal Stalin at the expense of his British colleague.

In the second World War conferences, as much as in Vienna^{XXXX}, a powerful trump card in the Russian hand was the fact of their military occupation of Poland, and in each case they used it accordingly.

Agreement in Vienna on Poland served the purpose of bargaining for compromise with regard to Saxony^{XXXXX}, similarly from 1943 to 1945 every loss suffered by the Polish nation facilitated cordial co-operation of the Big Three in other matters.

x Webster, op. cit. pp. 99 and 120; xx Webster, ibid. p. 79
 xxx Webster, ibid. p. 99-100 ; xxxx Webster, ibid. p. 101
 xxxxx Webster, ibid. pp. 112 and 118-120

Polish Contribution. Contrary to ^{the} war-time belief indulged in in certain quarters^x that the only salutary way to save Polish independence was to pursue an opportunistic policy, a compromise, if achieved between the Constitutional Government and the ruler of Russia, would have produced even in the best conditions a replica of the Rumanian situation. To come to terms even with the "most reactionary and capitalist" régime is not repugnant to the tactics of Marxism-Leninism as expounded and applied by the late Joseph Stalin, the "contradictions" faced by such a régime only precipitating the inevitable - the proletarian revolution. Had, therefore, the London Poles followed the salutary advice they were urged to accept, they would have only made their own ropes. Since they refused to co-operate on the terms dictated by Marshal Stalin the rôle of the architects of the new reality had to be undertaken by persons trained for "revolution" and those willing to take the chance in the ensuing opportunity. Since it is difficult to speak of national allegiance in ^{the} case of a militant member of the Communist Party, the Polish indigenous contribution is comparatively small, in fact, it may be quite fairly assessed by a glimpse at some of the founders of the post-war régime.

The leader of the Communist movement from 1942 onwards has been Mr. Boleslas Bierut, born in 1892 in Lublin as Boleslas Krasnodebski. (His present name "Bierut" is derived from aliases "Bienkowski" and "Rutkowski", previously used in the capacity of a Kremlin agent in Poland^{xy}.) An avowed communist from his early youth Mr. Bierut received his political education in Moscow, was active in Poland between the two wars, jailed for activities prejudicial to the safety of the state, and as a Soviet citizen exchanged for a Polish prisoner. According to his official biography Mr. Bierut travelled widely abroad, studying languages
 x see pp.107-109 ante
 xx M. Ebon, World Communism Today, New York, 1948, p. 52-3

and economics and suffered imprisonment for his anti-fascist convictions^x; according to the pre-war Polish Minister of Foreign Affairs^{xx} he also directed the Polish section of the Comintern in Prague, contributing through its activities to the state of permanent friction between Poland and Czechoslovakia. He became the Chairman of the Communist "Home National Council" created on December 31, 1943, was the President of Poland until the Constitution of 1952 and henceforth is the Prime Minister.

Mr. Ladislas Gomułka (born in 1905) distinguished himself between the two wars as a communist agitator in the oil district. Wounded in 1932 during a skirmish with the police, he was later convicted for conspiracy against the state, but transferred to Russia on exchange of political prisoners between the two countries. He secretly returned to Poland in 1936, was caught by the police and imprisoned. Released on the outbreak of the war he quickly rose in the ranks of the Workers' Party of which he became General Secretary. In the post-war régime Mr. Gomułka occupied the post of vice-Premier, Minister of Regained Territories and Secretary to the Cominform until deposed in 1948 and imprisoned by his own colleagues^{xxx}.

In the People's Guards prominence was achieved by Mr. Marian Spychalski (born in 1906), an architect by profession who rose to the rank of general and became vice-Minister of Defence. Deposed after the Gomułka schism he is still in gaol, making occasional appearances as prosecution witness in political trials^{xxxx}.

The command of the Army was originally given to Michał Rola-Zymierski, recte Lyzwinski (born in 1890) an ex-general of Pilsudski's Army whose career began in Pilsudski's Legions was

x The International Who's Who, 1952, London, p. 33

xx Beck, op. cit. p. 52

xxx see p. 216

xxxx cf The Times, August 3, 1951

interrupted by dismissal in 1927 upon conviction for bribery.^x Appointed Marshal on May 3, 1945 he was the Minister of Defence and C. in C. until replaced in autumn 1949 by the Russian Marshal Rokossovsky.

Mr. Edward Osobka-Morawski (born in 1909) earned his living before the war as clerk and rent collector. He joined the Socialist Party in 1930 but achieved no position of importance. During the war he was active in organising the R.P.P.S. formed in 1943 as a rival organisation to the Socialist Party (P.P.S.). To the general surprise he emerged in 1944 as the "socialist" Chairman of the Committee of Liberation and became Prime Minister in the Provisional Government of National Unity. After the Elections of 1947 Mr. Morawski was given the post of the Minister of Public Administration, but being a mere figurehead he simply faded away into oblivion.

Mr. Joseph Cyrankiewicz (born in 1911) was a law student before the war. During the war he was active in the Socialist W.R.N. but in 1941 was captured by the Germans and kept in a concentration camp until the war ended. He was a Minister without Portfolio in the Provisional Government and took over the premiership in 1947 which office he held until 1952. After the reshuffle necessitated by the new Constitution Mr. Cyrankiewicz became one of the eight vice-Premiers in Mr. Bierut's government.

Jacob Berman (born in 1901) received his political education in the Moscow People's Military Political Academy. An exponent of the Stalinist military doctrine Mr. Berman published in 1928 in Russian a treatise on the strategy of the Communist Party and before the war he served as a link between the Red Army and the Military Section of the Bolshevik Party on the one hand and the Polish Communist Party on the other. In the Provisional Government he occupied the post of Under-Secretary of State x sentence published in the "Rzeczpospolita" (No. 247) of September 6, 1927.

for Foreign Affairs. On the reconstruction of the Government in 1947 Mr. Berman became Under-Secretary of State in the Premier's office and responsible for the work of the Ministry of Propaganda when its jurisdiction was transferred to the Premier's office. Mr. Berman is known as the "eminent grise" of the régime, occupies the key position in the inner circle of the Government (the so called Presidium of the Government) and enjoys a reputation of great authority on Marxism-Leninism.

The Ministry of Public Security was from the very beginning of the régime in the hands of Mr. Stanislas Radkiewicz (born in 1903). Before the war he was active in the communist youth organisation, was sentenced to four years imprisonment in 1927 for anti-state activities and, in 1932 went to Russia. The subsequent period of nine years of his life remains obscure, but Mr. Radkiewicz was known in 1941 as holding a commission in the N.K.V.D. During the formation of Polish units in Russia under the communist control Mr. Radkiewicz reappeared as a colonel charged with political education in one of the artillery regiments and later entered the political scene in the rôle he still plays.

The economic dictator of Poland Mr. Hilaire Minc (born in 1903) studied law and economics in Poland and France. In 1928 he was expelled from France as an undesirable alien and subsequently worked in Warsaw as a statistician. He was an active communist before the war, and during the war was for some time lecturer in the Russian University of Samarkand. He appeared in the Polish Army as a political officer in the rank of lieutenant-col. and in the Committee of Liberation took charge of the economic section. At present he is vice-Premier and head of the economic section of the Government comprising several Ministries and the Planning Commission.

Foreign affairs were during the epoch of the Provisional Government in the hands of Mr. Vincent Rzymowski (born in 1893)

a writer and journalist, expelled from the Polish Academy of Literature in 1937 for plagiarising Bertrand Russell. In 1947 he was succeeded by Mr. Sigismund Modzelewski (recte Fischaupt, born in 1900) who like Mr. Minc studied and developed communist activities in Poland and France and during the war was a political officer in Russia.

The present Minister of Foreign Affairs is Mr. Stanislas Skrzyszewski (born in 1901), formerly Minister of Education. Before the war he was a school master and in 1937 became assistant lecturer in Cracow University. During the war he was in Russia where he joined the Committee of Patriots.

An important personality in the Foreign Office was Mr. Victor Grosz (recte Isaac Medres, born in 1900) who acted as the Press dictator of Poland before he became Ambassador in Prague. Though he never served in the Army Mr. Grosz appeared first as colonel in the Army in Russia and in 1945 arrived in London as a general with the mission of bringing home the Polish Army from abroad.

The Ministry of Justice has been from the beginning under the control of Mr. Henry Swiatkowski (born in 1896). A barrister before the war he joined the Socialist Party in 1923 and was elected to Parliament in 1928 and 1930. Under his guidance the Administration of Justice has been undergoing a radical change.

The office of the Speaker of the first post-war Sejm (1947-1952) was occupied by Mr. Ladislas Kowalski (born in 1894). Active in the Communist Party he endeavoured on his return from Moscow in 1924 to organise an "Independent Peasant Party", but since that party was banned he had to content himself with his former activities. Under the auspices of the Liberation Committee Mr. Kowalski's ambitions succeeded and he formed a new Peasant Party^{as a} rival to the genuine Peasant Party headed by Mr. Mikolajczyk.

The deputy-Speaker was Mr. Roman Zambrowski (recte Nusbaum, born in 1909), who in his early youth started his communist

apprenticeship and consequently fell in collision with the police. Nothing is known about him during the 1931-1941 period, but he held a commission in the Red Army from 1941 to 1943. Transferred to the Polish units in 1943 Mr. Zambrowski became their chief political officer.

Another important personality was Mr. Edward Ochab (born in 1905), whose ascendancy in the régime became particularly marked within the last years. A communist, trained in Moscow from 1932 to 1936, he spent much of his time in gaol before the war. He was a political officer during the war and has recently been promoted to the rank of general. Appointed to various functions, including the post of vice-Minister of Defence, Mr. Ochab has particular merits in reorganising the Party (of which he is now General Secretary) and strengthening the party discipline.

The leading personalities of the régime with few exceptions graduated from the ranks of the Communist Party, went through a period of subversive activities, completed their training in Soviet Russia and emerged from obscurity as "leaders" of the nation. Comparatively young they tasted the hardship of imprisonment and endured the lot of being hunted as secret agents of a foreign power. Their ideology as well as their allegiance to Soviet Russia is beyond question since to those two factors they owe their elevation^x. Looking at their social and professional background one can see only in isolated cases (e.g. Gomulka) a real "proletarian" among them, the majority being professional "revolutionaries" and frustrated members of the intelligentsia.

Theories. The study of the conditions in which the present régime became established seems to point inevitably to imposition of the system of People's Democracy as an incident to the conquest of Poland by the Red Army and the result of the diplomacy of the late Joseph Stalin. There was no revolution in the accepted x Several distinguished Polish communists were liquidated in Russia during the great Trotskyite purges.

sense of the word meaning a rebellion or deposition by force of the existing régime, not even a serious clash between the two opposing native forces. Though the changes in the way of life that followed the seizure of power by the Communists bear "revolutionary" features (violence, complete transformation of all aspects of life, arbitrariness of the Executive and the like, they are only characteristic of the method adopted after the change of the political system was completed. The present rulers of Poland do not claim to have won their positions at the barricades at the head of the revolted proletarian masses; they do not claim to have worked their way through by means of parliamentary procedure, as sometimes alleged by certain speakers in Britain who maintain that they have been "put into power by the people". On the contrary, whilst paying their customary homages to Soviet Russia and her genial leader Joseph Stalin, they frankly admit that only by means of the machinery of the Soviet assistance was it possible to establish the system of People's Democracy. Though the imposition took a peculiar form in that it resulted from international decisions, the theory of imposition was subtly stated in the preamble to the Constitution of 1952 in following words:.. "the history-making victory of the Soviet Union over fascism liberated Poland, enabled the Polish working people to seize power and created the conditions for national regeneration within new, just frontiers".

- x Bierut, Podstawy Ideologiczne P.Z.P.R. pp. 38, 39, 46, 47, 51, 52, 53
 J. Cyrankiewicz, *ibid.* pp. 72, 81, 107
 Ideological Declaration of the United Party, *ibid.* pp. 135 and 133
 F. Fiedler, Uwagi w Sprawie Powstania i Rozwoju Państwa Demokracji Ludowej w Polsce, Nowe Drogi, Warsaw, 1950, No. 2, p. 128
 M. Spychalski, O Jedności Tradycji Zjednoczonej Partii, Nowe Drogi, 1948, No. 12, p. 40
 R. Zambrowski, *op. cit.* p. 123
 A. Zawadzki, Rola Związków Zawodowych, Nowe Drogi, 1949, No. 3, p. XXVII
 cf also Russian writers: N. Farbierow, O Charakterze Państwa Demokracji Ludowej, Nowe Drogi, 1949, No. 3, p. 159; A. Sobolew, Demokracja Ludowa jako Forma Politycznej Organizacji Państwa, Nowe Drogi, 1951, No. 5, p. 89-90

In contrast to the theory of imposition we have for the sake of comparison to quote other theories. A distinguished American writer in a provoking book seems to ascribe the genesis of the Polish People's Democracy to a fusion of the "London Government with the Lublin Government^x" (... "Finally the two were merged on June 28, 1945 into what was called the Polish Provisional Government"...). Commenting on the organisation of the state he asserts that... "only the Communists were thoroughly trained and efficient" and assumes that... "people turned to them out of despair and idealism^{xx}"... Since the book was the result of a few weeks journey through Central and Eastern Europe it would be charitable not to make any comment.

Out of British publications three books are of particular interest here. "The East European Revolution", by Prof. H. Seton-Watson appears unassailable, whereas to the remaining two, "Revolution in Eastern Europe", by Dr. D. Warriner and "Central and South East Europe (1945-48)" edited by Prof. R. Betts one can lodge objections of serious inaccuracies and irrational rationalism. Both the latter publications seem to advocate (though by no means in certain terms) what one might call a theory of "reaction against the pre-war régimes". Miss Warriner writes that since 1945 there has been a revolution in Eastern Europe against "bad Government and German domination, against nationalism and economic stagnation^{xxx}". This attempt at classifying history into "bad and good things" Miss Warriner amplifies by a sweeping statement that "East Europe was fascist ruled" and that the "fascist régime of Poland was headed by Beck^{xxxx}". A few pages later, however, we are told that the "government of Poland was a semi-fascist military dictatorship", which does not seem to be quite the same, but the learned writer does not trouble herself to substantiate those rather unwarranted statements
 x J. Gunther, Behind Europe's Curtain, London, 1949, p. 251
 xx *ibid.* p. 254; xxx D. Warriner, Revolution in Eastern Europe, London, 1950, p. XIII; xxxx *ibid.* p. IX

Speaking of the genesis of the post-war systems Miss Warriner writes that... "as the Red Army advanced in 1944-45 the existing fascist governments were overthrown and their place was taken by National Front Governments, representing the Communist, Socialist, Peasant and Liberal Parties". Again it would be useful to know by whom (if so) were those governments overthrown, and how far the learned writer went to study the composition of what she calls "National Front Governments".

Betts Professor Bett^{XX}s whilst speaking of revolutions states that the "Red Army had to bring to Poland new government because Poland was destituted of any government". This benevolent act of the Red Army implies, of course, a complete constitutional vacuum, which, however, was not the case.

To debunk the theory of revolution or reaction against the "bad past" it is sufficient to quote the highest authority on the Polish People's Democracy, Mr. Bierut^{XXX}, who expressly disclaimed its genesis by revolution.

Economic and Social Factors. Had a revolution taken place the economic and social factors might have determined the form of government, which was by no means predictable in 1944-45 and need not necessarily have followed the footsteps of the Bolshevik Revolution.

The Versailles Poland, in Lord Keynes' opinion was an "economic impossibility" faced with impending bankruptcy^{XXXX}. The reconstruction and consolidation of the country exploited by three foreign powers for more than a century and devastated by war which started in 1914 and ended only in 1920 was not a task for one generation. Poland, the ancient Baltic power, had to build her own

x Warriner, op. cit. p. 1

xx R. Betts, Central and South East Europe (1945-48), London, 1950,

xxx Bierut, op. cit. p. 52

xxxx J. M. Keynes, The Economic Consequences of the Peace, 1919, vol. I. p. 75

xxxxx Keynes, ibid. vol. II. p. 231

v.

artificial port having the burden of the Danzig anomaly on her shoulders and in the north her possessions narrowed to a corridor of the Vistula. Economic problems, the chief of which was industrialisation of this predominantly agricultural country, were tackled as soon as stabilisation was achieved. By the scheme of 1936 a central industrial area covering one sixth of the country and embracing one seventh of its population was begun, further plans going as far as drainage of the Fripet Marshes. Due to this progress the index of industrial production rose in the period from 1936 to May 1939 from 94 to 125,8.

The unification of a country divided by partitions into three separate sections presented another problem of^a mixed political, economic and social character. The Versailles decisions coupled with the failure of the Polish plans for a federation paved the way for a national state burdened with minorities and tied down by the Minorities Convention. The Convention, (which, however, did not apply to Germany), was nowhere observed, but proved a propitious ground for friction and meddling with foreign home affairs. Jews^{xx} and Ukrainians were the largest minorities in Poland, the former notwithstanding their clamours abroad that the treatment they received stopped short only of mass murder, within twenty years almost doubled their numbers (about 2,7 million in 1921, against 4,1 million in 1939), swarming into Poland from the neighbouring countries. A Polish plan to settle part of them in Madagascar^{xxx} failed for lack of international support. Ukrainians, after their co-operation with Pilsudski to form an independent Ukraine federated with Poland had proved a fiasco, were torn between German promises to render assistance in forming a free Ukraine, and communist agitations. On the other hand the x F. Zweig, Poland between Two Wars, London, 1944, p. 80

(xx) Beck, op. cit. p. 140

(xxx) Jews were engaged mainly in free professions and commerce and trade. Jewish farmers or labourers were a great rarity. cf W. Kamieniecki, Les Minorités Nationales en Pologne, 1929, p. 140
 xxxx due to the victory of Bolshevism in Russia the plan failed

Polish policy of assimilation only led to frictions and dissatisfaction. That state of affairs produced riots and terrorist activities which culminated in the assassination in 1934 of Minister Pieracki and Deputy Holowko and caused a military pacification of certain areas. Poland failed to solve her minorities problem and the ancient rule "gente Ruthenus, natione Polonus" was not restored to its original meaning.

According to the statistics of 1931 the gainfully occupied population was divided into agriculture (64,9%), mining and industry (15,1%), commerce and insurance (2,1%), other occupations totalling 13,1%. A characteristic feature was a relatively small proportion of wage-earners as compared with the class of employers and independent workers^x. The so-called "industrial proletariat" was not numerous whereas the peasantry constituted the bulk of the population. The agrarian reform, initiated already in 1920, could only partially solve the problem, the real answer being industrialisation of the country and shifting the surplus village population to new industries. This meant in practice building new factories and overcoming a certain opposition from the landthirsty peasant, since the prospect of migrating in order to become^{an} unskilled labourer hardly appealed to his conservatism and a sense of relative security afforded by the possession of land. Only a régime like that in existence today which has seized total power both politically and economically, and whose conscience does not prevent it from applying drastic measures, is in a position to alter radically the social and economic structure of the country.

Pre-war Poland can pride herself on progressive industrial and social legislation which, however, made her a welfare state with the inevitable étatic outlook. The government achieved vast controls over the national economy facilitating central industrial planning, but at the same time curbing free enterprise
 x Zweig, op. cit. p. 48

and promoting direct ownership by the state.^x

The decline of parliamentary rule was to a great extent the result of economic difficulties in as much as the rise of Pilsudski's autocracy since 1930 coincided with the world slump. Pilsudski's régime (1926-1935) was based on ~~an~~^{vague} socialism mingled with a general tendency of reviving the tradition of Poland's grandeur. This together with the traditional respect for possession of land led to ^{the} eulogy of the dashing qualities of the "szlachta", the chief support of the ancient kingdom, which fact was rather crudely interpreted by several foreign writers as the "reactionary rule by the szlachta".

An example of this free interpretation of Polish past and present history is the following passage by Prof. Betts:.. "Gone is the ancient and dishonoured monopoly of wealth and power by the Szlachta and the land of Poland belongs to those who work it. The works of Marshals Pilsudski and Rydz-Smigly is rejected as decisively as that of the Szlachta, and here too a people whose whole history since the time of Boleslas of the Wry Mouth has been one long struggle with Russia has now adopted the ideology of the Power which guarantees her new frontiers"^{xx}...

Had the communist conspiracy materialised into the seizure of power by means of revolution the economic and social conditions of Poland would have probably contributed to the formation of the political régime and certainly produced popular leaders. Since, however, this was not the case they can only be taken into account for theoretical and propaganda purposes. Experience during the last war proved that communists could successfully seize power only in countries where the machinery of state was destroyed by external causes and were only able to maintain power with the effective assistance of Soviet Russia.^{xxx}

x According to Zweig (op.cit.) already in 1927 about 12% of the national wealth was in the hands of the state.

xx Betts, op. cit. p. 197-8

xxx Opinion expressed by J. Stalin in letter to Marshal Tito, cf The Daily Telegraph, July, 25, 1952 (article by Mr. Padev)

Origins of the People's Democracy in Other Countries. Comparing the origins of the People's Democracies (the Baltic States excepted) it is difficult to find the actual genesis of any two identical, though the effect and development seem everywhere the same.^x

Of the countries concerned only Czechoslovakia and Rumania were left for a while under their former régimes. Rumania changed her allegiance from Germany to Russia in August 1944 when King Michael caused the arrest of Prime Minister Antonescu and the appointment of Mr. Satanescu in his place. Subsequent governments changed under Russian pressure and the King was forced to abdicate in December 1947. Czechoslovakia in theory fell into communist hands by a coup d'état staged in 1948, whereas in actual fact the communist rule was a result of the opportunistic policy of Dr. Benes and Jan Masaryk, previously rewarded by Marshal Stalin with a three year tenure of office for their choice of going home via Moscow.

Hungary was conquered by the Red Army, but no communist régime was first established. In the elections of 1945 communists received only 17% of the votes, the Smallholders' Party under the leadership of Mr. Nagy achieving the majority (57%). The communists, however, gained predominance and in the 1947 elections emerged as the largest party. In Bulgaria the pro-German régime collapsed in 1944 with the approach of the Red Army. An attempt by Mr. Muraviev to organise a moderate government failed since Russia declared war on Bulgaria and "conquered" the country, Bulgaria being for 24 hours at war both with Germany and Russia. Under the Red Army occupation a "Fatherland Front Government" dominated by communists was formed.

Albania became a People's Democracy with the assistance of Yugoslavia whose Marshal Tito helped the communist Mr. Hoxha to seize Tirana and establish his government. The People's Democracy x Yugoslavia after her expulsion from the Cominform excepted.

of East Germany was a direct result of the Soviet occupation.

Yugoslavia and Poland bear a certain resemblance in so far as there developed there, during the war, two opposing camps. Yugoslavia fell into Marshal Tito's hands when the Allies decided to drop General Draga Michajlovich and the monarchy in favour of Marshal Tito supported by Russia. In distinction, however, to Poland Marshal Tito won his position in actual fight and managed to sway to his side a great part of the Yugoslav people. The Polish People's Democracy, on the other hand, was a direct result of international decisions and the conquest of the Red Army.

Part III. Legislative Foundation of the People's Democracy.

Chapter 9. Early Legislation.

The introduction of the People's Democracy into Poland was effected in two ways: firstly (external) through the process of international relations and the elimination of the Constitutional Authorities, and secondly (internal) through the process of "legislation" which immediately became binding upon the advance of the Red Army.

In this chapter we are going to deal with legislation made chiefly behind the Red Army lines by a small body of men at a time when the constitutional Government still functioned and enjoyed international recognition.

From the point of view of the pre-war Polish Constitutional Law such "legislation" must be condemned as null and void. From the point of view of the general principles of Constitutional Law the matter seems controversial and therefore of theoretical interest. It is obvious that since it was made by a body which finally seized power and continues to hold office this "legislation" could not, and indeed would not, be repudiated by that body as "unconstitutional".

If the term "revolution" were the correct description of the process by which the change of the political system in Poland was effected, we could draw a parallel between the Communist Group and a revolutionary political faction. In such a case the "legislation" of the Communist Group would resemble the pre-revolution "legislation" of the revolutionary faction, adopted after the

x The Communist Home National Council (K.R.N.) consisted of 30 persons, Kusnierz, op. cit. p. 172; and Scaevola, op. cit. p. 68

successful revolution. In the meantime it would have to be regarded as the programme of the revolutionary faction and only an express adoption by the competent post-revolution authorities (i.e. a Dictator or Parliament) would elevate it to legislation proper and make it the law of the land. No revolution in the accepted meaning of this term took place in Poland, but nevertheless, though the Communist Group may be described for this purpose as a "revolutionary faction", their pre-revolution programme was never submitted to the nation, but was given the force and authority of normal legislation as if it had been passed by the constitutional bodies in the form prescribed by the Constitution.

The explanation of this somewhat peculiar situation lies in the fact that the Communist Group from the very moment of their self-appointment considered themselves the legitimate authorities and usurped dictatorial powers, which they effectively used to alter the political and economic structure of Poland to suit their purposes. They printed their own "Journal of Laws" and this was deemed sufficient publication^x of their decrees notwithstanding the fact that at that time they neither officiated in Polish territory nor considered themselves as yet "Parliament" and "Government" of Poland. The Supreme Court whilst deciding the question of ^{the} validity of the laws so enacted stood on the principle of the unbroken continuity of the Polish state^{xx}, and went even as far as to declare certain decrees binding from the date of their enactment, in former German territories given to Poland under the Potsdam Agreement, in spite of the fact that those decrees were never formally published in those territories and were made before the Potsdam Conference.^{xxx}

x See Reports of Decisions of Supreme Court (Criminal Chamber), Warsaw, 1945-45, vols. I and II, cases No. 35, 43

xx Reports, *ibid.* case No. 43

xxxv Reports, *ibid.* cases No. 51, 52 ; and Reports, 1947, vol. III, case No. 72

Besides that, bearing in mind the attitude of the Marxist philosophy towards the state, ^xlaw, ^{xx}and ^{xxx}constitution, they considered legislation a mere instrument of class (or party) domination and really never bothered with the formal intricacies of the law. Therefore, before the Big Three decided in Yalta to recognize the Communist Group as the nucleus of the new Administration, the blueprint of the future Constitution was already prepared and its principles laid down in the form of laws and decrees. The hope of the Western signatories of the Yalta Agreement that Poland would be given a fresh start was thus illusory, since a considerable body of law manufactured by the Communist Group was even then in existence, this law, as we shall see later, prejudicing the constitutional issue in favour of the establishment of the People's Democracy.

The fact that this legislation was not submitted to the nation either by means of a popular ^{xxxx}vote or by parliamentary approval can be accounted for by the purpose of this legislation, which was designed to bring into the country ready-made forms of government and give legal powers into the hands of the Administration before this Administration itself was established and recognised by the Powers. It presented the nation with accomplished facts and gave the imported Executive powers of compulsion backed by alleged statutes.

The legislation we are about to review does not consist of statutes directly amending the existing Constitution. It consists of laws and decrees which owing to their nature and purpose "bear upon the Constitution" by affecting individual rights, the relationship between the state and citizen and by bringing about

x J. Stalin, Leninism, London, 1940, p. 32

xx V. Lenin, The State and Revolution, p. 85

xxx J. Stalin, On the Draft Constitution of the U.S.S.R.

(Polish edition), Moscow, 1945, pp. 13 and 18

xxxx The Referendum of 1946 did not touch this question, see, p. 119

a reorganisation of the Administration.

Those laws were enforced in practice, and therefore, no matter the theoretical considerations, they must be regarded as the formal source of the People's Democracy and a part of the positive Constitutional Law. The legislator, in his own words,^x purported to act on the basis of the Constitution of 1921 revived for political reasons, yet, as we shall be able to see, the principles of that charter were hardly applied.

Law implies certain moral values which cannot be totally ignored by a student of political systems. Since, however, a moral evaluation appears to be relative to the individual approach, the laws under present discussion will be left to speak for themselves. At this stage of the development of the system they bear witness to a definite legislative policy adequately explained by historical facts.

Legislation of the K.R.N. The legislation of the K.R.N. (the Communist of the K.R.N. Home National Council) began with a resolution made by that body at its first and organisational session held on December 31, 1943^{xx}. Calling itself into being the K.R.N. claimed to represent the whole country. In this capacity of a "National Representation" it held itself authorised to "legislate, to represent the nation and to appoint the government".

The first legislative act of the K.R.N. was the decree of January 1, 1944, creating the "People's Army" under its own authority^{xxx}. The purpose of this decree was the unification of the communist partisan groups which recognised the K.R.N. (Art. 3) and the incorporation into the "People's Army" of all Polish fighting forces serving abroad, notably Gen. Berling's Army under Soviet command, Gen. Anders' Army in the Middle East and the troops stationed in Great Britain (Art. 7).

^{xx} see (the Manifesto, p. 101 ante

^{xx} attended by some 20 persons, Rozmaryn, op. cit. p. 245

^{xxx} full text, Systematyczny Przegląd, op. cit. p. 423-4

Another decree of the same date^x purported to organise the Supreme Command of the People's Army, consisting of three members (the Commander in Chief, his Chief of Staff and a representative of the K.R.N.).

The third decree issued also on January 1, 1944,^{xx} gave the supreme command to "citizen Rola"^{xxx} (an ex-general of Pilsudski's Army cashiered for bribery^{xxxx}).

In point of fact these three decrees hardly reflected the claims of the Communist Group to have exercised leadership in the resistance work and to have played a prominent part in the fight against the Germans.^{xxxxx} It took them over three years to band together and to issue a decree organising their units, whereas the Home Army existed practically from the very beginning of the war and was then well known for its exploits. They decided, however, to take control and command over the army abroad that had been gathered and organised with such effort by the Constitutional Government. The appointment of "citizen Rola", far from facilitating the process of unification, caused natural resentment in the army abroad and contributed to the bitterness of the ensuing struggle for power.

Then there was a break in the legislative activity of the K.R.N. until July 21, 1944, when two laws were promulgated. One of them appointed the "Polish Liberation Committee" and endowed it with unspecified executive powers, advising it to establish at once its provisional seat in the territory liberated by the Red Army.^{xxxxxx}

Attached to this law was a Manifesto^{xxxxxxx}, whose principal point
 x full text, Systematyczny Przegląd, op. cit. p. 424
 xx full text, Systematyczny Przegląd, ibid. p. 425
 xxx Nom de guerre "Rola" means "arable land"; see p. 132-3 ante
 xxxx see p. 133 ante
 xxxxx of F. Jozwiak-Witold, Polska Partia Robotnicza w Walce
 o Wyzwolenie, Warsaw, 1952
 xxxxxxx Systematyczny Przegląd, ibid. p. 3-4
 xxxxxxxx see p. 101 ante; full text, Systematyczny Przegląd, pp. 5-10

was the repudiation of the Constitution of 1935 and declaration of loyalty to the Constitution of 1921. The aim of the former was obviously to denounce the Constitutional Authorities; the purpose of the latter seems rather obscure. By the arbitrary abolition of the Constitution of 1935 the K.R.N. took a further step in self-promotion : first it made itself a legislative body and in the appendix to its law of July 21, 1944 it promoted itself to a constituent body competent to decide which of the Constitutions should be in force. The Constitution of 1921 chosen as the "only democratic and legal constitution" was, after a short period of praise^x, dropped because of its being "anti-democratic^{xx}." 4

Even if we for a moment assume for the sake of argument that the K.R.N. was a representative body, it is difficult to find a provision in the Constitution of 1921, which would authorise the existence of such a body, not to speak of its origin and personal composition. It is still more difficult to discover a foundation for its constituent power. The K.R.N. declaring its powers for obvious reasons made no direct reference to any particular provision of that Constitution, satisfying itself with restitution of that charter. This move, therefore, must be interpreted as an attempt to re-introduce a constitutional vacuum and to provide a legal facade for the attempt to seize power.

Delegation of Legislative Power. The K.R.N. promptly invested their nominees, the Committee of Liberation, with legislative power. The law of August 15, 1944^{xxx} gave that body the power to legislate by decrees in all matters where the Constitution of 1921 required legislation by statutes, that is Acts of Parliament. Only three questions did not fall under this power: ratification of treaties, establishment of a Provisional Government and dissolution of the Committee. Such decrees, to become law, had to be

x Peretiatkowicz, op. cit. p. 3
 xx Rozmaryn, op. cit. p. 106
 xxx full text, Systematyczny Przegląd, op. cit. p. 10-11

submitted to the Presidium of the K.R.N. for approval and be signed by the Chairman of the K.R.N. along with the Chairman of the Committee. They could be revoked by a simple majority of the K.R.N.

After that date the K.R.N. seems to have ceased its legislative activities and the power was then exercised by a still smaller body. The wide provision of the law of August 15, 1944, gave a general law-making authority to the embryonic body of the future "Provisional Government of National Unity" imposed upon Poland by the Yalta dictation.

There were, however, difficulties in practice: The law of August 15, 1944 once more emphasised the binding force of the Constitution of 1921 and tended to ignore all other laws. To reduce the whole legal system to the Constitution alone proved absurd and consequently laws other than the Constitution proper had, by necessity, to be recognised as well. The question of "validity" and "applicability" of statutes had to be left to the courts. Since the courts also were reorganised, their discretion in this respect would, of course, be exercised on the lines of opportunism. A harder nut to crack was the legislation based on the Constitution of 1935 which had been abolished by the K.R.N. It was very easy to abolish with one word the highly inconvenient charter, but again impracticable to do away with the laws made under its authority. On the other hand, some of those laws were not offensive at all to the new régime and not only could they tolerate them, but even needed them. A compromise^x was, therefore, suggested: the Constitution had definitely to go, but the remaining statutes should be allowed to stay, and whether they were binding or not would depend on the discretion of the authorities. In the early practice of the Supreme Court, statutes, made under the Constitution of 1935, were recognised as valid^{xx}

x Systematyczny Przegląd, op. cit. p. 12

xx Reports, op. cit. 1947, vol. III, case No. 60

and the Legislative implicitly acknowledged this principle by repealing certain statutes and referring to others as binding in new legislation.

The situation, however, was uncertain, producing confusion as to the "validity" and "applicability" of the former law as well as a large field for arbitrary action on the part of the régime, which, contrary to the accepted practice in states where the rule of law obtains, was in the position of deciding which of the existing statutes were "invalid", without abolishing them in the normal parliamentary procedure.

National Councils. The 11th day of September 1944 gave birth to two laws: one on the "Organisation and Powers of National Councils", and the other on "Powers of the Chairman of the K.R.N."^{xxx}

The law on National Councils contained a preamble praising the nation for its struggle for freedom and referring to the July Manifesto, which announced the creation of the National Councils.

Those Councils were to be organised in the whole territory of Poland, no matter whether liberated by the Red Army or still occupied by the enemy (Art. 31). Their organisation was to follow the pre-war pattern of territorial administration. Thus we have: rural councils, urban councils, and provincial councils (the towns of Warsaw and Lodz constituting separate provinces for this purpose). The K.R.N. was to act for the country as a whole in the capacity of a "Temporary Parliament".

The law introduced a hierarchy of Councils (Art. 2(1)), urban and rural Councils being subordinated to the district Councils, the district Councils to the provincial Councils and the latter x e.g. decree of December 4, 1945 referring to the decree of the President of the Republic of June 26, 1936.

xx Dziennik Ustaw Rzeczypospolitej Polskiej (= Journal of Laws of the Republic of Poland) henceforth referred to as D.U.R.P. D.U.R.P. 1944, No. 5, sec. 22
xxx D.U.R.P. 1944, No. 5, sec. 23

in turn to the K.R.N. (Art.21,§ 1).To ensure discipline and control all lower Councils were obliged to submit to their superior Council a monthly report on their activities (Art.22,§1),their chairmen being personally responsible for the execution of this duty.The provincial Councils in turn had to submit their reports to the K.R.N.,which generally supervised and directed the operation of the whole system.

The law made sure that the personal composition of the Councils received a political imprint approved by the Committee of Liberation since Art.3 provided that Councils were to be drawn from "all democratic organisations which submitted to the Committee and recognised as binding the Constitution of 1921".

There was to be no election of the Councils,but appointment of delegates by organisations authorised to do so.Accordingly those organisations ("of political,economic and professional character",but unspecified by the law) sent as delegates to the rural and urban Councils their members of a number agreed between their presidiums,who in turn were allowed to co-opt one sixth of their total number^x (Art.6,§§ 1 and 3).The rural and urban Councils delegated one member each of their presidiums to the district Council.Both district and provincial Councils were allowed to co-opt members (up to one fifth in the district and one fourth in the provincial Councils).

To ensure once more the desired personal selection of members of the various Councils Art.7,§ 2 debarred from selection as delegates all "those suspected of collaboration with the Germans or combatting the patriotic-democratic organisations".The reasons for disqualification remained general and unspecified,directed, however,clearly against all who were slow in submitting to the Committee of Liberation who arrogated to itself the monopoly
 x By Art.6,§1 the strength of the rural and urban Councils ranged from 12 to 72 persons in proportion to the number of inhabitants in the given locality.

of resistance, patriotism and democracy.

The system of hierarchy and subordination of the Councils provided for the final check upon the qualities of their members, since Art.8 authorised the presidiums of the higher Councils to see that the lower ones were properly constituted and in case of any defect to dissolve them, such a dissolution annulling all previous acts of the Council so dissolved.

The reorganised K.R.N., representing the whole country and acting as the "Temporary Parliament", was to consist of the following groups of persons:

- a) members of the original K.R.N.,
- b) delegates of political, economic, professional and social organisations (not named specifically in the law),
- c) representatives of the provincial Councils,
- d) representatives of the organisations^x abroad, provided they had submitted themselves to the original K.R.N.,
- e) members co-opted by the original K.R.N.

The total strength of the new K.R.N. could not exceed 444 members (the number of deputies in the lower House according to the Constitution of 1921), members of group (b) not exceeding one fifth of the total.

At the head of the K.R.N. was a Presidium consisting of five members chosen by the whole body (Art.13, § 2), the Chairman and his two deputies assuming a status similar to the Speaker and deputy-Speakers of the Sejm (Art.14).

The powers of the K.R.N. were very extensive (Art.26(1)). In addition to being a law-making body it was responsible for the budget and ~~the~~ economic planning, the army, control of the Executive, (i.e. the Committee of Liberation) and trade agreements. It could declare war and make peace, conclude pacts, declare a state of emergency and ratify international treaties creating x they were not specifically named

obligations with regard to citizens and altering the frontiers of the state^x.

The K.R.N. was to be convened every quarter (Art.18,§ 1), and when it was not in session its powers were delegated to its own Presidium (Art.26,§ 2). This system practically entrusted to a body of five persons the full powers of state inherent in a sovereign Parliament. Since the K.R.N. was to be a body of only one political complexion, this delegation of powers constituted a system whereby a one party dictatorship was narrowed to a dictatorship of a few men. The K.R.N. as a body proved to have exercised little influence on the affairs of the state, the legislative power being delegated by the law of August 15, 1944, to the Committee of Liberation and general powers to the Presidium headed by Mr. Bierut - the President designate of Poland.

Acting as the "Temporary Parliament" its life was quite long owing to the fact that the General Elections were not forthcoming. Its personal composition could have been changed if the Moscow Agreement^{xx} between Mr. Mikolajczyk on behalf of the Peasant Party and the Committee of Liberation had been honoured.

The law on National Councils bristles with references to the Constitution of 1921^{xxx}; those references, however, constitute only copies of minor provisions of the Constitution and meaningless remarks stressing the adherence of its makers to that charter. The law, besides splitting the nation at the bottom into adherents of the communist ideology and its adversaries, besides giving political rights and privileges to the former, introduced a new system of regional administration and did away with the principle of election of the local and national representative bodies.

x of Soviet-Polish pact of April 21, 1945, p.106 ante

xx see pp.110 and 111 ante

xxx Arts.1,3,5,11,12,14,16,29

In itself the system constituted nothing original, but was modelled upon the system of the Soviets^x with its one-party character, ostensible vesting of large powers in the organised party element, and delegation in fact of those powers to a small presidium. An important difference, however, was in the method of appointing members of various Councils, the Russian system being based on election. Historically it was a replica of the "Councils of Workers' Delegates" created in vain by the Provisional Revolutionary Committee^{xx} of 1920.

As far as the legislation is concerned, the law on the "Powers of the Chairman of the K.R.N" was only a supplement to the law on "National Councils" discussed above, but in the tactics of the imposition of the People's Democracy on Poland it constituted a political move of great significance. So a substantial portion of the personal element in the People's Democracy was smuggled in under the guise of a short statute. The much abused Constitution of 1921 had once more to serve as the Trojan Horse.

The law of September 11, 1944, gave the Chairman of the K.R.N. (now called "President of the K.R.N", because he was ex officio-Chairman of its Presidium) all the rights of the Speaker of the Sejm (Art.1). This provision was quite innocuous in itself, repeating only the words of Art.14 of the law on National Councils, but there the tactical ruse lay. The Constitution of 1921 (Art.40) provided that in case of death, resignation or inability to perform the presidential duties by the President of the Republic his office would devolve on the Speaker of the Sejm. The Communist Group maintained that everything except the Constitution of 1921 was null and void and ingeniously enough proceeded to infer that the presidential office was vacant, because the President in exile was appointed on the authority of the Constitution of 1935, now declared by them "illegal". Consequently they x of Arts.2,3,30,48,49,94,97 of Russian Constitution of 1936 xx see p.91 ante

decided to fill the vacancy. Art. 2 of the Law of September 11, 1944 provided that the "President of the K.R.N." was to succeed as the President of the Republic, the presidential office being vacant.

As the acting President the Chairman of the K.R.N. received the following powers: to promulgate laws and legislate by decrees, to be the supreme commander of the army, to represent the state and receive and appoint diplomatic officers, to exercise the prerogative of mercy, to conclude international treaties, to appoint judges, and to bestow orders and decorations.

The law came immediately into force and its execution was entrusted to the Chairman of the K.R.N., that is Mr. Bierut, who thus became acting President of Poland.

Having acquired a President and possessing its own Parliament only the appointment of a Government was necessary to complete the Administration in the hands of the Communist Group. The obvious choice for the latter function fell upon the Committee of Liberation which already by the law of August 15, 1944, had been given wide powers to legislate by decrees. On its first anniversary the K.R.N. converted its own Committee of Liberation into a Provisional Government.

Let us examine now some of the decrees of the Committee of Liberation.

Decrees on Administration. The Committee of Liberation, by its decree of August 21, 1944^x, prepared a scheme for the taking over of the general administration. Whilst retaining the pre-war administrative division of the country (that is, recognising the validity of the laws of January 19, 1928, and August 29, 1936) the Committee took into its hands the question of appointing the provincial and district governors. These nominated officials x by the law of December 31, 1944, D.U.R.P. No. 19, sec. 99 xx D.U.R.P. No. 2, sec. 8

became ex officio members of the provincial and district Councils (Arts.3 and 9) appointed,as we have seen above,on account of purely political qualifications by bodies endowed with this power by the Committee.To ensure their proper functioning,those officials were subordinated in practice to the presidiums of their respective Councils (Arts.5 and 8),to whom they were obliged to render periodical reports on their activities.

The machinery of administration was designed to be also employed in the service of the official propaganda of the Committee. The decree of October 5,194~~4~~⁷,created provincial and district "agencies of culture and art" under the control of the provincial and district administration.The purview of those agencies was very large as they were given control not only of the Press and Theatre,but even amateur choirs and musical bands (Art.3). These agencies became important channels through which official propaganda could be poured into the smallest cells of the community and,at the same time,they ensured the hold of the administration on the cultural activities of the people.It is needless to add that this sphere of human interest received the careful attention of the Committee since from its very inception.it had as many as three Ministries concerned with it,the Ministry of Information and Propaganda,Culture and Art,and Education.Those three Ministries worked closely together and their organisation and business was subject to the early legislation of the Committee^{xx}.

The net of the Ministry for Culture and Art agencies was later reinforced by corresponding branches of the Ministry of Propaganda^{xxx}.The latter were to go even to the townships and villages (§ 3) where they organised their offices and activity centres. This organisation,technically directed by the officials of the public administrative service,was also put under the political supervision of the corresponding Councils (§ 6).

x D.U.R.P.No.7,sec.37

xx Decrees of September 7,1944 and September 15,1944

xxx by Order of the Minister of March 1,194~~5~~⁵,D.U.R.P.No.7,sec.32

This scheme of promoting culture and art, and informing and educating the public, reminds one of a totalitarian state and of the services those things render to the ideology of the state in Soviet Russia. Undoubtedly the experience learned in Soviet Russia of drawing political advantages from this vast field of human interest found its way to Poland and contributed to the consolidation of the régime. The Committee's efforts reaped a rich harvest when the machine of the régime, centrally directed and covering the whole country, was put into motion during the Referendum and Election campaign^{XX}.

It should be added here that, by the decree of November 22, 1944^{XXX}, the Committee made the Radio an institution of the state and as such under the direct supervision of the Ministry of Propaganda (Arts. 4 and 5, as well as 6 and 7). The state-sponsored broadcasting service, having a monopoly of all transmissions, was thus to be used in the service of the state not only in an organisational and financial sense, but even in the choice of the subjects to be put on the air and materials on which particular transmission was to be prepared (Art. 4).

Security Police. The Committee of Liberation had powerful support from the Ministry of Public Security^{XXXX}, manned chiefly by the members of the Workers' Party^{XXXXX}. In the mass of laws made by the Committee no organic statute of the Ministry of Public Security can be found. Obviously this was in the baggage train of the People's Democracy since the Security Police appeared on Polish soil in its finished form together with the vanguard of the new political system, and by its activity rather than publication of statutes, became a part of the reality of everyday life^{XXXXXX}.

x cf M. Czernerle, *Teatr Amatorski i jego Rola w Radzieckiej Tworczosci Kulturalnej*, Nowe Drogi, 1949, No. 3, pp. 204-215
 xx see pp. 120 and 121 ante; xxx D. U. R. P. No. 13, sec. 69
 xxxx M. Sychalski, *O Tradycjach Zjednoczonej Partii Klasy Robotniczej*, Nowe Drogi, 1948, No. 10, p. 73
 xxxxx Bierut, op. cit. p. 39
 xxxxxx All^{the} more important legislative acts bear the signature of the Minister of Public Security.

The Polish N.K.V.D.system was reinforced by a "Citizens' Militia" created by the decree of October 7,1944.^x Accordingly, the Militia became a "public - law formation of the Public Security" (Art.1).This rather obscure statement conveys the idea that the Militia was meant to be a constitutional institution sanctioned by public law and as such a part of the Administration. With the abolition of the institution of the police^{xx} the task of keeping order had to be entrusted to new bodies.The imported Security Police Units,trained and commanded by the N.K.V.D.,^{xxx} had to be expanded to suit the task that lay ahead.This was done by the creation of the Militia.The statutory purposes of the Citizens' Militia were threefold(Art.2) :

- a) to preserve public security,peace and order,
- b) to investigate and prosecute crimes,
- c) to carry out orders of the administrative authorities, courts and public prosecutors.

One would have expected a definition of the status,the rights and duties of the Militia to be circumscribed by the decree,but this was left entirely to the discretion of the Minister of Public Security (Art.6).Consequently a ministerial order was sufficient to constitute the Militia,decide upon its recruitment and discipline,set up its internal organisation,and specify its purposes as well as rights and duties of its members.The decree did not limit or determine the strength of the Militia, this apparently also being left to the Minister.

This decree,in fact,instituted the era of a police state by giving the Minister powers to constitute and organise his own force as he pleased.It is needless to say how serious is such a general and extensive delegation of powers,especially as the

x D.U.R.P.No.7,sec.33

xx by the decree of August 15,1944,D.U.R.P.No.2,sec.6

xxx In 1946 Mr.Radkiewicz admitted that the Russian N.K.V.D. still operated in Poland,see New York Times,July 22,1946

order of the Minister would not only set up the organisation of the police force, but would also considerably affect the individual rights of the citizen. On the other hand, the Minister, having a disciplined and loyal police force of a considerable strength was liable to become the physical ruler of the country.

In its finished form the system of the Security Police consists of the :

- a) Security Office (U.B),
- b) Security Corps (K.B.W.),
- c) Citizens' Militia (M.O.), and
- d) Reserve of Citizens' Militia (O.R.M.O.)

Security Offices are distributed over the whole country and their principal task is to prevent offences against the state. In this capacity they control public life and act as licensing authorities with regard to all public demonstrations.

The Security Corps^x, instituted as a "guarantee of political order and a practical safeguard against groups which bring chaos into the normal course of public administration^{xx}", is the main police force in the hands of the Minister. Centrally directed, it consists of several sections, the principal ones being the so called "Liquidation Squads" to take care of the elements hostile to the régime, "Frontier Guards" placed at the boundaries of the state, "Watch Detachments" to guard concentration camps and political prisons, "Special Squads" to guard state officials and the "Intelligence Service".

The actual technical police work is assigned to the Citizens' Militia. The ORMO, on the other hand, created in 1946 to fight the Underground as well as the legitimate Peasant Party^{xxx} prior to the 1947 Elections, is considered at present a reserve of the Militia.

x commanded originally by Russian General Kiniewicz
 xx From an Order of the Ministry of Public Security.
 xxx see p.119 ante

Decrees on the For the period under present consideration the Judiciary. pre-war judicial system was accepted as a basis, and the changes that occurred were rather specific than general.

The decree of November 4, 1944^x, introduced one of the most important innovations. It gave power to the Minister of Justice to set up courts and alter their jurisdiction as well as to remove and transfer judges against their will (Arts. 1 and 2). This short decree in effect shook the stability of the tenure of the judicial office so far secured by the Constitution^{xx}, and made judges dependent upon the Minister.

A further limitation of ~~the~~ judicial independence together with an introduction of a political test for persons called to administer justice was imposed by Art. 1 of the decree of March 14, 1945^{xxx}. This decree in particular forbade judges to "take part in activities which might weaken the confidence in their impartiality or in their loyalty to the Constitution and the authorities of the democratic Polish state".

In practice, the professional qualifications of the newly appointed judges were bound to be much below the accepted standards owing to the breakdown of education and professional training due to the war, as well as the mode of recruiting judges from politically reliable applicants. Moreover the Bench became packed with former judges of Military Courts, whose elevation to judgeship was due to their appointment by the military authorities^{xxxx}.

By one of its early decrees^{xxxxx} the Committee introduced trial by jury. The controversy whether an accused should be tried before a panel of qualified judges or before his equals giving their verdict upon their own judgment of fact and the direction of the
 x D.U.R.P. No. 11, sec. 58
 xx Constitution of 1921, Art. 78; Constitution of 1935, Art. 66
 xxx D.U.R.P. No. 9, sec. 46 amending Art. 121 of the law of 14.4.1937
 xxxx Art. 48 of the decree of 23.9.1944, D.U.R.P. No. 6, sec. 29
 xxxxx Decree of 15.8.1944, D.U.R.P. No. 2, sec. 7

presiding judge on matters of law, was solved in pre-war Poland in favour of the former system. Both systems seem of equal value, provided, of course, the trial takes place before an impartial court and the sentence is given on the weight of evidence, adequate means of defence being allowed. There seems, therefore, little purpose in the introduction of the jury system at this early stage, unless it was to serve also other purposes than the furtherance of justice.

The decree of October 23, 19^x44 is very helpful in elucidating this point. The explanation lies in the provision of Arts. 5 and 8 which assigned the task of preparing the lists of jurors to the national Councils. Since the Councils were bodies of men of one political shade^{xx} the system savoured of a political invasion of the administration of justice, bringing thereby the Judiciary close to the pattern of Soviet Justice.

Special Courts. The judicial system was enriched by a decree of September 12, 19^{xxx}44, instituting Special Courts. Those courts, criminal in character, consisted of a professional judge and two lay assessors (Art. 3). Judges of Special Courts were appointed at the instance of the Minister of Justice by the Presidium of the K.R.N. (Art. 4, § 1) and assessors were drawn from candidates submitted by the provincial Councils (§ 2).

Special Courts sat first in the territories liberated by the Red Army, and later in the whole country. Their purpose, according to the decree of August 31, 19^{xxxx}44, was to deal in a simplified and summary way with the "fascist-hitlerite criminals"^{xxxxx}. Their powers were extensive and their chief pronouncement was the sentence of death. Death was the punishment for all who :

x D.U.R.P. No. 9, sec. 47

xx see pp. 152-155 ante

xxx D.U.R.P. No. 4, sec. 21

xxxx D.U.R.P. No. 4, sec. 6

xxxxx title of the decree

- a) collaborating with the Germans, took part in the killing or torturing of civilians or prisoners of war;
- b) denounced, or otherwise acted to the detriment of persons persecuted, or sought after, by the occupation authorities (Art.1, § 1).

Long term imprisonment was the punishment for treachery to the nation (Art.1, § 2 and Art.2).

In principle the trial was to be conducted according to the pre-war procedure, but the decree of September 12, 1944^x, provided for important exceptions. First of all the examination of the suspect by the examining magistrate was dispensed with (Art.8) and the investigation was left to the public prosecutor and the security police. No substantiation of the charge in the indictment was required, a mere statement of crime for which the prisoner was arraigned being sufficient (Art.12). The trial took place 48 hours after the delivery of the indictment (the prisoner being already in gaol), the statutory seven days notice of the hearing being abolished. The sentence of the Special Court, delivered after a consultation between the judge and his assessors was final and irrevocable^{xx} (Art.18). Only in case of the death sentence could the condemned petition the Chairman of the K.R.N. for reprieve (Art.19).

The decree of August 31, 1944, in so far as the "traitors to the nation" were concerned, was supplemented by the decree of November 4, 1944^{xxx}. Apart from incurring criminal liability under the former, under the latter decree all Polish citizens, who in the so called "Generalgouvernement"^{xxxx} declared their affinity to the German nationality (Volkszugehörigkeit und Deutsch-

x D.U.R.P.No.4, sec.21

xx For this reason cases decided by Special Courts had no chance of going to the Supreme Court and therefore no reports of trials by Special Courts are available.

xxx D.U.R.P.No.11, sec.54

xxxx see p.38 et seq

stämmigkeit^X) or drew advantages from that status, were liable to be sent to concentration and forced labour camps for an unspecified term. No classification was adduced and consequently in this hard and fast rule no distinction was made between the cases of those who volunteered and those who suffered compulsory enlistment on the so called "Volkswagen", the latter being much used by the occupation authorities^{XX}.

An important feature of this law were the powers given to the public prosecutor attached to the Special Court and to the security police. The former was authorised to order the arrest and detention in concentration camps of persons of the above description, and the security police were the executors of his orders (Art. 2(1)). Only the Special Court, at the instance of the President^{XXX} of the District Special Court, could overrule the public prosecutor (Arts. 2 and 5) and refer the case for revision before a court of two judges and three assessors. The power of the public prosecutor to send one without trial or assent of a court to a concentration camp for an undefined period seems to contradict the idea and purpose of Special Courts. By this provision the public prosecutor was actually given the functions of the Special Court and the summary procedure became virtually reduced to the prosecutor's orders.

Confiscation of property and deprivation of public and civic rights extending also to the members of the family of the "traitor" was consequential on his being sent to a concentration camp (Arts. 3 and 4). The decree did not provide for restitution of property in case of the order of the public prosecutor being overruled, nor ^{did it} mention ~~ed~~ any compensation for the harm suffered.

x N.B. Polish law distinguished between "nationality" and "citizenship". One could be, therefore, a "German national" and a "Polish citizen" at the same time.

xx see p. 42 ante

xxx Not to be confused with the presiding judge of a Special Court.

Military Courts. In the Polish People's Democracy the bulk of the criminal business seems to have been entrusted to the jurisdiction of Military Courts. At any rate this is true for trials which savour of a political object. Political trials even in 1952 (that is to say at a time when the system may be considered firmly settled and consolidated) still take place before the Military Tribunals^x.

This system was provided for as early as September 23, 1944, by the new code of Criminal Military Law, and the decree on the Constitution of Military Courts and Military Prosecutions, which abolished the law of September 29, 1936, together with the pre-war system of Military Law.

By Art. 6 of the decree on the Constitution of Military Courts they were given jurisdiction over :

- a) members of the armed forces in active service,
- b) persons liable to military and auxiliary service on mobilisation,
- c) prisoners of war and hostages, and
- d) other persons in cases specified by law.

By Art. 8 of the decree the Committee of Liberation authorised itself to extend, at the request of the Minister of Defence, the jurisdiction of Military Courts over persons subject to ordinary courts for crimes recognised by the Minister as "injurious to the defence of the state". This measure was to operate in case of war, mobilisation or whenever required for the defence reasons, thus giving a wide scope of discretion not only to the Executive, but also to the Military. In other words cases of common crimes, dealt with in the usual course of ordinary criminal courts, were to come under the jurisdiction of Military Tribunals whenever so desired by the Executive.

x of the trial of 8 persons on charge of murdering J. Martyka, an announcer of the Polish Radio. He was murdered on 9.9.1951, the accused were arrested shortly after the crime, but their trial took place as late as September 1952.

xx D.U.R.P. No. 6, sec. 27

xxx D.U.R.P. No. 6, sec. 29

The provision of Art.11, which settled precedence between courts, was of prime importance from the point of view of Constitutional Law. It established the superiority of the Military Courts over the Ordinary Courts since in conflicts of their respective jurisdictions a higher Military Court was to decide the issue.

For the purpose of comparison, in Great Britain e.g., the question of the applicability of the Military Law and of the jurisdiction of Military Courts is regarded as of such constitutional importance that it cannot be left to the Executive. The principle of the superiority of general courts (ordinary courts of the land) over special courts (e.g. military courts) is considered a vital part of the Constitution and a necessary safeguard of the "rule of law" and the basic rights of the citizen. Consequently no civilian in the United Kingdom can be dragged before a Military Tribunal, nor can the jurisdiction of such a Tribunal be extended by a decree of the Government. Furthermore, in no case can a Military Tribunal assert its superiority over ordinary court in disputes over jurisdiction.

If the Constitution had actually been respected, the provisions of Arts. 8 and 11 could not ^{have} been put on the statute book because they were inconsistent with the principles of the Constitution. But under the new conditions in which the Committee legislated, any law could be made, because the Constitution itself was only used for specified purposes.

The new code of Criminal Military Law was well adapted to serve its collateral purposes. There is no room here to discuss it in detail, but some provisions, especially those on crimes classified by the legislator as treasonable^x, are most instructive.

Art. 85 threatened with the death penalty or imprisonment from ten to fifteen years "all those who endeavour to deprive the Polish state of its independence or to tear away part of its Chapter XVII of the code (Arts. 85 - 103)

territory".

Art.86 provided for the punishment by death or long-term imprisonment of "all who attempt to overthrow by violence the established supreme authorities of the state or attempt to seize power",as well as those "who attempt to change the Constitution by force".

Articles 85 and 86 require,of course,a teleological interpretation.For the purpose of these provisions the territorial frontiers of Poland of 1939 were obviously not those specified (although specified only in effect) by the Articles.Furthermore the Committee of Liberation as well as the K.R.N. would have to be recognised as the "established supreme authorities of the state" as early as September 24,1944,and the Constitution of 1921 accepted as binding,otherwise the above Articles would only have had repercussions on themselves.

A further measure protecting the above authorities was contained in Art.93(§ 1), which made "attempts on the life of the representatives of the Polish state or Army,or the representatives of friendly foreign states and armies" a crime punishable by death,and for"insulting" the persons mentioned in § 1 threatened imprisonment for three years.

The law of treason in every country aims at protecting the highest constitutional authorities,but is usually confined to the head of the state,attempts at the life of a Minister or Member of Parliament being a common crime.The founders of the People's Democracy considerably increased the number of persons protected by the law of treason to include even military persons of unspecified foreign countries.

Arts:95,97 and 99 dealt with the propaganda noxious to the designs of the Committee.Accordingly,"whosoever publicly agitated to overthrow,undermine or weaken the authority of the state or to commit crimes under Arts.85,86,90,92,93,or approved

of those crimes as well as whosoever made, disseminated or kept writings, prints or images instigating the commission of such crimes, was liable to imprisonment" (Art.95).

Further, "whosoever, in order to weaken the national morale, disseminated news capable of this effect" (Art.97); and "whosoever, being a Polish citizen, disseminated abroad false news in order to harm the interests of the Polish state", was liable to imprisonment (Art.99).

The Committee realized the importance of publications and decided to stamp out anything detrimental to their aims, instilling at the same time their own propaganda into every head^{xx}. Thus an activity inclined to opposition became for them a "treasonable act", and publications showing displeasure at their seizing power, or any utterances pointing to Soviet Russia as an enemy^{xxx}, were criminal offences to be dealt with by a Military Court under the broad authority of the new code of Military Law.

Art.101 of the code aimed first of all at deterring the public from displaying their sentiments with regard to a "foreign state". It threatened with two years imprisonment everyone "who in the territory of Poland insulted, defaced or removed the emblem or flag of a foreign state publicly exposed by its representatives".

During the German and Soviet occupation one of the forms showing disapproval of the conquest was the disrespect by the public of the emblems and flags of the occupying powers. When the Red Army came for the second time bringing along a new occupation, the same reaction as before was likely to take place towards the signs of hammer and sickle. The Committee could not

x e.g. The Supreme Court upheld a sentence of the court below for "disseminating during a public meeting news of a strike being suppressed by the police", Reports, op.cit.1948, vol.II, case No.54 see also the case of "whispering propaganda", Reports, op.cit.

xxx 1948, vol.IV, case No.101

xx see pp.158 and 159

xxx Supreme Court, Reports, op.cit.1950, vol.II, case No.23

suffer this obvious sign of ingratitude and so made it a crime classified as treason by the code of Military Law.

The law of treason was also to protect the friendship of the Committee with Soviet Russia, since "whosoever publicly agitated against the alliance of Poland with a friendly state, as well as made, disseminated or kept writings, prints or images to that effect, was liable to imprisonment or death penalty" (Art.102). A similar punishment would befall anyone "who undertook hostile activities against a friendly state with intent to cause a danger of war or breach of diplomatic relations with that state" (Art.102, § 3).

Soviet Russia was, of course, that unnamed "friendly state" - a matter of serious controversy among the Poles.

Art.103, besides the usual ambiguity of terms, had to serve a dual purpose : to punish the associates of Hitlerite crimes as well as those who whatever reason became political opponents of the Communist Group who chose to contrast itself with the German oppressor and to be at the same time the only bearer of the national patriotic banner. It runs: "whosoever publicly rails at, insults or derides the political system of the Polish state, or approves of fascism, national socialism, hitlerite crimes or publicly instigates their commission or the introduction into Poland of the fascist or Nazi system, or whosoever organises or publicly agitates for setting up or associates himself with fascist or Nazi organisations is liable to the death penalty or imprisonment".

The first clause of Art.103 was clearly designed to punish all those who, seeing the method of the introduction of the People's Democracy, spared no words of criticism or ridicule of the super-democratic facade of the communist dictatorship or of the communist conception of law and constitution.

x cf Bierut, op.cit.p.33 et seq

To "rail at,insult or deride" a political system seems quite a unique definition of a capital (and treasonable) crime.First of all,those three terms constituting the essence of the criminal act themselves need a definition to be understood by ordinary minds,secondly,they need at least a legislative qualification for the guidance of the court.If accepted in their popular meaning those terms may mean anything ranging from a joke to a criticism,hardly justifying the extreme severity of the law.

The second clause was typical of what may be called "witch-hunting".In the official Moscow propaganda,endorsed by the Communist Group and puffed out to incredible dimensions,the Home Army,as well as the Constitutional Authorities were "fascist and pro-Na^xzi"and,farcically enough,those who against enormous odds fought from the very beginning^{xx} against the German aggression were described as "Hitlerite flunkeys^{xxx}" or eager to impose the Nazi system on Poland.

The third clause was directed against the organisations actively opposed to the communist seizure of power.Hence every political party or resistance cell who denounced the Communist Group as a "fictitious body and foreign agency^{xxxx}"and set its face against communist domination was put on the black list of traitors.Threatened with death or imprisonment the members of such organisations had either to cease their activities and remain silent in perpetual fear,or join the Committee which presented them with new opportunities in the form of parties or organisations run by the Committee under their original^{xxxxx} names.

As we can see from the above review of the most salient points of the law of treason incorporated in the code of Military Law,

x cf Warriner,op.cit.p.6

xx ~~xxx~~ that is from the time of Hitler-Stalin alliance

xxx see Soviet News of January 8,1945

xxxx see pp.94-5 and 97 ante

xxxxx see pp.94 and 125 ante

the legislative technique adopted by the Committee is characterised by general terms inappropriate to a code of criminal law, ambiguous formulations of crimes and a mixture of self-protecting measures and witch-hunting phrases.

Decree on the Defence of the State. Art.1 of the decree on the Defence of the State of October 30, 1944^x was designed against all political and resistance organisations (especially the Home Army) that were rivals of the Communist Group. In the words of the Article the Communist Group identified itself with the "democratic constitution of the Polish state" and threatened with death all would-be competitors in the contest for attaining power.

Art.2 threatened with death or imprisonment "all opposing or impeding the Committee's plans of an agrarian reform^{xx}".

Art.3 protected against violent assaults: the "officials of the central and regional administration and persons co-operating with them", the "units and members of the Polish or allied army", as well as "institutions and means of public or military communications". In other words any Pole having a brawl with a Red Army soldier in which the latter was punched about might, under the Committee's legislation, be sentenced to death by a Polish Military Court and instantly shot. The same could happen to any peasant defending his last cow from being requisitioned under orders of a village administration official^{xxx}.

Art.4 dealt with those "who manufactured, kept or dealt in arms or ammunition during the war without the authorization of the Committee". This measure was clearly designed against the Home Army which not only kept and used, but also manufactured its own war equipment, the task of disarming the Home Army being, x D.U.R.P.No.10, sec.50, of the Bulgarian law of April 19, 1946
xx For details of the agrarian reform see p.191-2
xxx cf decrees of 18.8.1944 (D.U.R.P.No.3, sec.9); and 22.8.1944 (D.U.R.P.No.3, sec.10) authorising requisition of goods and agricultural produce.

of course, one of the most important and difficult problems facing the Committee. It is obvious that no Government could be expected to tolerate armed opposition, and that any measure for restoring peace and order would be justified in normal conditions. At the time, however, ^{when} ~~as~~ this decree was passed the Committee of Liberation was not a "government" (even they did not call themselves a government at that time) and the struggle against the Germans continued. The Committee had then existed only four months^x and yet from behind the Red Army lines purported to introduce draconian measures against the organisations which led the struggle for independence already for four years.

Art. 5 was a measure against sabotage - this included "rendering impossible, or hindering normal performance of the central and regional administration, of manufacturing establishments and public utility services". By this provision the Committee intended to secure proper functioning of its organs and introduced the death penalty for industrial sabotage^{xx}, taking ^{its} example from Soviet Russia where such offences entail heavy punishment.

Art. 6 reintroduced the German-made law with regard to those "who without permission of the authorities manufactured, kept, acquired or disposed of wireless apparatus", thus preventing the unauthorized from listening to foreign news, or what would be still worse, transmitting abroad news from Poland.

By Art. 7 "influence by threats or intimidation on the activities of the national Councils, the Committee of Liberation, the Courts, and the central and regional administration, as well as obstruction of the said authorities" entailed the penalty of death or imprisonment.

Art. 8 was again directed against the Home Army and resistance ^x called to existence on July 21, 1944 - the date of the decree was October 30, 1944.

^{xx} cf. The Times of March 1, 1948 reporting death sentence on manager, 3-15 years imprisonment on 4 assistants for "economic sabotage of state marmalade factory".

cells declaring illegal "any organisation which was designed to be, or remain secret to the Committee, or was made for illegal purpose", this purpose being, of course, political opposition to the Committee.

The decree besides its draconian nature contained a very important measure bearing upon the Constitution. By Art. 14 the provisions of Arts. 85 - 89 and Arts. 100 - 103 of the code of Criminal Military Law^x were made applicable to the civilian population, and by Art. 16 of the decree Military Courts were given jurisdiction to deal with cases prosecuted both under the decree and the code of Criminal Military Law. At the same time all investigation of the above crimes were entrusted to the security police and the military authorities (Art. 16, § 2), and the prosecutions left to the military prosecu^{xx}tor^s.

Thus the country was put under Martial Law and arbitrary measures were introduced to wipe any possible opposition to the ingress of the People's Democracy.

Art. 18 made the decree law as from October 30, 1944, but declared its binding force as from August 15, 1944 creating in this way another piece of retrospective criminal legislation.

The decree of October 30, 1944 was supposed to be a decree on the "Defence of the State", yet this title implying a certain type of crimes seems hardly justified by the context of the decree. The aim of a general extension of the Military Law over the whole population and to subject the citizen to the drastic methods of Military Courts (Arts. 14 and 16) seems, however, the real purpose of this decree. Hence the peculiar title serving as a pretext to apply Art. 6 and Art. 8 of the decree of September 23, ~~1944~~.

x see pp. 168-170 ante

xx this state of affairs is still subsisting.

xxx see p. 166 ante

In the light of legislation reviewed above it can easily be seen that the adherence to the Constitution of 1921 was merely a weapon of convenience. Efforts to find a legalistic basis for the legislation and seizure of power were vain and unnecessary since for the purpose of the positive law it matters little whether there is a de facto or de jure foundation of the Constitution, if it is enforced in practice by the authority of the state.

These efforts together with the Constitution of 1921 were recently repudiated by one of the leading theorists of the People's Democracy Professor S. Rozmaryn^x, who, in the quest for a raison d'être of the system fell, however, into another extreme by making the K.R.N. the "only legal source of power" and an "original creation^{xx} of the will of the working classes, the will of the nation and the revolution."

In tracing the origins and development of the system of the People's Democracy in Poland the rôle of the Constitution of 1921 and the legislation of the Communist Group comes to the foreground in the process of the internal imposition of the system.

x Rozmaryn, op. cit. p. 253

xx contrary to the original official version expressed in the Manifesto of July 21, 1944, cf p. 101 ante

Chapter 10. Legislation of the Provisional Government.

We have already emphasised the constitutional importance of Point 6 of the Crimea Declaration^X, which in itself constituted something new in international relations, namely the abolition of the Constitution of an allied sovereign state by an international decision without consulting the representatives of that state.

This fact certainly strengthened the hand of the Communist Group in matters of legislative activities touching the Constitution and encouraged their arbitrariness in this field. Consequently all laws made by them in their previous capacity of an agency of the Kremlin became unquestionably binding and enforceable by their organs. Though recognised only as a nucleus of a provisional Administration, they were in fact a "Government" with a considerable record of legislation. Therefore the era of the Provisional Government is of little importance from the point of view of legislation bearing on the Constitution, the bulk of this work having already been done before.

Nationalisation of private property^X and collectivisation of land characterize this period as preparatory for the change (to use the appropriate Marxist jargon) in the "economic basis" of the country to effect adequate alterations in its "political superstructure". Frequent political trials^{XX}, liquidation of the x private property rights were guaranteed by the Constitution of 1921 (Art. 99) as well as by the Communist Manifesto.

xx to quote only most important cases recorded by Western Press: Times (8.8.1945) death sentence on 5 men and 1 woman for collaboration with emigrés; New York Times (5.3.1946) 5 death, 11 imprisonment for underground activities; New York Times (24.6.1946) 1 death, 4 imprisonment for attempting to overthrow the government; New York Times (23.8.1946) 23 death, 22 imprisonment for anti-government activities; New York Times (28.12.1946) priest sentenced to death for leadership of underground organisation; Manchester Guardian (13.1.1947) 4 members of an underground group (WIN) sentenced to death; New York Times (22.1.1947) 18 members of Mikolajczyk Party sentenced to death.

Opposition and Home Army elements, vigorous activities of the Ministries of Propaganda and Culture and Art, reorganisation of the Trade Unions, all accomplished in the growing shadow of the Security Police, are striking symptoms of the tightening grip of the Government over the citizen.

Criminal Laws. In the legislation affecting the constitutional rights of the individual prominence was given to criminal laws of political character.

The law of May 6, 194^X introduced the long overdue classification of "elements hostile to the nation", supplementing thereby the decree of November 4, 19^{XX}. By Art. 1 Polish citizens compulsorily put on the German national lists^{XXX} of the third and fourth groups (Deutsche Volksliste and Leistungs-Polen) were completely restored to their public and civic rights, provided, of course, their conduct throughout the war had been satisfactory^{XXXX}. Full rehabilitation was, however, conditional on a declaration of allegiance to the "nation and the democratic Polish state" (Art. 2) which had to be made by every person over 13 years of age.

Art. 9 provided also for the rehabilitation of those who in the territories incorporated into the Reich were put on the German national lists of the second group. Applications for rehabilitation were heard by the Magistrates' Courts (i.e. ordinary courts of first instance), the judge sitting with two assessors appointed by the presidium of the local Council (Arts. 11 and 12). Such a court could restore the public and civic rights of the applicant as well as order the restitution of his property. If his application was rejected, he was sent to concentration camp for an undefined term and his property was forfeited to the

x D.U.R.P. No. 17, sec. 96

xx see pp. 164 and 165 ante

xxx see p. 42 ante

xxxx The Supreme Court upheld a sentence where there was no evidence of the accused being actually on the list (Reports, op. cit. 1948, vol. II, case No. 51) and quashed another one where the accused was entered on the list by order of the Home Army (Reports, op. cit. 1945-46, case No. 22).

state (Art.16).There was no appeal from the rejection of an application,but the public prosecutor could appeal against the rehabilitation decree (Art.17).His appeal would be heard by the Special Court (Art.18).The decision of the Magistrate's Court was not final since the public prosecutor was allowed to lodge his appeal within ten years from the decree^x (Art.19).

This procedure raised an important question of the hierarchy of courts.In the ordinary course of justice appeals from the instance courts went to the Court of Appeal; in matters of rehabilitation,however,by the law under discussion,appeals were directed to the Special Court,which by former decrees sat as an instance court.This superiority of the politically tainted Special Court reduced the Ordinary Court in this respect virtually to a rehabilitation office wherefrom certain cases at the instance of the public prosecutor were sent to the Special Court for actual hearing.

The decree of January 22,194^{xx}6 on the prosecution of those "who were responsible for the defeat in September 1939 and were the cause of the state going fascist" is another typical example of the legislation of the People's Democracy in its early stage of development.It is characteristic of the period for two reasons: Firstly,because it is retrospective,that is operating with regard to acts and omissions which occurred before September 1,1939 and were made crimes only by the decree (Art.10).Secondly,because it is another sample of a legislative policy designed to pursue definite political ends apart from the furtherance of justice.

By Art.1 of this decree the penalty of death or long term imprisonment (not less than three years) was to be imposed on all those "who co-operating with the fascist or Nazi movement publicly or in connection with their official position or the

x cf Reports,op.cit.1948,vol.I.case No.25

xx D.U.R.P.No.5,sec.46

administration of the state, or whilst representing the Polish state in dealings with a foreign power, acted to the detriment of the Polish nation and state by:

- a) reducing, or weakening the fighting forces of Poland or a Polish ally, and by
- b) undermining the morale of the nation".

It is quite clear that all members of the pre-war Executive, conveniently described by the official propaganda as "fascist or Nazi adherents", were meant to be prosecuted under Art. 1.

It is, however, not quite clear what was meant by "co-operation with the fascist or Nazi movement", those terms themselves requiring to be properly explained for the purpose of a capital crime.

It would have been helpful if the legislator had specified the "foreign power" mentioned in the first clause as well as the "dealings" he thought detrimental to the national interests. Apparently he had in mind Germany, since it is rather difficult to find a power of this description, in "dealings" with whom the pre-war régime could act to the detriment of the country.

One need not be a champion of the pre-war régime or an apologist for the mistakes of the past to see that an unidentified group of persons was to be put on a capital charge for a certain trend of foreign policy, which in effect brought about the stabilisation of normal neighbourly relations with Germany, and with the Pact of Non-Aggression of 1934 ended the state of friction between the two countries.

Before the war Poland used to spend on defence far more than she could afford. The responsibility for that, of course, rests in the first place with the Executive. By the decree of January 22, 1946, those who overburdened the national budget with military expenses were to be put on trial for the "reduction or weakening of the Polish fighting forces". In addition to that, they were to be made responsible for the same as happened in an unnamed country allied to Poland. Was that France or Great Britain -

the allies of Poland - whose lack of preparation for war was to be paid with the heads of the Polish pre-war politicians?

Czechoslovakia, though not an ally in the conventional meaning of the term, seems to be the most probable guess, the allusion being made to the fact of Poland re-claiming after the fall of Czechoslovakia certain tiny strips of land - the bone of contention between the two Slavonic sister-nations, the trouble dating back to January 1919. The Czechoslovak incident cost more than the temporary gain was worth, and it proved to be an argument of such a weight as to overshadow Polish claims to independence, when those claims became compromised by international decision³. (This remark seems particularly true with regard to a section of British public opinion by the close of the war.) Mindful of the influence of international relations on the establishment of the People's Democracy in Poland, the post-war régime should, therefore, be thankful for the errors of their pre-war predecessors.

Those responsible for the "undermining of national morale" were to be tried⁴ as well. The question as to who those people were seems open. Since the morale before the September defeat was much higher than was warranted by the actual position of the country, the crime should have been that of the "boosting of national morale in face of inadequate preparation to meet the concerted German-Soviet aggression".

Art. 2 was slightly clearer. This time "neglect of the development of national defence or the economic potential" was made a crime entailing life imprisonment (§ 1), as well as "international political activity which brought advantages to the fascist or Nazi movement" (§ 2). But the question of earmarking the culprits was again left to the imagination. Comparing the two Articles one is bound to be struck by the vagueness of the formulation of this criminal statute, and by the similarity of symptoms of x of Sir W. Churchill, Memoirs, vol. I. pp. 252, 253, 271, 272

crimes to be prosecuted under its authority. No report of an application of these provisions in practice is available, and so far none of the widely published political trials seems to have dealt with crimes defined (or rather undefined) in Arts.1 and 2.

The trial of Adam Doboszyński, who upon his return from the West was seized in 1947 and put before a Military Tribunal in the summer of 1949, revealed a faint trace of the application of Arts.1 and 2 discussed above. The indictment, however, was voluminous, embracing not only general charges of "fascism", but also charges of espionage (for Germany), anti-government activities, treason ("attempts at the independence of the country"), conspiracy with the emigré circles, agency for the Anglo-American imperialists and the like, so much so that in the speeches for the prosecution there was no clear statement of crimes under Arts.1 and 2 of the decree of January 22, 1946, but only a rather vague accusation of "fascism" and pro-German activities before the war delivered in strong language.

Art.6 of the decree threatened with life imprisonment "those who by fraud, coercion or corruption :

- a) attempted to impose, or actually imposed on the nation the anti-democratic constitution, and those who
- b) attempted to change, or actually changed the legally binding political system into a fascist one".

There is no doubt here that Art.6 meant to authorize prosecution of people who in 1935, through the parliamentary machinery, effected the change of the Constitution of 1921. For the purpose of this crime the enactment of the Constitution had to amount x member of the Nationalist Party, leader of the anti-government riot in 1936.

xx New York Times of October 12, 1947

xxx full report of the trial, see Polish Daily of June 20, 23, 24, 26, 28, 30 and July 2, 5, 11, 1949 and also New York Times of June 19, 1949

to an "imposition" as if in a free Parliament a qualified majority vote could be regarded a crime by the disappointed minority.

Clause (b) of Art.6 appears to have an identical purpose to clause (a).The former speaks of the "political system",the latter of the "constitution".This seems an example of tautology,unless the expression "political system" was meant to be disassociated from the Constitution proper (i.e.the charter) and to be understood as the "application of the Constitution (charter) in practice".Even so to make this a crime,two things would be necessary: to regard the Constitution as sacrosanct and unchangeable,and to consider the legislator impeachable if he happened to touch the Constitution.The first proposition seems untenable and surely the makers of the decree of January 22,1946 were not prepared to accept it.The second proposition must be considered in the light of the notorious practice of the Provisional Government, who venerated the Constitution of 1921 in their declarations, but really hardly honoured its principles.

Nobody so far seems to have been prosecuted under Art.6 in the show-trials,and the provision,except^{for} being a deterrent, appears to serve no useful purpose.This decree,however,constituted a dangerous precedent for the future since the words "communist" and "sovietisation" may easily be substituted for the appropriate terms of the decree.

The decree of January 22,1946 was a powerful threat hanging like the sword of Damocles over the heads of all those who could be arraigned under its vague and elastic provisions.Directed against the members of the pre-war machinery of state it was instrumental in checking their loyalty and ensuring their cooperation^x with the new régime in the rebuilding of the bureaucracy shattered by the war.Consequently not only minor officials but also persons like Mr.E.Kwiatkowski^x and Mr.A.Rośé^{xx} offered

x pre-war vice-Premier, Minister of Finance, author of pre-war industrialisation schemes.

xx pre-war vice-Minister of Commerce

their services, their co-operation being prompted perhaps not so much by conviction as by motives of bread winning and fear.

The decree of June 13, 1946^X on "Crimes particularly dangerous during the reconstruction of the state" was a restatement of crimes which could have been prosecuted under other laws, e.g. the decree of October 30, 1944^{XX} and the code of Military Law^{XXX}. Certain provisions of the above decree were, however, widened and put into a new form.

Art. 1, § 1 threatened with life imprisonment or prison of not less than five years for "assault against Polish or allied military persons". The same punishment was provided for assaults against the following groups of persons (§ 2):

- a) members of the K.R.N. and other national Councils,
- b) state and local officials,
- c) members of the Polish and allied army,
- d) members of trade unions and political and social organisations of national importance.

The number of persons protected by special criminal legislation was in this way increased to include persons other than the servants of the state, enhancing thereby the position of the state-sponsored trade unions and unnamed organisations of social character. ^{XXXX} Unspecified aliens, meaning probably Soviet citizens were to enjoy similar privileges. ^{XXXXX}

The death penalty or imprisonment for not less than three years was provided for sabotage, consisting (Art. 3) :

- a) in destruction or damage to public utilities, means of communication and measures for defence,
- b) in impeding the functioning of the above, and
- c) in delivering articles to the Military below an agreed standard.

x D.U.R.P. No. 30, sec. 192 xx see pp. 172-4

xxx see pp. 166-172

xxxx In comparison to this provision one should quote Prof. Rozmaryn asserting that officials in the United Kingdom enjoy special privileges, see *Nauka o Panstwie*, Warsaw, 1949, p. 84
 xxxxxx cf Nazi legislation in occupied Poland, p. 46 ante

Industrial sabotage, consisting in "causing a reduction or deterioration of production", was punishable by a long term imprisonment (Art.39).

Manufacturing, possession of, or collecting arms was punishable by death or imprisonment for not less than five years (Art.4).

Espionage (Art.7) and conspiracy with a person acting for a foreign power to the detriment of the state (Art.6) - death or imprisonment for not less than five years.

Agrarian reform too, once more received special protection (Art.2)

"Allied unity" was protected, as before, by Art.11 of the decree, and "illegal organisations" once more subjected to extermination (Arts.13,35,36,37).

The legislator turned against those who "spread false news capable of damaging the interests of the state or undermining the authority of its organs" (Art.22), and set out to combat "undesirable publications" (Arts.23 and 24).

He did not overlook the fascist bogey (Art.29) nor those "who insult, deface or remove publicly exposed emblems of Poland or the allied country, as well as monuments erected to commemorate persons or events" (Art.25).

As formerly, jurisdiction over those crimes was given to Military Courts (Art.51) and everything connected with the preparation of trials entrusted to the security police (Art.55).

It would be indeed very interesting to observe the judicial interpretation of the decrees of January 22 and June 13, 1946, had trials been recorded in the Reports of decisions of the Supreme Court. Unfortunately all political trials took place

x Utterance: "Russians go home", is a crime, see Reports, op.cit.1947, vol.III, case No.84; xx see p.171 ante
 xxx hence the crime of "whispering propaganda", cf case quot.p.169
 xxxx cf p.169 ante; xxxxx see pp.170 and 178 et seq
 xxxxxx This is an obvious reference to Soviet Russia.
 xxxxxxx This provision seems still necessary due to the large number of Russian monuments erected in Poland.

before Military Tribunals whose records are unavailable. Moreover, indictments as reported by the Press and over the Radio, invariably consisted of voluminous charges couched in general and rather vague terms resembling speeches of the prosecution rather than brief and clear statement of the counts under which the given prisoner was arraigned.

Supreme National Special courts proliferated in the period
Tribunal. of special criminal legislation. A new institution of this kind was created by the decree of January 22, 194^x. This was the "Supreme National Tribunal" to supervise the Special Courts^{xx} and to act as a "Tribunal of State" (Art. 16). The nature and purpose of this new tribunal was similar to that of the Special Courts, but it was to sit only in cases of exceptional importance.

The S.N.T. consisted of three judges and four assessors, the judges being appointed by the Presidium of the K.R.N. and assessors drawn from the members of the K.R.N. The President of the Supreme Court was ex officio chairman of the S.N.T. (Art. 3).

The procedure before the Special Courts was adopted for the S.N.T. including the parts played by the public prosecutor and the security police. The sentence was final, and only in cases of death sentence could the condemned petition the Chairman of the K.R.N. for reprieve.

The purpose of the S.N.T. was twofold (Art. 13) :

- a) to try war criminals handed over to the Polish authorities according to the Moscow agreement between the United Kingdom, the United States and the Soviet Union, and
- b) to try persons liable to prosecution under the decree of January 22, 194^{xxx}.

x D.U.R.P. No. 5, sec. 45

xx see p. 163 et seq

xxx see pp. 178-182 ante

The S.N.T. was a mixture of professional judges and politicians delegated from the communist dominated K.R.N. It was, therefore, well qualified for political trials. In particular it was qualified to try those "responsible for the September 1939 defeat". No records of such trials are available, but one can rest assured that the S.N.T. would have disentangled the abstruse provisions of the decree of January 22, 1946, in conformity with the current policy of the régime.

People's Courts. By the decree of February 22, 1946^x, a considerable portion of the administration of justice was delegated directly to the "people". A "People's Court" was created in every commune, and for towns over 1000 inhabitants the Minister of Justice was to define the number of such courts (Art. 1).

A "People's Court" consisted of a judge, his deputy and six assessors chosen for three years by the corresponding national Council (Arts. 2 and 5). The judge and two assessors made a judicial quorum (Art. 33, § 1). The Court decided by a majority vote (Art. 44) and appeals from its decisions lay with the District Court (Art. 45).

The rules of procedure obtaining before the "People's Courts" were not specifically laid down, but Art. 37 constituted in this respect a principle of prime importance. The Court was thereby allowed to admit and make use of evidence even if not submitted by the litigants. In matters of evidence the Court was not bound by any laws and was authorised to judge cases according to its own discretion based on free assessment of the circumstances of the given case.

The "People's Court" was given both civil and criminal jurisdiction. In civil matters it was competent to adjudicate in disputes over possession of land, compensation for damage up to a specified value (1500 zł^{xx}), and payment for agricultural produce or work done to the same value (Art. 19).

x D.U.R.P. No. 64, sec. 113

xx at the pre-war rate of exchange about Ʒ 60

In criminal matters the "People's Court" was entrusted with an extensive jurisdiction (Art.20). In addition to offences under the licensing laws and trespasses to land and forest, it was competent to hear prosecutions under the law of non-indictable offences and under the code of criminal law of 1932. In particular the "People's Court" could inflict the penalty of two years imprisonment under the provisions of the code of criminal law and three months under the provisions of the law of non-indictable offences.

The prosecutions brought before the "People's Courts" were in the hands of the security police and local officials (Art.6).

The decree set no standard of qualifications for the members of the "People's Courts". It must be taken, therefore, that no legal qualification was necessary and that the bench was occupied by laymen; neither was legal advice (e.g. on the pattern of the English Clerk to the Magistrates) provided for. Drawn from the local Council the judge and assessors had, by necessity, to possess political qualifications, the indispensable condition of being a member of the Council. The inevitable inference therefrom is, that in most cases the local administration of justice was entrusted to the active members of the recognised political parties marking, thereby, the decline of the Magistrates Courts.

Legal Profession. The legal profession also received close attention from the Government. By the decree of January 22, 194^x, applicants for the offices of magistrate and advocate could be absolved from the qualification of a University degree by the Minister of Justice if they were engaged in "educational, professional, social, or political activities" (Art.1). Another decree (of February 22, 19^{xx}46) ordered the compulsory registration of persons qualified (that is having a pre-war standard of qualification) for the magistracy (Art.1) under pain of a heavy fine

x D.U.R.P. No. 4, sec. 33

xx D.U.R.P. No. 9, sec. 65

or three months imprisonment (Art.8).The Minister of Justice could then appoint judges from persons so qualified (Art.5).

Whilst the former decree was bound to effect a deterioration of the professional standard of the legal profession and crowd it with persons otherwise "qualified",the latter decree administered a heavy blow to the autonomy of the profession.In pre-war Poland,the first and indispensable condition for one to aspire to become a judge or advocate was a University degree in law.Then followed a five years' practical course and examination before appropriate bodies.Advocates enjoyed a professional autonomy through their "Chambers of Advocates" and judges independence and immunity proper to their office,a principle of the Constitution being that judges were appointed by the President of the Republic.

The above decrees suppressed,in effect,the traditional independence of the legal profession,and contrary to the Constitution,made the Minister of Justice its superintendent.As we shall be able to see later^{xx}, and as one can learn from the reports of trials,the judge was to become a servant of the régime and the official executor of their policy,and the advocate and assistant to the public prosecutor,instead of helping the court to arrive at the right decision and safeguard the interests of his client.

Similarly to the decree of January 22,1946,the decree of December 20,1946^{xxx} gave the Minister powers to absolve the applicants for the post of public prosecutor from the standard of educational and professional qualification equivalent before the war to those required for judges and advocates.The office of the public prosecutor,as one can see from a review of criminal legislation,became especially important owing to the number of political

x Constitution of 1921 Art.76; Constitution of 1935 Art.65

xx see pp.254-5 and 306-9

xxx D.U.R.P.(1947) No.2,sec.5

trials, where he had to appear as an efficient champion of the régime. From the régime's point of view, however, the legal qualifications of the prosecutor did not matter at all, provided he proved an able interpreter of the legislative policy. This can be inferred from the fact, that when the institution of the Chief State Prosecutor^x was created, the Government appointed to this post a man who by pre-war standards was not qualified to be a member of the legal profession.

Control of Publications. Freedom of speech and ^{the} printed word - one of the pillars of democracy - was seriously shaken by the operation of the laws discussed above, while a stricter control by the state was ensured by further decrees.

The decree of March 23, 19~~46~~⁴⁸, created a state owned "Institute of Books", whose function was to print books under the supervision of the Minister of Education. The decree had neither any definition of the word "book", nor specified the kind of "books" to be published by the Institute. One may infer, therefore, that this matter was to be settled by the Minister.

A further step in this direction was made by the creation of a "National Institute of Publications" under the decree of June 25, 19~~46~~⁴⁸. The two decrees complemented each other and left practically very little room for private publications, especially as the question of the allocation of paper was in the hands of the Government. They served a dual purpose : monopoly of publications and nationalisation of the printing industry.

Final control of the Press, Publications and Theatre became established with the creation of the "Central Controlling Office" by the decree of July 5, 19~~46~~⁴⁸. We may recall on this occasion a similar law passed about two years before, yet apparently

x see pp.228-231
xxx D.U.R.P.No.12,sec.78

xx D.U.R.P.No.10,sec.71
xxxx D.U.R.P.No.34,sec.210

insufficient for the particular purpose. The purpose of the new decree was to tighten the censorship. Art. 2 of the decree of July 5, 1946, left no publication or theatre exempted from the blue pencil, and what is more, made subject to control not only creation or production, but also distribution and dissemination. In the words of the decree the aim of the censorship was to prevent: "attacks on the Constitution, publication of state secrets, interference with international relations of the state, transgression of laws and good morals, and deception of the public by incorrect information".

Since the measures of the decree were of a preventive nature purporting to classify in advance the news or other publications, the freedom of the Press largely depended on the Government officials and the current policy of the state^x.

As a result of the system of preventive censorship and state monopoly of publications the Press became regimentated and the national literary heritage impoverished since only selected author writing on approved topics may expect their work to be published^{xx}.
Agrarian Reform. The agrarian reform promised by the Manifesto of the Committee of Liberation was not a revolutionary innovation^{xxx}, except for its methods and ultimate ends. By an early decree of the Committee (consolidated by the decree of January 17, 1945)^{xxxx} all landed property of over 50 (and in some areas 100) hectares including all buildings and stock were confiscated by the state (Art. 2). The owners were given three days to quit (Art. 7) and were forbidden to farm elsewhere in the district (Art. 17). They could either obtain a five hectares farm in another district or get a pension, which could be increased within the discretion of

x Though the British system presents a striking contrast, yet according to Prof. Rozmaryn no freedom of Press exists in the United Kingdom; see Rozmaryn, Nauka o Panstwie, op. cit. p. 86
 xx C. Milosz, La Grande Tentation, Collection de la Revue "Preuves", Paris, 1952

xxx cf enthusiastic view of Prof. Betts; Betts, op. cit. p. 197-8
 xxxx D. U. R. P. (1944), No. 2, sec. 4; xxxxx D. U. R. P. No. 3, sec. 9

the Minister of Agriculture for persons who rendered "services to a democratic Poland" (Art.17 (2)).

Land so confiscated was either to be distributed among the smallholders and sold to them by the state, or used for some purpose of the state (Art.14). The problem of smallholders and dwarfish farms (which constituted a real thorn in the national economy of all Central European states) could hardly be solved by the decree which limited the newly founded farms to five hectares (Art.12(2)). On the contrary such small farming units burdened with repayment of the price of the land and heavy taxation were doomed to a precarious existence, forcing the owners to form co-operative farms or join the greatly encouraged collective farms.

The decree did not nationalize agriculture, allowing private property still to exist, though it resembled the Bolshevick decree on land of the Second Congress of Soviets (October 1917) in so far as it abolished private ownership of large estates, put the distribution of the land into the hands of national Councils, and threatened with severe punishment all opposition to the reform.

Nationalisation of Industry. The nationalisation of Industry was a further step in the process of moulding the "economic basis" of the country. The law of January 3, 1946, in a sweeping measure ordered confiscation without any compensation of all industrial, mining, communication, banking, insurance and trade concerns owned by Germany or German or Danzig citizens as well as those controlled by them (Art.2).

Compensation was provided for the following three groups of enterprises :

- x By the pre-war reform 9 hectares farms were created, yet they were still considered too small to be self-sufficient.
 xx see pp.244-7 and 321; xxx G.Alexandrov and Others, The History of the Civil War in the U.S.S.R. vol.II, (London,1947), p.317
 xxxx see p.172 ante xxxxx D.U.R.F.No.3, sec.17

- A. Mining and industrial enterprises, namely: mines, oil and gas, electricity, water supply, iron works, armament, aircraft, explosives, coke, sugar, distilleries, breweries, yeast factories, flour mills, fats refineries, refrigerating stores, textile factories, and printing establishments.
- B. All enterprises able to employ more than 50 persons per shift.
- C. 1. All transport and communication,
2. Telecommunication.

In principle the industries so nationalised were to be run by the state, but could be transferred to recognised co-operatives (Art.5).

Trade Unions. The traditional Trade Union Movement, inspired by socialist ideas, was also reformed. The Movement, hitherto independent of the state though by no means friendly to the pre-war régime^x, was as the result of the decree of February 6, 1945^{xx} (as amended by the decree of January 16, 1947^{xxx}), put under the tutelage of the state.

The decree ordered the creation of Employees' Councils in all enterprises employing more than twenty persons (Art.1). In enterprises employing more than 100 persons, besides the Employees' Council, "trustees" were to be chosen to act as liaison officers between the employer and the Council (Art.2(2)).

The aim of the Employees' Council was to represent the interests of workers vis à vis the employer and to secure output and improvement of the production according to the current economic policy of the state (Art.3). The decree determined the numerical strength of the Councils in proportion to the total number of employees (Art.7) and entrusted the elaboration of their internal constitution to the Minister of Labour (Arts.13 and 22).

x cf p.33 ante

xx D.U.R.P.No.8, sec.36

xxx D.U.R.P.No.24, sec.92

A "social control" of the economic side of the management was envisaged by Art.4(3).In this respect the Council had to co-operate with the state administration and the national Councils. Neither "social control",nor "co-operation" was defined by the decree.

Since the bulk of Industry became nationalised the state stepped into the shoes of the employer and the struggle of the Trade Unions for the personal interests of their members lost its actual purpose and chance of success.By the creation of the Employees' Councils co-operating with the state authorities under the direction of the state the traditional idea of the Trade Union Movement became moulded into a new conception of an official organisation of workers for the purpose of carrying out the national economic plans and boosting up production.

The preceding pages serve to trace the legislative preparations for a constitutional reform.This reform was only partial in the law of February 19,1947,since the old system with minor amendments was accepted as a formal Constitution.Material changes,however, took place over the ~~period~~ of succeeding years and prepared the ground for the Constitution of 1952.

Chapter 11. The Constitution of 1947.

As we have seen in the preceding chapters the formative stage in the development of the People's Democracy passed in preparation of a blueprint for a new Constitution. This Constitution was introduced gradually by way of legislation passed first by the Communist Group and then by the same Group acting as the "Provisional Government of National Unity" established under the Yalta decisions.

One may wonder why the Communist Group, certain of seizing power upon the victory of the Red Army, did not prepare a complete Constitution to be introduced as soon as they became established in Warsaw. The answer seems to be as follows:

They realised that the country was not prepared for such a move and that the opposition to a political system coming from the East was too strong to be totally ignored. At the close of the war tension in Poland ran high: On the one side there was the Underground State and the Home Army, and on the other the new ideology backed by Soviet Russia. No open conflict on a national scale ensued though judging by the respective strengths of the opposing camps at the turn of 1944-45 the Communist Group had no chance of success if unaided by the Red Army. On the other hand, owing to the fact that civil war would have caused the intervention of the Red Army, a rebellion against the Communist rule was doomed to failure. It would, however, have made an unfavourable impression on the Western protectors of Poland who hoped to establish a parliamentary system of government able also to satisfy Soviet Russia. We must not forget that this was the time of the Three Powers Unity, the cordial co-operation of the Grand Alliance which Soviet Russia was anxious to maintain. The tactics of the Kremlin favoured, therefore, "popular national fronts" representing "broad democratic masses" and even tolerated in the coalition

governments what would otherwise be branded as "reactionary elements".

Consequently the founders of the Polish People's Democracy had to discard the rigours of total "proletarian revolution", appear in the robes of legality with highly democratic slogans on their lips and adopt for the time being half-measures necessitating the reception of certain forms of the ancien régime. Those half-measures incidentally fell in with the principles of the Marxist philosophy as expounded by Lenin and Stalin. Whereas Lenin laid down that the "working class" seizing power must not confine itself to taking over the existing state machinery, but must destroy it completely^x, Marshal Stalin, used to working with the "capitalist" powers of the Grand Alliance, would not, for their sake, insist on immediate application of the doctrine. Both Lenin and Stalin were agreed that a communist state could not be successfully established on the barren ground of the "capitalist" system without a special stage or epoch of transition, though in the case of the Baltic States reorganization took place without any preliminary preparation. Regarding the political system as the "superstructure" of the "economic and social basis" the doctrine required the "basis" to be adequately moulded so that the Constitution would be a record of facts and achievements. For the time being, therefore, the old forms could be used with advantage as long as they served the purpose of transition and peaceful revolution.^{xxx}

Alterations of the "basis" brought about by communist rule from 1944 to 1947 enabled the régime to alter the "superstructure" in order to adapt it to the reality. Their achievements in this field were recorded in the so called "Little

x V. Lenin, State and Revolution, London, ed. 1937, p. 30

xx Lenin, *ibid.* p. 67

xxx J. Stalin, Speech on 25.11.1936 on the projected constitution of the U. S. S. R., Polish edition, Moscow, 1945, pp. 13 and 18

Constitution" of February 19, 1947^x.

This law was enacted by the new legislative assembly elected on January, 19, 1947^{xx}. By the fact of the election of the new Sejm the K.R.N. ceased to exist by the operation of its own organic law^{xxx}. Notwithstanding the dissolution of the K.R.N. by January 19, 1947, the Presidium of the K.R.N. remained in office until February 4, 1947, the day of the convocation of the Sejm. This was the closing date of the activities of the K.R.N. and the beginning of the post-war Parliament:

The first statute passed by the new Sejm was the law on the election of the President of the Republic^{xxxx}. In this respect the Sejm acted technically as a constituent assembly since the question of the election of the President was an organic part of the Constitution and could be touched only by an appropriate amendment of the Constitution. Though the Sejm was not convened as a constituent assembly (i.e. to pass a new Constitution) it had to amend the Constitution of 1921 (under which it was supposed to be elected and sit) because the Senate, instrumental in the election of the President, was already abolished.

By the law of February 4, 1947 the President was to be chosen by an absolute majority of votes (Art. 7(1)) at a special sitting of the Sejm, two thirds of the statutory number of deputies being present (Art. 3(2)). The President was elected for seven years (Art. 2), his office extending over the period of time accepted for both former Constitutions.

Mr. Bierut, the Chairman of the K.R.N. was duly elected. President, the Communist Bloc having achieved an overwhelming majority in the Sejm.

x-The "Little Constitution" is not a "Constitution" in the technical meaning of this term, but an ordinary statute on the "Organisation and Powers of the Supreme Authorities of the Republic".

xx see p. 121 at seq. xxx law of 11.9.1944, amended by the law of 14.1.1946 (Art. 31). xxxx law of 4.2.1947 (D.U.R.P. No. 9, sec. 43)

Law of February 19, 1947. Though the preparations for the Elections took almost two years, the new constitutional law was enacted within 15 days of the opening of the Sejm, thereby frustrating any discussions arising out of the Constitution.

The above law was meant to be an interim measure (Art.1), and as we shall see in the forthcoming pages, an instrument of transition, another stage in the process of a large-scale political reform. It did not supersede the Constitution of 1921, nor did it purport to amend it; it was only stated to be made "on the basis of the Constitution of 1921 and other laws confirmed by the Referendum of 1946."

The relation between this interim measure and the Constitution of 1921 has so far been explained neither by any political writer nor by any theorist of the People's Democracy.

The law of February 19, 1947, however, incorporated certain provisions of the Constitution of 1921, and expressly referred to others as binding. Thus the Constitution of 1921, though always eagerly referred to as binding altogether lost its practical validity, being tacitly set aside. The expression "Little Constitution", may, therefore, be a misnomer as far as the form and origin of the law of February 19, 1947 is concerned, but it is correct in fact, the Constitution of 1921 never having really been honoured.

Notwithstanding the criticism by the official writers of the "reactionary form" of the Constitution of 1921, the law of 1947 adopted its division of powers into Legislative, Executive and Judiciary (Art.2), but gave it an imprint of the forthcoming changes.

The formal division of powers cannot be interpreted in the traditional way of Montesquieu. In the present version this x of the public discussion on the Constitution of 1952, see p.257
 xx The Referendum did not confirm expressly any laws, see p.119
 xxx Arts.1,2;3(2),7(1) ; xxxx Arts.11,13,19(1)
 xxx e.g.S.Rozmaryn, Polskie Prawo Panstwowe, Warsaw, 1951, p.118

division tends, in the law of 1947, more towards classification of the organs of the state than towards the separation of powers advocated by Montesquieu^x and other classic writers on Constitutional Law.

The idea of Montesquieu to separate powers and create thereby "brakes" to prevent despotism is rejected, since the People's Democracy is, in the words of Mr. Bierut^{xx}, a form of government "aiming at the dictatorship of the proletariat". The state of the People's Democracy is not a conglomeration of classes, interests or economic divergencies, it is a state, where to quote again Mr. Bierut^{xxx}, "a gradual suppression and liquidation of the capitalist elements takes place together with the development and consolidation of the basis of the future socialist economy".

"The authority of the state", as put by Prof. Rozmaryn^{xxxx}, in the People's Democracy "is one and indivisible and it consists in the political domination of the working class". (We have already met elsewhere a similar theory, which advocated "unity" and indivisibility of the authority of state". This was the theory of state expounded by the Constitution of 1935 and condemned in post-war Poland as totalitarian.)

The separation of powers mentioned in Art. 2 is thus only nominal; it is only a relic of the past and a transitory classification meaning simply a technical division of competencies or main functions of the supreme organs of the state. Since in actual practice one political party pervaded the whole machinery of state one cannot imagine any conflict between the supreme organs of the state, because all of them represent one ideology and work under one and the same direction^{xxxxx}.

x L'Esprit des Lois

xx Bierut, op. cit. p. 54

xxx Bierut, op. cit. p. 50

xxxx Rozmaryn, op. cit. p. 329

xxxxx Rozmaryn, op. cit. p. 327

Parliament. The institution of^a Senate fell in abeyance during the war and with the Referendum of June 30, 1946 lost its claim for restitution and so the uni-cameral Parliament became the supreme legislative organ.

In liberal democratic countries^x a bi-cameral Parliament is generally considered an essential part of the system, whereas in the People's Democracy the second chamber appears "anti-democratic". Liberal democracy regards the second chamber as a means of balance and a safeguard of due consideration given to measures passed by Parliament, whereas the latter sees in it a "means of class oppression and an instrument by which economic exploitation of the proletariat receives a mantle of legality."^{xxx}

The representative system, approved by Lenin,^{xxxx} has not been rejected by the People's Democracy, yet the character of its Parliament has been determined by the mode of election.^{xxxxx} A uni-cameral Parliament faces a greater danger of becoming the mouth-piece of one party than a bi-cameral one. A one party Parliament seems to be the ideal solution from the point of view of the People's Democracy since only then, to use Lenin's words, will it change from a "talking shop into a working^{xxxxxx} body".

The Electoral Law of 1946 determined the number of members of the uni-cameral Parliament at 444, as it used to be before 1935. The deputies were guaranteed by the law of 1947 personal immunity with regard to political activities, were exempt from criminal prosecutions unless given up by the Chamber, and were entitled to remuneration as well as the gratuitous use of means of communication.^{xxxxxxx} The Sejm would make its own internal constitution and order expulsion of its members, though the law of 1947 did not expressly^{xxxxxxx} say so.

x on "democracy" in general, see p. 290 et seq

xx Rozmaryn, op. cit. p. 335 xxx Rozmaryn, op. cit. p. 336

xxxx State and Revolution, op. cit. p. 37

xxxxx see p. 121 et seq. xxxxxx Lenin, ibid. p. 37

xxxxxxx Art. 11 adopting Arts. 21, 22, 24 of the Constitution of 1921.

xxxxxxx Absence from 5 sittings is now sufficient for expulsion.

The period for which the Sejm was elected in 1947 was not specified. The law of February 19, 1947 made it five years (Art. 6), but provided for no dissolution before the expiry of this term. This was quite new since former Constitutions provided a machinery for that purpose. Consequently the only way of dissolution before the statutory term expired would be by statute amending the law of February 19, 1947, this meaning that the duration of the life of the Sejm was in its own hands.

The Sejm met twice a year for ordinary sessions (Art. 7) convened by the President of the Republic, who similarly to his pre-war predecessors was given the power to convene, open, prorogue and close the session. An extraordinary session could be convened by the President on his own initiative, or at a request of one third of the statutory number of deputies (Art. 7(4)).

According to Art. 3 the functions of the Sejm were threefold: to enact the Constitution, to legislate, and to control the Government and give directions on general policy of the state.

As we can see the principal task of the Sejm was to enact a new Constitution. In this capacity of a constituent assembly it worked for nearly five years, the first draft of the new Constitution being published in April 1952.

The Sejm was meant to be the principal law making body. It could delegate this power to the Government (Art. 4) and authorise the latter to legislate by decrees, such decrees ranking as Acts of Parliament. Certain subjects were, however, excluded from the province of delegated legislation. These were (Art. 4): Constitution, Electoral Law, control of the Administration, responsibility of the President or Ministers, budget, national economic plan, monetary system, conscription, local administration and ratification of treaties.

x see p. 257

An important exception to this general rule was made with regard to the enactment of the budget, economic plan, and conscription (Art. 8). Accordingly, if no statute on those subjects was passed by the Sejm within three months from the Government proposals, those proposals would be promulgated^{as} laws by the President in their original wording. This provision strikingly resembled the law of 1926^x and Art. 58 of the Constitution of 1935 repudiated by the Communist Group.

The legislative initiative was in the hands of the Government, the Sejm and the Council of State (Art. 5). The Council of State, a novel institution, also exercised great influence on delegated legislation since all decrees had to obtain the assent of the Council (Art. 4(3)).

The law of February 19, 1947 recognised the principle of parliamentary control of the Government, but failed to define the means of doing so. It may be inferred, therefore, that the only means of control was by way of interpellations and votes of confidence^{xx}. In practice, criticism of the Government^{by the} of 1947-52 Sejm was, however, confined chiefly to the post facto criticism of deposed Ministers.

No machinery was created to implement the principle of the parliamentary direction of the general policy of the Government. It was thus conceivable only by means of legislation. This, however, would be a further stage, the direction being a preliminary stage, or background to the legislation. Budget and economic planning appear to be the basis questions of general policy in the system of the People's Democracy, apart from social and industrial reforms. In this field, however, the Executive plays the leading part, notwithstanding the claims to constitutional importance of the budget and economic planning^{xxx}. This is obvious

x see pp. 21 and 29

xx A possibility of a vote of no confidence is emphatically rejected by Prof. Rozmaryn, see Rozmaryn, op. cit. p. 396

xxxH. Minc, O wlasciwe metody planowania, Nowe Drogi, 1949, No. 8, p. 35-6

because of the technical nature of these questions and the provision of Art.8. The actual situation appears, therefore, to have been the reverse of that proposed by Art.3(c).

Executive. The Executive consisted of the President, the Council of State and the Government (Art.2). This rightly gave the President as the head of state precedence over other executive organs. He was followed in eminence by the Council of State which in practice overshadowed the Government. This innovation constituted a characteristic feature of the political system where, as we shall be able to see^x, besides the formal Executive (i.e. Government) there exists an "éminence grise", either in the form of personalities or party political elements.

President. The presidential office was retained by the law under discussion. As shown by the evolution of the pre-1947 period the institution of President was gradually restored. The revolutionary move by the first resolution of the K.R.N. to denounce the Constitution of 1935 and reject the Constitutional Authorities gave the Communist Group a free hand in this field and broke the legalistic continuity of the state. At that stage they did not think^{it} wise to abolish the presidency, but restored it in the meantime, only to suppress it later^{xx}. They first gave their chairman the powers of the Speaker of the Sejm, as defined by the Constitution of 1921, then changed the title of the chairman of the K.R.N. into that of the President of the K.R.N., who in turn was de facto President of the Republic until February 4, 1947. The new legislative assembly (Sejm) at its first sitting passed the law on the election of the President and duly legalised the de facto situation.

The law of February 19, 1947, incorporated the law of February 4, 1947 (Art.12), with regard to the presidential office and by way of reference adopted certain provisions of the Constitution of

x see p.210

. . . xx by the Constitution of 1952

1921.^x The latter defined the powers and attributes of the office as follows :

- a) the President is the head of the Executive and acts through Ministers responsible to Parliament,
- b) convenes, opens, prorogues and closes the Sejm,
- c) promulgates statutes,
- d) appoints and dismisses the Prime Minister and Ministers,
- e) is the Commander-in-Chief^{xx} of the armed forces in peace and appoints a Commander-in-Chief responsible to Parliament for the duration of war,
- f) appoints administrative officers,
- g) represents the state and appoints diplomatic officers,
- h) bestows orders and decorations,
- i) has the prerogative of mercy,
- j) concludes international treaties and submits them to the Sejm.

The office would devolve on the Speaker of the Sejm in case the President died, resigned, or was unable to perform his duties. If the President failed to attend to his duties for three months the Speaker of the Sejm would convene a session to decide whether to consider the presidential office vacant.

The law of February 19, 1947, also adopted the provisions of the Constitution of 1921 with regard to responsibility of the President. It thus retained the principle of the President being not responsible for his official acts, with the consequence of every such act requiring the countersignature (assent) of a responsible Minister. So much for the theory. In practice this principle received a new meaning. First of all the principle of parliamentary responsibility became obsolete,^{xxx} secondly, the President, on account of his actual powers, ceased to be a mere figurehead

x Arts. 40, 42, 43, 44, 45(1), 46, 47, 48, 49, 50, 51, 52, 53

xx This function has been emphasised by the new wording of the military oath: "to be faithful to the President" (law of July 18, 1950, D.U.R.P. No. 36, sec. 328).

xxx see p. 202 ante

as he was meant to be by the Constitution of 1921. Probably taking this situation into account the Sejm did not pass any law on the responsibility of the President or Ministers, though Art. 27 provided for such statute to be passed later.

The Constitution of 1921 gave the President the duty to "represent and officiate" and regarded him more as a symbol than the wielder of actual power. In this respect his office was incompatible with any other function or dignity. In the People's Democracy the President was a powerful political figure being at the same time the Chairman of the Central Committee of the "Polish Workers' Party". Though the President under former Constitutions could not hold a mandate in Parliament, ^{or} be Premier or Minister, the President of the People's Democracy by the law of February 19, 1947 was ex-officio Chairman of the Council of State (Art. 15(1)) and Chairman at the Cabinet meetings (Art. 17(2)). Whereas the Constitution of 1921 aimed at the isolation of the President both from Parliament and Government, this law made him a co-ordinator and supervisor of the supreme organs of state on the pattern of the 1935 Constitution^x. This was only logical because the Sejm was practically a one-party Parliament, the Government was drawn from that party and the President was its leader.

This practice received official confirmation in the resolution of the Cabinet of May 31, 1950^{xx}, sanctioning for the President a permanent chairmanship over its meetings.

The law under present discussion rightly made no provision for legislative decrees of the President, since the President, being a holder of triple power (as the President of the Republic, Chairman of the Executive and leader of the omnipotent party) practically dominated the supreme organs of the state.

x see p. 27 ante, and cf also the American presidential system.

xx Rozmaryn, op. cit. p. 427

The fact that the presidency was originally retained only in Poland and Czechoslovakia can be explained only by the republican tradition of those countries which had to be respected for the transitory period. In Poland, as we saw earlier, the presidential office was instrumental in the introduction of the People's Democracy through the manipulation of the Constitution of 1921, whereas Czechoslovakia continued to live under the old régime until the coup d'état of 1948, this event only bringing new people into the old functions.

Council of State. The institution of a Council of State was without precedent in modern Polish Constitutional Law. As a new organ created by the law of February 19, 1947, it grew in importance, securing for itself a prominent place in the system of the People's Democracy. It achieved the peak of its power during the forthcoming period (1947-1952) and declined under the Constitution of 1952. The origin of the Council of State can be traced to the Presidium of the K.R.N. which at the embryonic stage of the system acted as a supreme organ of state.

The Council consisted of the following members:

- a) the President of the Republic as Chairman,
- b) the Speaker of the Sejm and three deputy-Speakers,
- c) Commander in Chief of the Army,
- d) Chairman of the Supreme Chamber of State Control,
- e) members co-opted by the Council with the assent of the Sejm.

Originally only three members could be co-opted, but by the law of November 8, 1949, there was no restriction, though the Council remained in practice a very small body.

As the law did not determine the period of service on this body it must be assumed that the membership of an ex-officio

x East Germany received her constitution as late as October 1949

xx see p.234

xxx see p. 264 et seq.

xxxx see p.154 ante

xxxxx see p. 222

member would be terminated upon his relinquishing his office, whereas a co-opted member, not being elected, would be retained at the pleasure of ex-officio members.

The constitutional position of the Council leaves the impression that it was meant to be a permanent body forming an inner circle of the dignitaries of state. In this respect the Council has nothing in common with the Italian Consiglio di Stato or the French Conseil d'Etat.

Though the Council of State appeared to be a similar body to the Presidium of the Supreme Soviet under the Stalin Constitution, its personal composition, apart from its functions, considerably differed from its Russian counterpart^x. Another anomaly was the presence of the Commander-in-Chief of the Army, a position without precedence in any other system based on the Soviet Constitution. This curiosity of the Polish system may be traced to the dualism of the Civil and Military authorities characteristic of the Constitution of 1935 and the tradition of military leadership between the two wars.

The powers of the Council of State were quite extensive and not confined to one type of function, but the Council did not at this stage assume the position equivalent to that of the Presidium of the Russian Supreme Soviet so far adopted by five other People's Democracies^{xx}. In particular these were the competencies of the Council (Art.16) :

- a) general supervision of the national Councils within the powers of the original K.R.N. and the Presidium of the K.R.N. as defined by the law of September 11, 1944^{xxx},
- b) powers of the Presidium of the K.R.N. as given by other laws,
- c) assent to Government decrees,

x The Presidium is an elected body, see Art.48 of Soviet Constitution.

xx Albania, Bulgaria, Hungary, Rumania and Yugoslavia, though for the changes in the Constitution of Yugoslavia see J. Dordevic, Constitutional Reform in Yugoslavia, Review of International Affairs, vol. III, No. 24, p. 15 et seq

xxx see pp. 154 and 155 ante

- d) decision on the proclamation of the state of emergency,
- e) legislative initiative,
- f) assent to the budget, national economic plan, and conscription in cases provided by Art. 8^x
- g) examination of the reports of the Supreme Chamber of State Control.

Though the K.R.N. (as the national Council representing all lower Councils and acting as the "Temporary Parliament") died its natural death through the election of the legislative assembly its Presidium remained until the first session of the Sejm^{xx}. Something had to be done to carry on the functions and exercise the extensive and independent powers of the Presidium of the late K.R.N. Therefore a new body, the Council of State, was created to fill the gap. In other words the Council of State succeeded the K.R.N. in its function as the supreme national Council and assumed the highest place in the hierarchy of Councils. We have here to bear in mind the importance of the Councils acting both in a general and political capacity as the ideological framework of the Administration. Those Councils were the political and ideological agents of the régime ranging in a pyramidal fashion from the smallest communities to the whole of the territory of the state. By the extinction of the K.R.N. they were deprived of their common head, which had to be replaced by the Council of State. In this capacity the Council of State acted independently as a constitutional organ of state and so to speak stood at the same hierarchical level as the Sejm.

In other field the Council acted in conjunction with the remaining supreme organs of the state. In legislative matters the Council could propose laws on the same footing as the Government or Parliament, and its assent was indispensable for Government decrees to receive the authority of statutes.

x see p. 202 ante

xx see p. 197 ante

In the very important question of proclaiming the state of emergency, equivalent to a suspension of constitutional freedoms, the Council was the supervisory authority confirming a Government order.^x

The powers of the Council became enlarged by subsequent legislation, its internal constitution remaining as originally undefined and ephemeral. Taking into consideration the functions of the President of the Republic and the growing importance of the Council of State, one can say that the Council represented a constitutional means of the concentration of powers, and a channel for the transition of the former system of parliamentary government into a party dictatorship.

Government. The law of February 19, 1947, did not revolutionize the traditional conception of the Government, except for the control by the Council of State. Much of the Constitution of 1921 was adopted in this field and the form of the Government remained untouched.

The Government consisted of the Prime Minister and Ministers. No Constitution had so far defined the number of Ministers, but before the war they did not exceed twenty. As in pre-war times the President appointed the Prime Minister and Ministers on the Premier's advice. In the period of the K.R.N. the number of Ministers was fixed at 18,^{xx} but subsequent laws changed this arrangement. Since the President appointed Ministers for specified departments, a statute would be needed in case it was desired to increase the number of departments. In practice the number of Ministers tended to increase, and they were grouped into teams under the supervision of vice-Premiers. This resulted in quite a large Cabinet (all Ministers being of equal rank), consisting in 1951 of the Premier, four vice-Premiers, 28 department Ministers, two

x Under the pre-war system ultimate decision lay with Parliament.
xx by the law of December 31, 1944, Art. 2 (D.U.R.P. No. 19, sec: 99)

Ministers without Portfolio, Chairman of the Planning Commission, his two deputies and an Under Secretary of State attached to the Cabinet.^x

As a matter of principle most Ministers were members of the P.Z.P.R.^{xx} and as such subject to party discipline. Art. 27 (§3) of the constitution of the P.Z.P.R. states that "the Central Committee directs and controls activities of members occupying posts of national importance". This simply means that the party constitutes the actual power behind the Government. Since the Central Committee has for its chairman Mr. Bierut, the President of the Republic under the Constitution of 1947, the Government has been reduced to a mere technical team working under the close supervision of the inner circle which is composed of a few dignitaries. Those people need not necessarily be dignitaries of state, a high position in the party securing adequate influence on public affairs.

The Government as a collective body, besides its administrative function and making of general policy, was allocated an important part in the legislative process. It could propose laws (Art. 5) and legislate by decrees. The latter power was exercised in two ways through delegated legislation, and through executive decrees.

Owing to its size the Cabinet was rather unwieldy. Practice, therefore, confirmed by the above mentioned resolution of the Cabinet of May 31, 1950, created an inner circle within the Cabinet, called the "Presidium of the Government". It consisted of the Premier as chairman, vice-Premiers, and its own Under Secretary of State. This body must be considered as the actual Government of the Republic under the 1947 Constitution, the Ministers being assigned to technical departmental duties. The authority of this body has been enhanced by the presence of the President of the x by the end of 1952 there were 6 vice-premiers and 32 department Ministers.

xx the party created in 1948 after the fusion of the Workers' Party (Communist) with the pro-Communist Socialists.

Republic who usually attended its meetings and took the chair.

The institution of an inner circle within the Government is not unusual in the system of parliamentary democracy^x, but it is uncommon for the head of the state to attend and preside over the regular (other than emergency) meetings of such a body. The explanation of this practice in Poland seems to lie in the interplay of the personalities within the régime and in the transitory character of the Constitution of 1947. With the abolition of the presidency by the Constitution of 1952 Mr. Bierut (hitherto President) became Prime Minister and through this metamorphosis a continuation of the practice was ensured, the abolition of the presidency meaning only a formal amendment of the system.

Much speculation has grown around the mysterious personality of Mr. Jacob Berman^{xx}, who though being only an Under Secretary of State, is also a member of the "Presidium of the Government". There is no doubt that this formally modest post was entrusted to a man of great abilities, high standing in the party and enjoying the confidence of the Krowin^{xxx}. Yet it seems that his function is rather technical^{xxxx}, which by no means deprives the Presidium of his expert advice on the application of the Marxist-Leninist-Stalinist doctrine.

When discussing the Government it is impossible not to mention a newcomer, the Chairman of the Economic Planning Commission holding a ministerial rank and being a member of the Cabinet. The institution of economic planning came into prominence owing to the changes in the economic structure of the country and the state taking into its hands all direction and control in this field. Created on the Soviet pattern^{xxxxx} it was new in Poland but necessary for the development of a "socialist state". Though taking

9- x of the British system xx Gunther, op. cit. pp. 256 and 262-3
 xxx see p. 133-4 ante xxxx of Soviet Constitution Art. 48
 xxxxx of Soviet Constitution, Art. 11

the form of an economic dictatorship^x in the system of the People's Democracy, the idea of planning seems sound and consistent with the development of modern conception of government.

Administration The law of February 19, 1947, was very concise in of Justice. This matter. It only re-stated the principle of judicial independence (Art. 24) which, as we were able to see^{xx}, was considerably curtailed in practice. A prospect of reorganisation of the current system and restoration of the jurisdiction of ordinary courts was expressed by Art. 25(1), but this was to become subject to later legislation. The status of judges as well as the mode of appointment to the bench was also left to be defined later (Art. 25(2)).

Thus the constitutional statute did nothing in this important field to bring the country back to normal. As before, Military Courts were allowed to function, and lesser matters were left in the hands of the "People's Courts", whose mounting importance gave a characteristic imprint to the administration of justice. General Characteristics. The constitutional statute of February 19, 1947, was well adapted to its transitory function. Though formally introducing no revolutionary changes into the former system of a "bourgeois-democracy" (as referred to by contemporary writers in Poland) it left enough gaps to facilitate infiltration of new ideas.

The form remained, amended only by the institution of a unicameral Parliament and the Council of State, but the matter became totally changed.

The reception of the many provisions of the Constitution of 1921 had no material significance since most of them remained a dead letter, or became transformed in practice into something different.

x see p.318 et seq

xx see p.162 et seq

The statute also adopted the terms and institutions of the old system which, when confronted with actual practice, had lost their original meaning and purpose (e.g. parliamentary responsibility, presidential office, independence of judges, and so on).

The formal division of powers became obsolete owing to the arrangement of functions and the preponderance of the Executive.

If one applies the traditional classification of systems of government, Poland by the law of February 19, 1947, became a "presidential democracy" far stronger than the system of the much abused Constitution of 1935. But the traditional method of classification does not apply to the system of the People's Democracy and, therefore, it may be described as a transitory stage from a "bourgeois state" into a state of party dictatorship.

Chapter 12. Amendments of the Constitution of 1947.

A discussion on legislation affecting the Constitution would be incomplete without a brief review of the atmosphere in which the preparation for a new Constitution took place.

Parliament and The Elections of January, 1947, resulted in Government. an overwhelming majority for the Government Bloc listed as the Workers' Party (P.P.R.), Socialist Party (P.P.S.), Peasant Party (S.L.), Democratic Party (S.D.) and several splinter parties created ad hoc on the eve of the Elections. Out of the total ^{of} 444 seats in Parliament, 382 were held by the Government Bloc, 31 by groups of various parties collaborating with the Bloc, and 3 so-called "progressive catholics". The Opposition numbered 28 members, that is 27 deputies of the genuine Peasant Party (P.S.L.) led by Mr. Mikolajczyk and one independent socialist (Z. Zulawski, a veteran left wing socialist leader who refused to submit to the Bloc).

This tiny Opposition was, however, not immune from attacks by the Government supporters (at that time directly transmitted over the Radio from the Parliament chamber), those attacks openly aiming at its total destruction. A retort by Zulawski^x and the efforts of the Mikolajczyk group to parry the assault ended with a threat on the side of the Government Bloc^{xx} to strip them of their parliamentary immunity.

Several mass trials were used to implicate either the Socialists opposing the Government Bloc or the Peasant Party led by Mr. Mikolajczyk. Early in 1947, in addition to the pre-election terror, 18 members of the Peasant Party were sentenced to death^{xxx} for underground activities and their leader was named in the x in his speech in the Sejm on February 8, 1947
xx chief Government's spokesman General Ochab, see p.136 ante
xxx New York Times of January 22, 1947

trial of Col. Lipinski^x.

The summer of 1947 brought an intensification of the anti-
Opposition campaign and in July some 23 Socialists were arrested^{xxx},
while in September 9 followers of Mr. Mikolajczyk were sentenced
to death for "contacts with emigrés and passing secrets to the
American Ambassador^{xxx}". The latter trial warned Mr. Mikolajczyk of
the increasing probability of his being put into the dock.

The Opposition became finally extinct with the escape of Mr.
Mikolajczyk from Poland in October 1947, and the death of Zygmunt
Zulawski. The elimination of the Opposition was officially ac-
claimed as another victory of "democratic thought over the agents
of Anglo-American imperialism^{xxxx}".

b The Government of 1947 headed by Mr. Cyrankiewicz consisted^{xxxxx}
of two vice-Premiers and 23 Ministers, the key positions being
held by members of the Communist Workers' Party^{xxxxxx}.

Creation of Single Party. The destruction of the Opposition was followed
by a reorganisation of the party system and a
purge of unorthodox elements. Whereas the pre-Election tendency
favoured a multi-party system (organised, however, into the Govern-
ment Bloc with a pre-arranged distribution of seats) the post-
Election development was directed towards the creation of a
single party. Fusion was arranged only between the Socialists
and the Communists, the remaining parties being ignored.

During this process the Socialist Party had to make radical
changes in order to toe the communist line, these changes being,
in the words of Mr. Cyrankiewicz^{xxxxxxx}, "a bitter struggle within the
party against the right wing elements". The evolution went through

x The Scotsman, January 9, 1947

xx Manchester Guardian, July 19, 1947

xxx The Times, August 13, 1947 and News Chronicle, September, 11, 1947.

xxxx Bierut, speech at the Congress of Socialist and Communist
Parties in December 1948, Nowe Drogi, 1948, No. 12, p. 7

xxxxx see p. 133 ante

xxxxxx e.g. Defence, Security, Foreign Affairs, Industry and Trade,
Education, Regained Territories.

xxxxxxx speech at the Congress, Nowe Drogi, ibid. p. 20 et seq

the following stages^x:" the pact of unity of action with the Communists of November 1946, wrecked by the Right during the Elections; the resolution of the Central Committee of June 1947 to adopt a radical policy, sabotaged in practice by the Right; the Congress in Wroclaw of June 1948, still registering a great influence of the right wing elements; and finally the session of the Supreme Council of the Party of Septemebr 1948 which marked the elimination of the Right".

This internal evolution of the Socialist Party was considerably stimulated by external pressure exerted by the Government by means of propaganda and political trials. Socialist, particularly those associated with the war-time W+R.N.^{xx}, were from the beginning of the régime repressed as being among those who opposed the communist rule and were supposed to have "betrayed the socialist cause by their right wing leanings". The mortal blow was delivered a few days before the fusion Congress when veteran socialist leaders Puzak, Szturm de Szterm, Dziegielowski, Misiorowski, Kohn and Krawczyk were tried and convicted for "anti-state activities.^{xxx}

Similar in effect, though different in methods, was the purification of the Communist Workers' Party. Here the chief scapegoat, Ladislav Gomulka,^{xxxx} was made to recant his errors and, as becomes a good party man, to purge himself in self-critical speeches at the meeting of the party's Central Committee (August 31 - September 5, 1948).^{xxxxx} Gomulka (who was Secretary-General of the party and Secretary to the Cominform) fell into disgrace with the Kremlin for alleged association with the Titoist schism. His main guilt, however, was "deviation from the Marxist philosophy, opportunism, nationalism, distrust of Soviet Russia, opposition to

x Cyrankiewich, op. cit. p. 32 xx see p. 58 ante

xxx The trial took place from November 5, to November 19, 1948,

see D. Healey and Others, The Curtain Falls, London, 1951, p. 50-51

xxxx see p. 132 ante

xxxxx recorded in Nowe Drogi, 1948, No. 11, pp. 40-50 and 135-145

immediate collectivisation, and misrepresentation of the process of development towards socialism^x".

The fusion of the two parties into one "United Polish Workers' Party" (P.Z.P.R.) in December 1948 crowned the five years evolution since the creation of the Communist K.R.N. in December 1943. Mr. Bierut, in his speech on that occasion^{xx}, after paying the customary tribute to Soviet Russia and the Red Army, considered the amalgamation of the parties "a big step towards socialism, an act strengthening the authority of the united party, consolidating the power of the state and facilitating the struggle against the opposition". The united party, could, in his opinion, more easily and better utilise the experience achieved in Soviet Russia, improve the cultural and ideological development of the country, assimilate the precepts of Marxism and bring about ideological education of the nation".

Another leader of the People's Democracy, General Marian Spychalski^{xxx} (now deposed for "deviationism and association with Gomulka and emigré circles"), thought the fusion to be the principal act in the consolidation of the political system and a contribution towards a final liquidation of the "capitalist-imperialist elements", the chief enemy of socialism^{xxxx}.

The importance of the fusion has been adequately explained by the authorities quoted above. In recapitulation we may add that this meant submission to Communism of the Socialist Party - the only party of standing in the coalition with the régime - and the final defeat of those who dreamed of a separate path towards "socialism" and of an independence of Soviet Russia in that venture.

x In particular Gomulka dared to maintain that "there is now no dictatorship of the proletariat in Soviet Russia, but a Soviet democracy", cf E. Ochab, Nowe Drogi, 1949, No. 5, p. 29

xx Nowe Drogi, 1948, No. 12, p. 4 et seq; .xxx see p. 132 ante

xxxx O Jednosci Tradycji Zjednoczonej Partii, Nowe Drogi, 1948, No. 12, p. 37

After the fusion the United Party had 1,4 million members, 930.000 of whom were the former P.P.R. and only 470.000 the former Socialist Party. The social composition of the United Party was in March 1949 as follows^x: 787.000 industrial workers, 282.000 Army and Security Police, 238.000 peasants, 62.000 agricultural workers, 28.000 artisans and 3.000 shopkeepers. Taking into account the fact that before the war about 65% of the whole population lived by agriculture the proportion of peasants and agricultural workers as against the Army and Security Police speaks for itself.

Marshall Aid. A final integration of the Polish People's Democracy into the Soviet Bloc was marked by two events : the refusal of Marshall Aid and the arrival of the Russian Marshal Rokossovsky.

The news of the European Recovery Programme announced by the American Secretary of State George Marshall in the summer of 1947 was warmly received in countries devastated by war. Both Czechoslovakia and Poland accepted in principle participation in the Plan, but after a Moscow rebuke, hastily withdrew and failed to appear at the Paris Conference. There is no secret about this Soviet intervention, though the Plan was subsequently condemned throughout the Central and Eastern Europe as an "imperialist assault against the sovereignty" of those countries^{xx}. As an alternative to the Marshall Plan Russia presented them with a Council for Economic Mutual Assistance, whose principal aim was an economic conglomeration of the Soviet Bloc, incomparable^{xxx}, however, with the benefits of the Marshall Aid.

x figures by R. Zambrowski, *Stalinowska Nauka o Sojuszu Robotniczo-Chlopskim, Nowe Drogi*, 1949, No. 6, p. 114 et seq

xx of Cominform's Manifesto, quot. in *The Strategy and Tactics of World Communism*, Rep. No. 5, 80th Congress, 2nd session, Washington, 1948, pp. 209-211

xxx On exploitation of the vassal states see Y. Gluckstein, *Stalin's Satellites in Europe*, London, 1952, (on Poland, p. 61-2)

Marshal Rokossovsky. Marshal Tito's rift with the Kremlin undoubtedly precipitated the sending to Warsaw of a pro-consul in the person of the Marshal of the Red Army Konstantin Rokossovsky. This officer was in command of the Soviet Armies which stopped at the gates of Warsaw during the rising in autumn 1944 and marched into the ruins of the capital in January 1945. In autumn 1949 he was "given as a gift to the Polish nation in token of the Soviet-Polish friendship", was made Marshal of Poland, Commander in Chief of the Polish Army, Minister of Defence and a member of the Council of State.

Apart from the political significance the arrival of Marshal Rokossovsky echoed a military interest of the Kremlin in the position of Poland, the largest vassal state situated in a strategically important area. In the post-war reorganisation of the Polish Army, the nucleus of which were the troops formed during the war under Soviet command, an important rôle was assigned to high ranking Red Army officers put in actual command of Polish units. Such for instance was the Chief of General Staff General Korczyc, one of his deputies Gen. Rolkiewicz, the officer commanding the Ground Forces: Gen. Popławski, Air Force: Gen. Turkiel, Navy: Admiral Czerokow, Armoured Forces: Gen. Suchow, Artillery: Gen. Bewziuk, Technical Units: Gen. Bardzillowski, Signals: Gen. Malinowski, and several regional commanders as well as the chief of Intelligence Gen. Kasznikow, not to count minor officers, especially in the Intelligence Service and Political Education Corps.

A natural rivalry between the alien newcomers and the native officers was put to an end when Marshal Rokossovsky took command. The deposition of Marshal "Rola"-Zymierski, Gen. Spychalski and the purge of the senior officers' corps in the trial of Generals x Usually referred to in British Press as "Polish born". /1949 xx Mr. Bierut in his speech greeting the Marshal, Polish Daily, 8.11. xxx Over 3.000 Soviet citizens were given Polish citizenship.

Most of them assumed Polish sounding surnames.
 xxxx Now one of the vice-Ministers of Defence.
 xxxxx Officers named here were in command in spring 1953.
 xxxxxx One of the vice-Ministers of Defence after the death of Gen. Swierczewski, believed to have been killed by partisans,

Daily Telegraph 31.3.1947

Mossor, Tatar, Herman and Hirschmayer together with five other senior officers^x was the second stage of the reorganisation of the Army and an aftermath of Marshal Rokossovsky's appearance in the rôle of a Pole.

Struggle for Power. On the political scene the rivalry between the "native" and "foreign" leaders had also come to a head, but no real struggle for power ensued. A distinction between the two groups was pretty clear from the very beginning of the system, the "foreigners" occupying key positions.

Already during the Gomulka crisis it was mainly the "natives" who found themselves on the proscription list, and of the fifteen members of the Politbureau chosen in December 1948 (during the fusion Congress) nine prominent places were taken by the "foreigners". In 1949 General Jozwiak-Witold^{xx} ("native"), the vice-Minister of Public Security was deposed but reappeared in 1950 as a member of the State Control Chamber, and the place of General Spychalski (native), who was accused of attempting to remove "excellent Soviet commanders given to us"^{xxx}, was taken by General Ochab ("foreigner"). In April 1949 Mr. Minc ("foreigner") became the economic dictator as a vice-Premier and Chairman of the Planning Commission, his two deputies (Mr. Szyr and Mr. Jedrychowski) being of the same group. The purge of 1948-49 brought down also several junior members of the Government such as the Minister of Food Lechowicz, vice-Ministers J. Dubiel (deputy of Gomulka), S. Kowalewski (Agriculture), R. Borowy (Forestry), T. Kochanowicz (Social Service) and Widy-Wirski (Shipping), all of whom belonged to the "native" group.

The leadership of the Central Council of Trade Unions was entrusted to Gen. Zawadzki^{xxxx}, a defender of Stalingrad and political officer in the Polish Army under Soviet command.

x Daily Telegraph, 31.7.1951 and The Times, 3.8.1951

xx Former Chief of Staff of the "People's Guards", see p.94 ante

xxx M. Naszkowski, Nauki Procesu Bandy Szpiegowsko-Dywerysyjnej, Nowe Drogi, 1951, No. 4, p. 33

xxxx Replaced by Mr. W. Klosiewicz on becoming vice-Premier in 1950.

Mr. Zawadzki is at the present Chairman of the Council of State

The list of the Government posts by the end of 1949 clearly showed the domination of the "foreign group", which for obvious reasons enjoyed a wider confidence of the Kremlin than did their indigeneous colleagues, This victory of the more radical, more indoctrinated and certainly pro Russian element meant, in fact, a more determined application of the doctrine and a more vigorous pursuance of the "socialisation programme", the year of 1950 being the corner stone of the development.

Amendments of the 1947 Constitution. Five years of political planning and action were consumed in the moulding of the remainder of the "bourgeois-democratic" state of 1947 into a more advanced form of the People's Democracy. Similar to the preceding period the process did not evolve through sweeping general reforms, but took the shape of gradual reorganisation. It is not surprising, therefore, that the law of February 19, 1947, though at its very inception in most parts a dead letter, suffered only three direct amendments.

The formal aspect of the Constitution remained thus unchanged, the material reforms being effected by means of specific legislation and practice. The latter especially made the apparent accord between the form and the matter of the Constitution illusory, so much so that it became fictitious by 1952, the practice having outgrown the formal boundaries of the Constitution. Though this phenomenon would be considered anomalous in Western Democracies, the People's Democracy accepts it as inevitable, seeing in the Constitution (charter) an official record of past achievements^x. Furthermore, the system of the People's Democracy being a transitory form of government^{xx}, by its very nature embodies a discrepancy between the form and the matter, though the theorists, following Stalinist dialectics^{xxx}, assume that "there is no conflict

x see p. 196

xx see p. 302

xxx J. Stalin, Works, Warsaw, 1949, vol. I. pp. 327 and 329

between the form and the matter, but only a conflict between the old form and a new matter, the latter being in quest for a new form.^x"

The formal amendments we are about to discuss dealt mainly with the position of the Council of State which in this period achieved the peak of its power.

The law of February 19, 1947, was first amended by the law of November 8, 1949^{xx}, which abolished the provision of Art. 15(3) limiting the number of co-opted members of the Council of State.^{xxx} As a result of this amendment the Sejm, as well as the Council, became free of constitutional restrictions in forming the personal composition of the Council, but the Council still remained a small body.

With the reform of the system of National Councils by the law of March 20, 1950^{xxxx} the powers of the Council of State also had to be adjusted, bringing about another amendment of the law of 1947^{xxxxx}. The Council of State assumed thereby the "supreme control" over the reorganised national Councils", which in their turn became "regional organs of the uniform authority of the state". It is important to note this evolution because it changed the formal aspect of the system of Councils and finally registered the actual situation. Originally the pyramid of national Councils, as announced by the decree of September 11, 1944^{xxxxxx}, gave the impression that the lower Councils constituted the source of power of the higher Councils, the K.R.N. being thus an emanation of the popular representation of the masses. This was, of course, only a theory since the K.R.N. was not an elected body, the existence of the Councils and their activities were rather ephemeral and the K.R.N. (or strictly speaking its Presidium) was the actual ruler.

x Rozmaryn, op. cit. p. 300

xx D.U.R.P. No. 57, sec. 447

xxx see p. 206 ante

xxxx D.U.R.P. No. 14, sec. 130

xxxxx D.U.R.P. No. 14, sec. 129 xxxxxx see p. 152 et seq

By the amendment of March 20, 1950 the theoretical situation became reversed and the existing practice was sanctioned. Instead of being the source of power the lower Councils became "organs" of the Administration and the Council of State the personification of the "uniform authority of the state".

System of Councils. National Councils^x, the product of the early legislation of the People's Democracy, appeared in 1950 in a new, finished form and replaced the dual system of regional administration that had hitherto obtained. This dual system, adopted for the transitory period, consisted in the local self-government authorities (Councils) co-operating with the organs of central administration (District and Provincial Governors). It survived until the reform of 1950 which created a unitary system of the administration of the state by the abolition of the governorships^{xx}.

The genesis of the present system goes back to the theoretical foundations of the People's Democracy and the experience of the Soviet Union. The Paris Commune hailed by Marx as the "finally discovered political form able to bring about the economic liberation of the working class", is supposed to be the prototype of the system. The Soviet State, on the other hand, translated this idea into actual practice by creating a Republic of Councils, imitated by the founders of the People's Democracies.

This tradition was well summarised by one of the leaders of the Polish People's Democracy: "These popular councils, developed in the two revolutions of 1917, regarded by the genius of Lenin and Stalin as the most effective weapon of the working class in the struggle for socialism, became an inspiration of the international proletariat. They are now created whenever the working

x see Diagram, Appendix, No. 2

xx Several governors, however, have been installed as chairmen of their respective Councils, see Polish Daily of 26.5.1950 and 7.6.1950.

xxx Lenin, State and Revolution, op. cit. p. 79

class in a revolutionary struggle fights for power, and they become established on the victory of the working class^x".

Though this "revolutionary struggle" took in Poland the peculiar form of the conquest by the Red Army and the establishment of the "rule of the working class" was ensured by international decisions, the above quoted writer frankly admitted the actual source of the inspiration and traced the technique to two stages corresponding to the progress of the development of the political system.

The system of Councils was brought to Poland as early as 1944, but the experiment apparently failed. True, the nature of the original Councils indicated their "class" character^{xx} and a copy of the development during the Bolshevik revolution, but to perform their function they had first to pass a test of political reliability, be purged from "reactionary" elements and educated in the "progressive spirit"^{xxx}. Apparently their rôle was not appreciated and even a section of the leadership represented by the deposed Gomulka failed to understand the importance of the Councils^{xxxx}. The defeat of the deviationists and the consolidation of the party through the fusion of 1948 were thus important and necessary steps towards the creation of ideological conditions, propitious for the reform. The reform, in the words of Mr. Bierut^{xxxxx}, meant a "transition to a higher stage of the social and political organisation of the state".

The law of 1950 scored a considerable success in advancing the cause of the People's Democracy along the proven theoretical lines of the Marxist-Leninist ideology. Furthermore it was an important step towards assimilation to the Soviet system which was

x A. Zawadzki, *Istota i Rola Rad Narodowych jako Jednolitych Organow Wladzy*, Nowe Drogi, 1950, No. 2, p. 110

xx K. Morawski, *Uwagi do Zagadnienia Rad Narodowych w Polsce Ludowej*, *Panstwo i Prawo*, Warsaw, 1950, No. 7, p. 13

xxx Zawadzki, *ibid.* pp. 113 and 115; xxxx Rozmaryn, *op. cit.* p. 480

xxxxx B. Bierut, *Zadania Partii w Walce o Nowe Kadry*, Nowe Drogi, 1950, No. 2, p. 37

regarded as a superior stage in the development towards socialism. Art.1 of the law of March 20,1950 ,stating that the Councils "are the territorial organs of the uniform authority of the state" was a direct translation of Art.94 of the Soviet Constitution of 1936.

The new Councils were to be elected by the people (Art.2), the electoral law to be defined by special legislation.Electors could revoke the mandate of their representatives (Art.3),the circumstances of such action being also left to future legislation^{xx}By those provisions a member of the Council would have to be in constant contact with the electors whose displeasure might deprive him of his mandate.This principle of representation (incidentally taken from the Soviet Constitution,Art.142) did not apply to parliamentary election.In practice the existing Councils retained their position and remained in office.^{xxx}So far ne fresh election took place,except for individual changes in particular Councils.

The Councils,concentrating in their hands the uniform authority of the state with regard to local affairs,were given considerable powers.In particular they were authorised to : "direct all economic,social and cultural activities within their boundaries,safeguard public order and supervise execution of laws, protect public property and civic rights of the citizen,co-operate in the improvement of the defence of the state;legislate in matters delegated to them by statute,make economic plans for the given territory within the national economic plan,enact budgets within the national budget and decide upon local,taxation^{xxxx}".From this list of extensive functions and powers one can x.hailed by Prof.Rozmaryn as the "document of greatest historical importance",Rozmaryn,op.cit.p.488
 xx 'no such legislation appeared as yet.
 xxx see present Electoral Law,p. 281
 xxxx cf similar provisions,Soviet Constitution,Arts.97 and 98

see that each Council within its boundaries acted as a legislative, executive and controlling body corresponding to the idea of a "uniform authority of the state".

The threefold hierarchy of regional Councils (communal, district and provincial Councils) left much room for overlapping of competencies and it became necessary to adjust the planning of lower Councils to the plans of the higher ones. Conflicts were, however, excluded by the hierarchical organisation and by the overall supervision of the whole system by the Council of State. A higher Council could set aside a resolution of a lower Council if such resolution was inconsistent with the law or the policy of the state (Art.29). The Council of State could do the same with regard to resolutions of all other Councils.

Whereas the communal, district and provincial Councils were primarily organs of local (or regional) administration, the Council of State was the supreme organ of the central administration. In this capacity the Council of State ordained elections of members of the lower Councils, gave advice, directed the Councils in the field of social policy, examined reports of the lower Councils and their activities (Art.26). The Council of State was competent to dissolve any lower Council and order new elections, if such Council "neglected its duties or acted contrary to laws and general policy of the state" (Art.27).

The system of Councils is a system of centralised administration based more on party allegiance than the civil service apparatus^x. This kind of centralism involves a twofold subordination consisting in the subordination of the given Council to the electors as well as to the hierarchical authority of the higher organs of the state. We can note, however, that in the method of appointing the Councils the citizen^{xx} (even if he was an elector)

x Zawadzki, op. cit. p.123

xx Delegation and co-option in Poland, election in Soviet Russia.

had actually little influence on the choice of members of the given Council, this influence diminishing gradually with the higher hierarchical status of Councils^x. As far as the highest Council was concerned (i.e. the Council of State) this body had a constitutional status of its own and can hardly be deemed to be dependent on the will of the people^{xx}.

Besides the Council of State the Government and Ministers were also authorised to direct and instruct the Councils (Art.5). In this respect the authority of the Government and Ministers was lower than that of the Council of State since the former were to act only in a technical capacity and in conjunction with the latter. This is well illustrated by the provision of Art.30 which allowed the Government only to suspend resolutions of provincial Councils and submit their decision to the Council of State for approval.

The purpose of the reform of the system of Councils was so summarised by Mr. Bierut^{xxx}:

- " 1. to link the organs of the state with the masses,
 2. to strengthen the authority of the state through its uniformity, co-ordination and participation of the masses in the government,
 3. to improve the machinery of the state by abolition of the division of powers into the Legislative and Executive, and into the central (state) and local (regional) functions,
 4. to fight bureaucratic deviation in the administration through a control of the state apparatus by the masses,
 5. to develop creative initiative and activity of the masses in the building of a new socialist system, and to increase the strength, welfare and culture of the nation".

x see p.153 ante

xx The Council of State consisted of ex officio and co-opted members, see p.206 ante.

xxx B. Bierut, Zadania Partii w Walce o Nowe Kadry, Nowe Drogi, 1950, No.2: p.34

In short, the idea of the reform was to improve the system on the Soviet pattern, to wedge the masses into the machinery of the omnipotent state, and to make the individual an ideological partner of the régime under the guise of direct participation in government. This view seems to be confirmed by the preamble to the law of March 20, 1950, which introducing the new system so stated its aims: "...for a further democratisation of the country through a more complete sharing of the working masses in the government, for full centralisation of the local rule of the people as well as for further consolidation of the People's Democracy and speeding up of the building of socialism in Poland".

Further increase of Power of the Council of State. In the course of legislation the position of the Council became further enhanced. New institutions (such as the Chief State Prosecutor, the Special Commission for the Prosecution of Corruption, Fraud and Economic Sabotage), and reorganised institutions (such as the Supreme Chamber of State Control) became subordinated to the authority of the Council of State. The Council gained, thereby, not only control over the Executive, but also participation in the legislation and in the shaping of the general policy of the state.

Office of the Chief State Prosecutor. The institution of the Chief State Prosecutor was introduced into Poland by the law of July 20, 1950^x, in order "to consolidate the People's Democracy, protect public property, and prosecute crimes" (Art. 1). The Chief State Prosecutor^{xx} was to be appointed by the Council of State (Art. 5(1)), and was bound to act according to the directions of the Council (Art. 6(1)). One of his deputies was the Chief Military Prosecutor appointed by the Chairman of the Council of State at the instance of the Minister of Defence (Art. 5(3)). The office

x D.U.R.P. No. 38, sec. 346

xx Mr. S. Kalinowski, known neither in the legal profession nor in politics has been appointed to this post. Before his appointment he was a Bar student (enrolled in Warsaw on July 18, 1950), see Polish Daily of October 24, 1950.

was thus under the direct supervision of the Council and closely linked with the system of Military Courts still functioning all over the country.

The prosecution of crimes, hitherto in the hands of public prosecutors attached to ordinary courts, became centralised and put under the control of the Executive. The Chief Prosecutor, his deputies, and officers of his department became for all purposes servants of the state, and as such, subject to the discipline and responsibility pertinent to the Civil Service (Arts. 15 and 16).

The law of July 20, 1950 was vague in the definition of the status of the apparatus under the authority of the Chief Prosecutor. It was confined to an outline of the main functions and attributes of the office. The local offices were given independence of any other authority of the regional administration (Art. 11), but were subordinated to the Chief Prosecutor, and through him to the Council of State.

The powers of the Chief Prosecutor extended over three groups of subjects (Art. 3) : the regional administration, courts, and individual citizens. As the chief legal officer of the state he was entrusted with the technical supervision of the legal side of the administration at all levels with the exception of the Government. No machinery was provided, nor means specified, through which he would carry out his duties. Presumably he would act through prosecutions, thus ensuring a post facto vindication of the law and deterring further breaches as well as purging the administration of undesired elements.

It is interesting to note that no mention was made about the relationship between the Chief Prosecutor and the Minister of Justice. Since the former was also given authority to order the execution of penal sentences and supervise penitentiaries his work in this respect would be linked rather with the Ministry of Public Security, but this relationship was again undefined.

The explanation of this silence on the part of the legislator seems to lie in the transitory nature of all legislation and in the trend of development characterised by the growing importance of the Council of State.

An important function of the Chief State Prosecutor was to supervise the Courts in order to see that they "apply the law uniformly and correctly"(Art.3). So far the question of the application of law was a matter for the courts themselves, the machinery of appeal and revision ensuring this objective. In addition, the Supreme Court in Warsaw, to which in the pre-war system practically almost every case could go, was the highest judicial authority as far as the administration of justice and interpretation of the laws was concerned. The Courts were presumed "to know the law" and the judge could safely look for guidance to the precedents created by the Supreme Court. By the law of 1950 this faculty was bestowed upon the prosecutor - one of the parties in litigation. Apart from affecting the position of judges and defending counsel and enhancing the rôle of the prosecutor in the ordinary course of justice, this provision further increased the authority of the Council of State.

Furthermore, by Art.4(1) the Council of State (a non-judicial body) was made "the supreme authority for the interpretation of laws and the definition of principles of their application", thus assuming the position hitherto enjoyed by the Supreme Court. Consequently the Chief State Prosecutor was bidden to turn to the Council of State for guidance on the interpretation and application of the law of the land. This interpretation of laws authoritatively announced by the Council would then become binding and enforceable in all Courts including the Supreme Court.

Though there was no provision in the Constitution for an independent legislation by the Council of State, the Council began to legislate by decrees, thus taking into its hands the legislative

power so far reserved for the Sejm and the Government^x.

In this system of increased powers of the Prosecutor and his subordination to a political executive body the citizen was promised the "protection of the Chief State Prosecutor" (Art.3), but the law failed to specify the means of such protection or to indicate against whom the citizen was to be protected by the Prosecutor.

The office of the Chief State Prosecutor has no equivalent in the Western systems of law, the English Director of Public Prosecutions acting on quite different principles and within strictly defined boundaries^{xx}. It can be traced, however, to the Soviet system, certain provisions of the Soviet Constitution of 1936 being expressly adopted^{xxx}. The Polish Chief State Prosecutor received, however, wider powers than his Russian counterpart. This phenomenon may be explained by the historical fact that the Soviet Constitution of 1936 was enacted at the stage of the "triumphant proletariat", whereas the Polish People's Democracy laboured under the heavy disadvantages of the still subsisting relics of the "bourgeois-democratic state".

Supreme Chamber The third amendment of the constitutional
of State Control. law of February 19, 1947, reorganised the Supreme
Chamber of State Control^{xxxx}. In principle this collegiate body re-
mained independent of the Government, but became subordinated to
the Council of State. Furthermore, through its connection with the
Chief State Prosecutor, various commissions of the national Councils
and the Special Commission^{xxxxx}, the Chamber of State Control became
wedged into the system of the state administration, and
instead of being responsible directly to Parliament it was under
the control of the Council of State. In other words, the supreme
controlling body was itself put under an authority other than
x of decrees of 13.6.1947 and 12.10.1950
xx see Sir T. Matthew, Office of the Director of Public Prosecutions
xxx. Arts. 113, 114, 115, 116, 117; xxxx law of 9.3.1949 (D.U.R.P. No. 13, s74
xxxxx law of 20.7.1950, Art. 13; xxxxxx law of 9.3.1949, Arts. 1 and 26

Parliament.

The law of March 8, 1949, envisaged a dual responsibility of the Supreme Chamber of State Control. Its Chairman was appointed by the Sejm and he was responsible directly to the Sejm. His vice-Chairmen were appointed by the Council of State and that body was authorised to issue instructions to the Chamber of Control. The Council of State in the first place was to receive the audit report of the Chamber, which report could be amended by the Council. Only an approved report went to the Sejm as the final result of the work of the Supreme Chamber of State Control.

This decline of the authority of the Supreme Chamber of State Control was the harbinger of the future developments, since under the Constitution of 1952 this institution completely disappeared and re-appeared only in 1953, this time as a "Ministry of Control", that is another Government department^x.

Special Commission. A Special Commission for Prosecution of Corruption, Fraud and Economic Sabotage was contemplated as early as November 16, 1945, but that law was consolidated five years later^{xx}. The scope of action of the Special Commission was quite extensive, including inquiries into "crimes against the economic and social interests of the state, corruption and speculation to the detriment of the working classes" (Art. 1).

The Commission was appointed by the Council of State and had its own Delegates with the Presidiums of the Provincial Councils. The Commission as well as its Delegates, put into motion at the instance of the Public Prosecutor (Art. 5), could send an accused person to a forced labour camp for two years and impose a heavy fine (Art. 7). The suspect was not allowed to have a defending lawyer (Art. 9) and the decision of the Commission or its Delegates

x see p. 289

xx by the circular of the Prime Minister of August 31, 1950

(D.U.R.P. No. 41, sec. 37) and the decree of the Council of State of October 12, 1952 (D.U.R.P. No. 47, sec. 429)

was final (Art.11). Only the Chief State Prosecutor could interfere with such a decision. In particular he could request revision of the decision, or could of his own initiative release the condemned if he had served one third of his term (Art.11).

Law on Nationality. The new law on the acquisition and loss of Polish nationality^x gave further powers to the Council of State. Accordingly the Council became the authority competent to grant naturalisation to aliens and to deprive Polish citizens of their citizenship.

Summary. In summing up the development of the Constitution in the 1947-1952 period we can observe that the tendency was to increase the power of the Council of State at the expense of the Parliament as well as the Government and Courts. The aegis of the Council became thus indisputable among the central authorities, whereas the regional self-government gave place to a centralised system of administration equally under the supervision of the Council of State.

In 1952 the concentration of powers in the Council of State reached its peak. The presidential office as well as the Government were represented in the person of the Chairman of the Council, the Speaker and the deputy-Speakers of the Sejm represented Parliament, the Judiciary was represented by the First President of the Supreme Court, who was also one of the deputy-Speakers of the Sejm. Among the members of the Council was the Chairman of the Special Commission for Prosecution of Corruption, Fraud and Economic Sabotage (being at the same time a deputy-Speaker of the Sejm), the Chairman of the Supreme Chamber of State Control (being at the same time the Commandant of the National Militia controlled by the Ministry of Public Security). All members of the Council were also members of Parliament, and most of them occupied high positions in the Party.

x law of January 19, 1951 (D.U.R.P.No.4, sec.25)

The reforms of 1947-1952 did not abolish the Parliament. Consequently a dual system still remained in force, combining thereby the idea of a "state of Councils" (Soviet system) and a parliamentary republic.

In this respect Poland seems to have been an example unique among the People's Democracies since even Czechoslovakia received a "Presidium of the National Assembly^x" corresponding in title and composition to the Russian Presidium of the Supreme Soviet. This institution of the Czechoslovak constitution consisted of a Council of 24 members of Parliament and assumed the powers of Parliament in the periods between parliamentary sessions. It could legislate (with the exception of amending the constitution and electing the president), but had no executive powers as has the Soviet Russian Presidium.

Notwithstanding the reforms a Presidium of the Parliament did not exist in Poland, though this function was exercised until February 1947 by the Presidium of the K.R.N., the Polish Council of State being a body distinct from Parliament, and the Parliament (Sejm) being not the "Supreme Council", as is the case of the Russian Supreme Soviet. The Council of State, however, became clothed with some legislative, executive and even judicial functions (e.g. interpretation of laws), and combining those functions, it was a precursor of the idea of the unification and concentration of powers.

x Arts. 63-67 of the constitution of 1948

Chapter 13. Preparation of the Ground for the Constitution of 1952.

As already mentioned the 1947-1952 period was an important stage in the preparations for the enactment of a homogeneous Constitution registering the progress of the system and consolidating its achievements. The "basis", to use the technical term of the new Constitutional Law, received the special attention of the legislator, who, having in mind the ultimate end of the building up of a "socialist state", put all his genius into the realisation of an adequate legislative policy.

Since it is quite impossible to review all legislation made to that effect, we have to limit ourselves to fragmentary discussion stressing only the most salient points.

Declaration of Rights. At the outset of this period we have a solemn declaration of the Sejm of February 22, 1947 on the "Realisation of the Rights and Freedoms of the Citizen^X", in which the first post-war Parliament promised to be guided in its work by the principles of constitutional freedoms and democratic rights. This extensive list of basis rights and freedoms representing noble ideas was, however, merely another programme, and so far unfulfilled.

In actual practice the citizen found himself facing a totalitarian system expanding independently of his volition. The decree of October 22, 1951^{XX} provided a police check on the movements of every citizen over sixteen years of age, who was bound to possess an identity card under pain of two years imprisonment (Art.19) and report to the National Militia any change of his address (Art.11). By Order of the Minister of Public Security

x full text, Peretiátkowicz, op. cit. p. 61; of similar declarations of constitutions of Czechoslovakia (Art.37), Rumania (Art.32), Bulgaria (Art.87)

xx D.U.R.P.No.55, sec.382

every issue of the identity card was preceded by a scrutiny of the past of the citizen (including information on his life under the German occupation and whether he served in the army abroad) the record of which, together with two photographs was preserved in his personal dossier with the Militia.^x

Criminal legislation affecting the constitutional position of the citizen was rather scanty during the 1947 - 1952 period. Two laws, however, must be considered here:

The decree of July 5, 1949^{xx} seriously interfered with freedom of conscience and religious belief, whilst the law of December 29, 1950^{xxxx}, affecting what has been left of the freedom of expressing one's political opinion, purported to harness the citizen into the official "propaganda for peace". The latter created the "crime against ~~the~~ peace" (Art.1) and threatened with long-term imprisonment any "warmonger" (Art.2), that is whosoever "instigated or agitated for war", facilitated the "war propaganda", or "opposed or insulted" the Movement of the Defenders of Peace.^{xxxxx}

Another aspect of the totalitarian state was the forced labour system. We may recall here the powers of the Special Commission^{xxxxxx} in this respect, as well as the earlier legislation, and the authority of the Security Police^{xxxxxxxx} undefined by any published laws. It has been estimated that by the middle of 1952 there were in Poland 175 Forced Labour Camps containing some 180.000^{xxxxxxxxxx} inmates.

Administration. Local administration, as we have seen before, became reorganised into a system of Councils centralised in a x Order of Ministry, March 20, 1952 (D.U.R.P.No.13, sec.82)
 xx D.U.R.P.No.45, sec.334 xxx for details see p.346
 xxxx D.U.R.P.No.58, sec.521
 xxxxx A Government-sponsored organisation created to propagate the so-called Stockholm Appeal for Peace.
 xxxxxx see p.232 ante xxxxxxxx see p.165 ante
 xxxxxxxx see p.159 et seq
 xxxxxxxxxx B.Wierzbianski, Polish Affairs, London, 1952, No.12, p.4

pyramidal fashion, the central administration, on the other hand, still functioned on the pattern of a parliamentary government adopted from the pre-war system, giving way, however to the Council of State.

A general tendency towards bureaucracy found its expression in the target of three million persons (including 801.000 white collar workers) in employment by the state under the Economic Planning Act of 194~~8~~^x. This increase in the Civil Service was primarily due to the fact of the nationalisation of industry and the state taking control of almost all spheres of life.

Economic Planning. Economic planning on a government level was not alien to the pre-war Polish system^{xx}, but was never considered to have a political or constitutional importance. It is otherwise in the post-war period. Economic plans drawn up for a period of years represent not only a project of industrial and agricultural development, but also a programme and targets for various government departments. In the technical sense they constitute the basis of yearly budgets, but in their actual purpose they embrace a wider range of subjects including political questions.

Whereas the purpose of the three-year plan of 1947 was inter alia to "consolidate the political system and to rebuild the social and economic structure of the country" (sec. 3 a), the six-year plan of 1950 went much further. A whole chapter in the latter was devoted to tributes to Soviet Russia and the enumeration of political achievements (viz. "destruction of the capitalist system, establishment of the dictatorship of the proletariat, liberation from capitalist exploitation, creation of single party", and the like^{xxx}). Envisaging further social and economic reform the ~~of~~ the plan of 1950 was to "lay down the foundations of socialism" (sec. 3).

x D.U.R.P. No. 19, sec. 134, Art. 65

xx of the industrialisation plan of 1936, see p. 140 ante

xxx D.U.R.P. No. 37, sec. 344

An analysis of the budget, that barometer of general policy, presents us with an interesting picture of the actual trend of development in this period. Figures^x below show the percentages of the total expenditure allocated for certain Government departments :

Year.	Defence.	Public Security.	Education.	Agri-culture.	Social Services.	Health.	Recon-struction.
1947	15	10	12	2	3	-	1
1948	12	9	10	2	3	2	0,9
1949	16	11	16	4	3	3	1
<u>1950</u>	<u>10</u>	<u>5</u>	<u>8</u>	<u>2</u>	<u>0,8</u>	<u>2</u>	<u>0,5</u>
Average	13,2	9	11,5	2,5	2,4	2,3	0,8

Since 1951 it has been impossible to apportion expenditure for various departments because the budgets published in the Journal of Laws no longer allocate expenditure per Ministries , but give only general figures for groups of items. For the 1951 budget the group described as "social and cultural" received about 30%, defence 7%, and administration (including Ministry of Public Security) 13%. The corresponding figures for the 1952 budget were: 26%, 10%, and 12% respectively, and for 1952: 24%, 11% and 10% respectively.

Defence, education and public security seem to be the principal interests of the régime, whereas expenditure for reconstruction, health, social services and agriculture added together hardly equalled the cost of the Ministry of Public Security in the 1947-1950 period.

Socialisation of ^{xx} Industry taken from private hands in Industry and Trade. pursuance of the nationalisation decrees was subjected to what was termed a "socialisation" process. The x worked out of the official figures given in the Journal of Laws. xx by the end of 1948 only 6% of Industry remained in private hands, Minister H. Minc in his speech to the Party Congress in December 1948.

first step in this direction was a centralisation by means of the economic plans and supervision at the Government level by several Ministries created for separate branches of industry.^x This centralisation of planning and supervision conformed with the idea of the state taking over the means of production on behalf of the people, but seems hardly to fall with the ideal of a "socialist community", where the state is supposed to have "withered away". The process should, therefore, be described as "sovietisation" (an expression by no means offensive to the leaders of the People's Democracy), since the system of the People's Democracy, aiming at "socialism" as its ultimate end, at the present stage of development looks to the Soviet system (which is supposed to be at a higher stage of development^{xx}) for inspiration, teaching and example.

A similar arrangement was adopted for Trade and Commerce. Separate Ministries for external and internal Commerce sprang up and a "Central Purchasing Office"^{xxx}, having its agencies all over the country, was created. A special Ministry^{xxxx} to supervise small trade and private industry was instituted and given authority over all means and sources of production so far untouched by the nationalisation decrees. This Ministry, in the words of its organic statute, was to "foster the co-operative movement as the basis of the future organisation of small production".

On the production side the tendency was to enforce a "socialist labour discipline". The preamble to the law of April 19, 1950,^{xxxxx} did not define the term "socialist labour discipline", but made absenteeism an offence entailing disciplinary action. Accordingly

x cf Soviet system, Constitution, Arts. 77, 78, 83

xx N. Farbierow, O Charakterze Panstwa Demokracji Ludowej (translation from Russian), Nowe Drogi, 1949, No. 3, pp. 160 and 162

M. Sobolewski, Systematyka Zasad Konstytucji Polskiej Rzeczypospolitej Ludowej, Panstwo i Prawo, Warsaw, 1952, No. 11, p. 619.

xxx D.U.R.P. No. 30, sec. 234 (1951) ; xxxx D.U.R.P. (1951), No. 32, sec. 247

xxxxx Law on the Enforcement of the Socialist Labour Discipline, D.U.R.P. No. 30, sec. 68

every manual and white collar worker was liable to proceedings (disciplinary and ultimately in court) for absenting himself from work without justification (Art.1), whereas those who for three years showed exemplary conduct were to receive awards and decorations from the Government (Art.2). The managers of the given institution were given powers to decide what constituted justified absence from work, and to impose disciplinary penalties in consultation with the Workers' Councils or Trade Unions (i.e. censure, deduction of wages, demotion). The more serious cases (absenteeism for four or more days in a year) were dealt with by Magistrates' Courts in the ordinary course of justice. Shortly after the publication of this law trials of absentees took place in all parts of the country, which owing to their wide publicity must be regarded as exemplary measures.^{xx}

In the system of economic plans; production targets and slogans advocating a "socialist competition among workers" it was only natural that the Stakhanov ideology found its way to Poland. The Stakhanov movement, as explained by Mr. Stalin,^{xxx} is a "movement of working men and women which makes it its own aim to surpass the present standards of output, to surpass the existing designed capacities, to surpass the existing production plans and estimates!"

The adoption of the Stakhanov system was indispensable in the process of the "socialisation" of industry both as far as methods and education of the working class was concerned. Apart from individual competitions rewarded with decorations^{xxxx} and publicity,^{xxxxx} there are team competitions, normal targets and additional targets for days of special significance.^{xxxxxx} The result of this system

x of Soviet system producing so-called "leaders at work".

xx see Polish Daily of June 10, 1950 and August 1, 1950

xxx Speech at the first All-Union Conference of Stakhanovites (November 17, 1935), printed in Stalin's Leninism, p. 547

xxxx e.g. compulsory attendance of classes on "Marxism-Leninism".

xxxxx "Order of Banner of Work" created by law of July 2, 1949, D.U.R.P. No. 41, sec. 301

xxxxxxx e.g. Birthday of Mr. Bierut, Anniversary of the Party, and similar

is an increased output, but, to counteract this one finds the complaints of the consumer on the poor quality of commodities, and the frequent trials of the management members on charges of faked records and juggled figures^x.

Another feature of the "socialisation" were the so called "planning contracts" imposed by statute^{xx}. The idea of such contracts seems to have emanated from the principles of economic planning, and their purpose was to ensure realisation of targets set by the State Planning Commission. The obligation of concluding such contracts extended over the "socialised production institutions" as well as certain Ministries (e.g. Public Security, Defence, Post and Telegraphs, Railways), the subject of contracts being "mutual rights and duties of the parties with regard to supply and demand as well as the transport of the produced commodities" (Art. 3 of the law of April 19, 1950). Responsibility for failure to carry out the "planning contracts" was to be shouldered by the members of the management of the defaulting party, on whom substantial fines could be imposed by Arbitration Commissions created to supervise the system and adjudicate upon conflicts arising therefrom.

The law on the "planning contracts" appears rather obscure and incomplete in so far as the subject-matter of those contracts and sanctions are concerned. In particular the rights and duties of the Government departments included in the scheme as well as the sanctions to be enforced on their default remain still to be elucidated.

Trade Unions. The Trade Union Movement already affected through the compulsory creation of the "Workers' Councils"^{xxx} became integrated into the machinery of the state by the instrumentality

x see Polish Daily of July 18, 1949, September 13, 1949, April 25, 1950, May, 15, 1950.

xx laws of April 19, 1950, October 7, 1950, and May 29, 1951.

xxx see pp. 193 and 194 ante

of the law of July 1, 1949^x Art.1 affirmed the right of manual and white collar workers to associate in Trade Unions and promised them participation in the "People's Government". This was given in order to :

- "a) secure by statute most beneficial conditions for development of Trade Unions created in Poland by the People's Government,
- b) consolidate the victory and achievements of the working class,
- c) strengthen the People's Government, and
- d) build socialism".

The legislator went further on to define the aims of the reformed Trade Unions :

- "a) to represent and defend the workers,
- b) to improve the material and spiritual welfare of the working class,
- c) to mobilise the workers for the execution of the production schemes,
- d) to raise output and develop the spirit of competition, and
- e) to raise the standard of the national economy".

No comment seems necessary, the provisions of the law quoted in extenso being the best illustration of the spirit in which the reform was carried out.

Having stated his legal principles the legislator declared the abolition root and branch of "all regulations which remained in force in succession to the capitalist régimes and which limited the right of workers to form Trade Unions, subjected them to the Administration and contributed to the shattering of the workers' movement"...

The law did not define the workers' position in industrial disputes nor the conditions in which to use the right to strike, this ultimate weapon of the working class. The legislator could

x D.U.R.P.No.41, sec.293

not have done it for obvious reasons. Industrial disputes are unimaginable in the "socialised" system of industry, and strikes, apart from the turpitude of wrecking the economic plans, mean industrial sabotage threatened with heavy penalties^x. The Government's ultimate reply to the claims for the right to strike was given on behalf of the régime by the security police in Lodz in September 1947, when the striking textile workers had to pick up their killed and wounded, after being dispersed by force^{xx}.

The new rôle of the Trade Unions was best explained by Mr. Bierut and Mr. Zawadzki^{xxx}. Mr. Bierut in his speech to the Trade Union Congress on June 1, 1949, emphasised the political importance of the movement through the political purpose of the Trade Unions in supporting the system of the People's Democracy, their ideological purpose in co-operating with the United Workers' Party, and their economic purpose in increasing the production and contributing to the fulfilment of the state economic plans.

Mr. Zawadzki^{xxxx}, in his speech on the same occasion, condemned the British (and Polish pre-war) type of Trade Unions, scourging the movement for "fostering solely personal interests and being too apathetic towards capitalism". Quoting Mr. Stalin that "Trade Unionism must be directed by the Party", Mr. Zawadzki advocated reorganisation of the movement on party political^{xxxxx} lines to make it "an organisation of the ruling class". He called for "political and ideological education" and for imitation of Soviet Russia "where the movement actively assists the Bolshevik party in the struggle against the relics of capitalism".

The Congress then duly resolved that^{xxxxxxx}:

"a) the Unions should adopt the pattern of Soviet Trade Unions as well as their activities,

x see pp.173 and 184 ante; xx this was the last strike in Poland. xxx since November 1952 Chairman of the Council of State.

xxxx Nowe Drogi, 1949, No. 3, p. I et seq; xxxxx ibidem p. XIII et seq xxxxxx. In 1949 for 3,6 million of members 2,5 million were non-xxxxxxx see Healey, op. cit. p57 / party members.

- "b) they should pursue their aims under the political and ideological guidance of the P.Z.P.R, and
 c) they should aid the authorities in promoting schemes of piece-work and bonuses, thus creating "an opportunity for just wages" and encouraging "an increase in productivity".

Collectivisation. The "peasantry", forming together with the "workers" the core of the future socialist community, was encouraged to organise or join collective farming units created as a part of the scheme for "moulding the social and economic basis". Already by the post-war agrarian reform, about 45% (i.e. 913.000 hectares) of the area affected by the reform, was retained in the hands of the Government "for various purposes of the state", and 55% (i.e. 127.000 hectares) distributed into dwarfish farms, which owing to their size (five hectares) and general conditions could hardly prosper.

In the regained territories in October 1948^{xx} about 25% of the total arable land was cultivated by the State Farm Administration, about 6% was under the control of co-operatives and the rest (about 69%) divided into small holdings, which, however, were larger than in the remaining part of the country.

The collectivisation process was rather sluggish owing to the opposition on the part of the peasant and the lack of enthusiasm on the part of certain Government members^{xxx}, who thought that, the idea being repulsive to the peasant, time and psychological approach was to be employed instead of drastic measures.

The six-year plan of 1950^{xxxx} gave a strong impetus to the idea and laid down the principles for its realisation. The "agrarian front" then received first priority in the ideological warfare

x see p.191 -192 ante

xx figures given by Mr. Dubiel, vice-Minister of Regained Territories in a speech at Wroclaw on October 18, 1948.

xxx cf Gomulka schism, see pp.216 and 217 ante

xxxx H. Minc, Szescioletni Plan Rozwoju Gospodarczego i Budowy Podstaw Socjalizmu w Polsce, Nowe Drogi, 1950, No.4, p.25

Mindful of the Stalinist strategy and his advice that collective farms cannot be set up by force^x, but "kulaks" (well-to-do farmers) may (and must) be destroyed by any means^{xx}, the régime, on the one hand endeavoured to attract the peasant to join model collectives equipped with the best machinery and offered all facilities, and, on the other hand, declared war on the well-to-do peasant^{xxx}.

Apart from the state-managed farms there developed in the course of time three types of agricultural collectives:

- a) the so-called agricultural association, where the farmers remained in possession of their land but pooled labour together and distributed harvest pro rata of the land brought into the association;
- b) the so-called agricultural co-operative, where 40% of the harvest was divided pro rata of the land and the rest in proportion to the labour;
- c) the so-called agricultural co-operative team, where the harvest was divided in proportion to the labour.

From the very beginning, of the People's Democracy the peasant was obliged to surrender to the state a considerable part of the produce of his^{xxxx} toil. The legislation of the 1947-1952 period went still further.

The decree of September 21, 1950^{xxxxx}, introduced the principle of differentiation in matters of taxation between the "socialised" and private enterprises giving the Cabinet powers to define the kind and amount of tax to be imposed on the latter, and to determine conditions in which the "socialised" enterprises were to be free of taxation, and obtain refund or annulment of taxes paid. An order of the Minister of Finance, that immediately followed,

x J. Stalin, Leninism, London, 1940, p. 334; xx Stalin, *ibid.* pp. 325-6, and 328-332.

xxx A well-to-do farmer would be quite a small farmer by British standards since farms over 50 hectares were confiscated.

xxxx see p. 172 ante; xxxxx D.U.R.P. No. 44, sec. 399

reduced the land tax by 50% in favour of farmers who in 1950 joined the collectives.^x

By the order of the Cabinet of October 28, 1950^{xx}, on the devaluation and exchange of the existing currency the rate of exchange for the "socialised" enterprises was 3 to 100, whereas for a farmer whose income was assessed above a certain amount the rate was 1 to 100. Monies kept in banks were evaluated according to the amount of the deposit as 1 to 100, 2 to 100, or 3 to 100 rate of exchange.

For the year 1951^{xxx} the land tax of the agrarian collectives was reduced to 4,5% of the standard rate, whereas the remaining farms had to pay in full.

The law of February 26, 1951^{xxxx}, authorising the local authorities to impose additional taxation on immovables, dwellings, and markets was particularly directed against the private landowner since the state-owned properties as well as those run as "socialised" enterprises were exempted from this taxation.

The decree of June 30, 1951^{xxxxx}, on the land tax introduced a sliding-scale system to be adjusted yearly for the privately owned land to be taxed up to 25% of the basic rate, whereas the remaining land was to be taxed only up to 10% of the basic rate, the scale remaining fixed.^{xxxxxx}

Another decree of June 30, 1951^{xxxxxxx}, imposing public duties to be performed in kind (e.g. at the building of roads, schools, hospitals etc) provided for facilities and exemptions only for the state-owned and "socialised" properties.

By the Cabinet order of June 30, 1951^{xxxxxxxx}, supplementing the law

x D.U.R.P.No.48, sec.438; xx D.U.R.P.No.14, sec.110
 xxx D.U.R.P.No.3, sec.17; xxxx D.U.R.P.No.38, sec.283
 xxxxx D.U.R.P.No.38, sec.283;
 xxxxxx by the Cabinet order of June 30, 1951 the scale for "socialised" properties was fixed for 3,5% of the basic rate
 xxxxxxxx D.U.R.P.No.38, sec.284; xxxxxxxx D.U.R.P.No.38, sec.287

on compulsory saving^x, a sliding scale was adopted, according to which private land owners had to contribute to the so called "Social Saving Fund" from 10%^{xx} to 90% of their basic tax rate.

The law of February 15, 1952, authorised the Cabinet to make a yearly plan of compulsory surrender of cattle for slaughter, the area of the particular farm being the basis of this obligation. Due to this system the state could allocate the amount of meat for internal consumption and at the same time secure performance of export contracts. Apart from the ideological and economic aspects of this system the farmer was subjected to detailed control and inspection and compelled to grow and surrender his stock in number and at prices fixed by the Government.^{xxx}

This law was followed by a Cabinet order^{xxxx} which made a distinction between private and "socialised" farms. The latter had to surrender from 50 - 75% (this depending of the area of the farm) of what was taken of the individual farmer who refused to "socialise" his land. The principle that newly created collectives were exempted for two years from this quite burdensome obligation was another incentive to convince the peasant that private property did not pay its way.

A similar discrimination obtained with regard to the compulsory surrender of milk ordered by the law of April 24, 1952.^{xxxxx}

Though the ultimate objective is the same the Polish People's Democracy refrained thus far from using physical means on the Bolshevik pattern to enforce collectivisation of land, but preferred to rely on legislation, a legitimate, and quite effective way.

x laws of 1948 (D.U.R.P.No.10, sec.74; No.36, sec.256; No.52, sec.415
laws of 1949 (D.U.R.P.No.7, sec.42; No.21, sec.136) and of 1951
(D.U.R.P.No.33, sec.258)

xx D.U.R.P.No.8, sec.46

xxx. A dual system of prices obtains: fixed and free market prices.

xxxx D.U.R.P.No.15, sec.91.

xxxxx D.U.R.P.No.22, sec.142. and Cabinet order of May 24, 1952

D.U.R.P.No.28, sec.193

Political Education. Every system of government can be reduced to a certain political doctrine expressed in the constitution. The doctrinal aspect of the polity is of particular significance in countries ruled according to the Marxist-Leninist philosophy. There the reorganisation of the community strictly follows the theoretical lines and any deviation or disregard of the canons entails most severe consequences.

Co-architects of the Bolshevik revolution such as Trotsky, Zinoviev, Kamenev, and many others became "spies and agents of fascism" mainly through their failure to toe the orthodox line of the interpreters of Marxism, who, at the time of the eclipse of the former, physically ruled Soviet Russia. Frequent political trials and purges in Central and Eastern Europe consuming the co-founders of the People's Democracy follow the same pattern. Besides the tendency towards the ruthless elimination of deviationism there is a positive stream there aiming at the political education of the masses.

Though education representing a spiritual value, belongs in principle to the "superstructure", it is a powerful instrument in moulding the "basis". In this respect the administration of the state (especially through the system of Councils), and the Trades Unions, besides the official party and the school, had to be employed to foster the ideology of the People's Democracy. Though the Ministry of Propaganda was abolished in 1947, its work was carried on by the Ministry of Art and Culture under the personal supervision of the Prime Minister. Educational establishments, from the elementary schools to the university became

x Stalin's letter to Ivanov, February 12, 1938, quot. in Stalin's Kampf, edited by M. Werner, London, 1941, p. 140

xx cf the fate of Mr. Beria arrested in June 1953

xxx cf expenditure on education, see p. 238 ante

xxxx J. Berman, Baza in Nadbudowa w Swietle Prac. Stalina o Jezykoznawstwie, Nowe Drogi, 1950, No. 6, p. 17 et seq

xxxxx A. Zawadzki, op. cit. Nowe Drogi, 1950, pp. 118 and 123

xxxxxx see p. 242 et seq

xxxxxxx law of 11.4.1947, D.U.R.P. sec. 147

subject to the new educational policy imbued, of course, with Marxism-Leninism. Through syllabuses, choice and rearrangement of textbooks, as well as through popularisation of Soviet political literature, Marxist ideas are being instilled into the heads of the youth primarily at the expense of religious instruction. Older generations are given full facilities through the Press, Radio, and various activities of the Ministry of Art and Culture. The new trend of thinking pervades all fields of learning, Marxism-Leninism being the starting point of all research and teaching.

In the period under present consideration particular attention was paid to the universities^X, for whom a special Ministry was created.^{XX} The university staffs were thoroughly purged and supplemented by the new generation of teachers whose qualifications included a compulsory period of study in Marxism-Leninism and the Russian language.^{XXX} Chairs of Marxist-Leninist philosophy were created^{XXXX} and that discipline forms now part of the obligatory syllabus for the courses corresponding to studies of law, economics, public administration, and education. A curious innovation was introduced by the Cabinet order of April 26, 1952^{XXXXX} whereby a higher university degree may be obtained by a person who completed a course in the educational section of the Central Committee of the United Workers' Party even though he had no previous university studies.

Ideas of single party were adopted also with regard to the multiple youth organisations. Already in December 1947 Gomulka (then at the height of his power) called for "unification of all

x By the law of 15.12.1951 (Art.1) the universities were to "educate and train the future people's intelligentsia in the spirit of loyal service to the country, the struggle for peace and socialism".

xx D.U.R.P. (1950), No. 51, sec. 181 and D.U.R.P. (1951), No. 6, sec. 38
xxx law of 26.4.1952, D.U.R.P. No. 24, sec. 163

xxxx D.U.R.P. (1950), No. 46, sec. 423; D.U.R.P. (1951), No. 1, sec. 113;
D.U.R.P. (1951), No. 23, sec. 138; D.U.R.P. (1951), No. 29, sec. 231
xxxxx D.U.R.P. No. 24, sec. 164

the youth organisations". After a visit of the delegation of the Russian Komsomol in December 1947 at the conference of the "Polish Fighting Youth Union" a resolution called for the creation of a special youth organisation "Service to Poland", to "undertake the political and ideological preparation, as well as the physical and military training, of all youth, whether organised or hitherto unorganised^x".

"Responding" to this call the Sejm passed the law to form the "Voluntary Service to Poland"^{xx} - a scheme affecting youth of both sexes between the ages of 16 and 21, designed to promote "professional, physical, ideological and military training". One of the chief aims of this new organisation was to provide unpaid labour units to aid the country's reconstruction during the summer vacation. Though the service was "voluntary" the evasion of the draft would be punished by a heavy fine or three months imprisonment."

A further regimentation of the youth was aimed at by the scheme for the purge of Scout organisations from what was called "Baden-Powellism" and "reaction bred by the English imperialism of international capitalism".

The Army provided not only a powerful support of the régime, but in itself it was a large political school. We exclude here from discussion the "Army of the Interior", that praetorian guard of the People's Democracy, because it is obvious that it had to be politically indoctrinated.

The Army proper, organised on the Soviet pattern, brought into the country the institution of "political officers", most of whom now occupy key positions in the Administration^{xxx}.

x of Continental News Service, January 30, 1948

xx law of 29.1.1948

xxx Writers, who insist that the pre-war Poland was "ruled by a clique of colonels" could easily find a replica in the present situation.

The Army played an important rôle already during the Elections of 1947, but a real ideological reorganisation started with the arrival of Marshal Rokossovsky.

The law of March 22, 1951 gave birth to a "Military-Political Academy" organised as a university, whose principal aim was to "train and prepare for functions requiring higher military-political education and for research in the Marxist-Leninist Military-Political Science" (Art. 3). Though a conception of a Marxist-Leninist "Military-Political Science" does not appear very clear, it seems fair to deduce that the object of the Academy was to prepare officers to take charge of the political and ideological education of the Army.

Political officers form the elite of the Army, their position with regard to service officers being enhanced by statute. This law emphasised the importance of their work, which, in fact, consists not only in "educational functions," but also in the guarding of the ideological orthodoxy among officers and other ranks, and goes much beyond the usual security service in the army.

Officers responsible for political education were also put on all merchant vessels and they were given the position of first mate. This point seems rather important in view of the fact that many seamen seek asylum in foreign countries and that ships under the Polish flag are being used for special tasks.

Administration of Justice. The People's Courts created in 1946 received their internal constitution by an order of the Minister of Justice, which, on the whole, did not affect their jurisdiction nor the powers of the public prosecutor or the security police.

x see p.126 ante; xx D.U.R.P.No.17, sec.135
xxx law of 19.4.1951, D.U.R.P.No.22, sec.172, Art.2
xxxx by the new Army Regulations those officers are second in command to regimental C.O's, see Polish Daily of 19.8.1950.
xxxxx by order of Minister of Shipping, D.U.R.P.(1950), No.28, sec.264
xxxxxx of statements of ex-captain of the Batory, Daily Telegraph, June.27, 1953; .
xxxxxxx e.g.transport of Herr Gerhard Eisler from U.S.A.to Europe.
xxxxxxx see p.186-7 ; xxxxxxxxx D.U.R.P.(1947), sec.373

The reorganisation of the ordinary courts by the law of April 27, 1949^x aimed at the introduction of the lay element to the bench and a reform of the principles of the administration of justice.

The above mentioned law (Art.2) abolished trial by jury which had been proclaimed by the Manifesto of July 21, 1944, and restored by the early legislation of the Committee of Liberation^{xx}. The new law brought lay assessors to the bench to assist the judge. They sat with the judge both in the court of first instance and courts of appeal and their general position was equal to that of the judge.

Assessors were drawn from lists submitted to the President of the given court by the Presidiums of the provincial Councils. This provision altered, in effect, the structure of the court, though the law did not define the status of assessors nor their qualifications for the office. The rule that the Councils (which embodied the political element of the ruling party) were responsible for the recruitment of assessors realised the idea of a "popular" administration of justice under the guidance of a trained judge, whose principal task was to see that the rules of procedure were observed. The idea of assessors assisting the bench was quite new for the Polish judicial system, the scheme being borrowed from Soviet Russia^{xxx}.

The law of April 27, 1949, authorised the Supreme Court to determine general principles of the administration of justice and issue directions to lower courts. Such directions in the words of Art.37 (§3) would "define the policy of the administration of justice as well as the methods of applying law according to the social, economic and political conditions of the People's Poland". Those directions had to be followed by lower courts since their disregard might become a cause of appeal (§5).

x D.U.R.P.No.32, sec.237

xx see p.162-3 ante

xxx of Art.103 of the Stalin Constitution

No comment seems necessary on this quite clear provision, which in effect did away with the principles of abstract justice, formal objectivity of dispensing laws and the idealistic approach to the rôle of courts and judges. In the light of the law on the office of Chief State Prosecutor^x, this provision seems, on ^{the} one hand, to conflict with the principle of the Council of State being the supreme authority on the interpretation of law, but on the other hand it makes the supervisory function of the Chief State Prosecutor over the courts more understandable^{xx}. The actual situation presents a curious solution of the problem of an opportunistic administration of justice. It is this : whereas the ultimate interpretation of laws is entrusted to the Council of State (non-judicial body), the Supreme Court (judicial body) is called upon to determine the policy of the law, and the Chief State Prosecutor (subordinated to the Council of State) is authorised to supervise the "uniform and correct" application of the law by courts.

Certain provisions of the law of August 16, 1950^{xxx}, amending the existing law on the organisation of the ordinary courts of justice well characterise the present system. First of all the aims of the administration of justice were made to "protect: the People's Democracy and its development towards socialism; public property and rights and interests of the state-owned institutions, co-operatives and social organisations; the personal and property rights of the citizen recognised by the legal order of the People's State" (Art.2).

xsee pp.228-231 ante

xx The fact that Mr.W.Barcikowski, the First President of the Supreme Court was at one time one of the deputy-Speakers of the Sejm and a member of the Council of State explains the system under which three quite incompatible offices or functions can be exercised by one person or body of persons; see Report of the V th Congress of International Democratic Lawyers, Panstwo i Prawo, Warsaw, 1951, No.11

xxx D.U.R.P.No.39, sec.36

"The courts", according to the law (Art.3), "through their activities ought to educate the citizen in the spirit of loyalty to the People's Poland, abiding by the rules of legal order, discipline of work and care for public property".

The apparatus of justice was further linked with the system of Councils since the provincial and district courts^x were obliged to render periodical reports on their activities to the respective Councils (Art.13).

Judges were to be recruited from persons who "inspire confidence in being able to carry out the duties of judge in the People's Poland and have the required educational and professional qualifications" (Art.57). The Minister of Justice could, however, absolve an applicant from the latter requirements.

By the new judicial oath the judge pledged himself to "serve faithfully the People's Poland, observe the laws of the People's Republic, impartially administer justice according to the interests of the People's State, conscientiously and assiduously discharge his duties, keep the secrets of office and always improve his standard of social and professional knowledge" (Art.76).

This legislation brought about a metamorphosis of the judicial system according to Dr. Leon Chaj^{xx}'s slogan: "we must tear the band from Themis' eyes" and Mr. Swiatkowski's (Minister of Justice) reminder: "law is only an instrument of those social and economic forces which are in power in various countries".
Legal Profession. The law of June 27, 1950^{xxx} (Art.2), stating that the purpose of the legal profession is to "co-operate with courts and other authorities in protecting the legal order of the People's Poland, and to give legal assistance according to law and the interests of the working masses" adequately explained the

x The new hierarchy of courts was as follows: People's Courts, District Courts, Provincial Courts, the Supreme Court in Warsaw.
xx now Minister of Labour
xxx in a Press interview on September 3, 1948
xxxx D.U.R.P.No.30, sec.275

rôle of the advocate in the reformed system of the administration of justice.

The Minister of Justice was made superintendent of the legal profession, being authorised to supervise its activities (Art.5), annul resolutions made by its organs (Art.6), fix the advocate's fees (Art.8), absolve an applicant from the standard requirements of educational and professional qualifications (Art.46), and to determine the place of practice of advocates who were obliged to transfer their chambers within two months of any such ministerial order^x.

A licence to practise was to be issued only to those "who were certain to perform the duties according to the purpose of the legal profession in the People's Poland" (Art.43(1)). The practising advocates had to appear before a special commission appointed by the Minister to decide whether they were "worthy to practise in the People's Poland" (Art.119). Having passed that test the advocate had, before he received his licence, to make a solemn declaration in which he undertook inter alia "to do all in his power to contribute to the protection and consolidation of the legal order of the People's State and to remain always faithful to the People's State" (Art.49).

Whereas an advocate was expressly forbidden to give his advice or assistance in cases conflicting with the general interest of the socialised economy (Art.53(2)), he could decline his service only for serious reasons (Art.52).

Disciplinary action could be taken against advocates who acted "inconsistently with the interests of the working masses" (Art.95), a disciplinary commission being appointed by the Minister of Justice (Arts.101 and 104).

Teams of advocates (suggestive of co-operative firms^{xx}) were
 x Decree of October 28, 1947 (D.U.R.P. sec.407) amending the decree of May 24, 1945, see pp.187-190 ante.
 xx One must bear in mind the preference of the Marxist philosophy for collective forms of life.

encouraged (Arts.3 and 71), such teams in the words of the statute, "paving the way for a higher, socialised form of exercising the legal profession" (Art.72). The duty of the teams was to "improve the ideological standard of their members and to exercise mutual control over their professional activities" (Art.73).

Summary. The purpose and aims of the legislation reviewed above are quite clear and they distinctly trace the road towards "socialism" as understood by the promoters of the People's Democracy in Poland.

Anti-liberalism and anti-individualism are features peculiar to the development of the Constitution proper as well as its relative legislation. The citizen becomes absorbed by the mass and must renounce his personality for the alleged benefit of the whole. The mass itself is subdivided into subjects ("working masses") and objects ("bourgeois-capitalist elements"), the latter being doomed to extinction. It is ironical to observe that as soon as the human approach is lost the state becomes Divine, especially as the ultimate aim of true socialism is the "withering away of the state".

With regard to legislative technique one can see that various laws passed in this period only complete or supplement previous legislation, whereas amendments and adjustments of the existing legal system are not uncommon. On the whole, most statutes and decrees appear in an unfinished form, full of loopholes and vagueness. This makes an impression of interim or ad hoc legislation comparable to a projection of general ideas to be elaborated and consolidated later. This technique perfectly conforms to the temporary character of most laws and their transitory purpose. The system of the People's Democracy in this period is in a well-advanced, though still formative stage, and therefore, one should not wonder at the lack of a perennial conception of the legislation.

Chapter 14. The Constitution of 1952.

On July 22, 1952, the Sejm unanimously passed the project of the Constitution submitted by the Constituent Commission.

The process of the enactment of the Constitution resembled to a large extent the introduction of the Stalin Constitution of 1936: First a Constituent Commission was set up by the Sejm in May 1951 in order to work out the Constitution in accordance with the primary object of the Sejm. A project was submitted to the Party and approved by them, then an all-national discussion was thrown open to the public. During the three months discussion (from January 27, 1952, to April 6, 1952) some 200,000 meetings were organised with the participation of about eleven million people, and the Commission received 2822 suggestions in writing. Although all the proposed amendments were considered by the Commission a comparison of the project with the final draft reveals only grammatical alterations touching no essential provision of the original text.

Never in the history of Poland had a constitutional scheme received such wide publicity, never before was any government so anxious to ensure an enthusiastic acceptance of its proposal. Having this result in view the whole state apparatus was put into motion and the propaganda machinery was tuned to the slogan "let's explain it to the people". The Party, Army, Schools and all Government controlled bodies were employed in the drive to popularise what Mr. Bierut called "the greatest charter of victorious

x of A. Vyshinsky, The Law of the Soviet State, New York, 1948, p. 120-3
 xx law of February 19, 1947 (Art. 3(1))
 xxx by resolution of the Central Committee, see Nowe Drogi, 1951, No. 6, p. 63

xxxx Figures given by Mr. Bierut in his speech to the Sejm on July 18, 1952, see Panstwo i Prawo, Warsaw, 1952, No. 8-9, p. 155

xxxxx Arts. 24, 25, 32, 46, 51, 53, 59, 61, 67 (Art. 24 excepted)

xxxxxx cf appeal of Mr. Bierut, quot. by J. Gorski, O Przebiegu Ogolno Narodowej Dyskusji Konstytucyjnej, Nowe Drogi, 1952, No. 1-2, p. 36 et seq

achievements and everlasting social attainments of the Polish working people". A curious feature of the propaganda campaign was the amount of literary work (especially poetry) devoted to eulogy of the project of the Constitution which undoubtedly will go down in history not so much for literary merits as for being an example of utilitarian literature employed in the service of the propagation of political ideas.

Preamble. The preamble introducing the Constitution embodies not only the ideological credo of its makers, but also makes a valuable contribution towards the elucidation of certain points of historical and political interest.

The Polish Republic, in the words of the preamble, is a "People's Republic", that is a "republic of the working people". This being so, the state is to continue the "progressive traditions of the Polish nation and to realise the idea of liberating the working masses". Translated into a more mundane language this precept of the preamble simply means adherence to the programme of the Communist Party (being officially the only "progressive force"), the main point of which was the liberation of the proletariat from the power of the capitalist oppression.

The preamble giving an authoritative version of the genesis of the present political system confirms the "theory of imposition" traced in the historical part of this work and already underlined by Professor Seton-Watson.^{xxx} "The history-making victory of the Soviet Union over fascism", states the preamble, "liberated Poland, enabled the Polish working people to seize power and created the conditions for national regeneration within new, just

x speech to Sejm, Jan. 23, 1952, see *Panstwo i Prawo*, 1952, No. 2, p. 181

xx At the Conference of Historians held in November 1951 at Otwock a Government spokesman (Gen. E. Ochab) urged the historians to trace back the development of the "Workers' Party" for at least a hundred years and to bring out the progressive ideas throughout that period. cf R. Werfel, *Początek Zasadniczego Zwrotu, Nowe Drogi*, 1952, No. 1-2, pp. 44 and 45

xxx H. Seton-Watson, *The East European Revolution*, 2nd ed. London, 1951/1952.

frontiers". Apart from the historical inaccuracy of crediting Soviet Russia with the sole merit of winning World War II^{XX}, the expression "victory over fascism" must be construed to mean not only the defeat of the Axis, but also the destruction of the pre-war Polish political system^{XX}. In this respect, recorded in the preamble, the history-making feat of Soviet Russia "enabling the working class to seize power" finally disposes of the "theory of reaction against the 'fascist' pre-war régime"^{XXX} as well as the "theory of the fusion of two governments"^{XXXX}.

The source of power of the People's Republic lies, according to the preamble, in the "alliance of the working class with the working peasantry". The "workers and peasants" are, however unequal partners since the directing function has been assigned to the working class as the "leading class of the community inspired by the revolutionary achievements of the Polish and international workers' movement as well as by the history-making experience of the builders of the victorious socialism in the Soviet Union".

The Constitution is a record of past achievements summarised in the preamble as the "shattering of the rule of the capitalists and landowners, consolidation of the system of the People's Democracy and formation and consolidation of a new social structure corresponding to the aims and interests of the broad masses".

The purposes of the Constitution set forth in the preamble are: "to strengthen the people's state, accelerate the political, economic and cultural progress, fortify patriotism, unity and cohesion of the nation in the struggle for further betterment of social conditions, total abolition of the exploitation of man by man and realisation of socialist ideas as well as promotion of international friendship and co-operation between the peace x theory now prevailing in Russia, cf Mr. Molotov's speech at the XIXth Congress of the Communist Part, Nowe Drogi, 1952, No. 10, p. 8 and also Marshal Rokossovsky, Nowe Drogi, 1953, No 2, xx Bierut, Podstawy Ideologiczne, op. cit, pp. 46, 47, 52 xxx see p. 138-9 ante; xxxxx see 138 ante

loving nations in the common end of preventing aggression and securing world peace."

Glancing at the preamble one can see a forecast of an etatistic constitution fostering at the same time ideas of nationalism and internationalism. Etatism appears in the form of eulogy of the state as People's Democracy, nationalism in the appeals to patriotic traditions and the love of the fatherland deeply rooted in the nation, whereas internationalism recognises Soviet Russia as the principal power instrumental in the foundation of the political system, the leader of the area and the centre of the efforts to secure world peace. The international element pervades the political and ideological aspects of the Constitution since the fruits of the struggle of the international proletariat are appropriated to the achievements of the workers' class in Poland and the ideology of the movement finds its expression in the legal principles of the Constitution.

The preamble combines a principle of the Marxist-Leninist doctrine that the constitution is a "record of past achievements" with a "bourgeois-democratic" idea of the constitution representing also a certain political programme. This feature is important since it depicts the nature of the polity as being in the form of a transitory system of government, "socialism" being the ultimate aim of its development. In neither case is a constitution primarily a "record of past achievements", but a blueprint of the machinery of the state. We must, however, take notice of the actual nature of the Constitution of 1952 as well as the doctrine expressed in strong terms by the late Joseph Stalin^x.

The system of the People's Democracy achieved in its own class a finished form in the Constitution of 1952, but being a transitory form of government, has still a way to go to reach the utopian world of a socialist reality.

x cf speech introducing the Soviet Constitution of 1936

Political Structure. The political system of the Polish People's Republic has been defined by Art.1 of the Constitution as a "People's Democracy", thus elevating this popular expression to the authority of a technical term of Constitutional Law. In this respect the system should be distinguished from what is termed now in Central and Eastern Europe the system of "bourgeois-democracy^x", meaning thereby the traditional form of parliamentary government.

In contrast the Stalin Constitution of 1936 declares the Soviet Union to be a "socialist state of workers and peasants" (Art.1). A profound difference between the two systems appears on the face of the definitions, the stage of development being the criterion of classification. Whereas Soviet Russia is already a "socialist state", Poland has only started "building socialism", the system of the People's Democracy being the medium, and only a stage in that process.

Being neither a "bourgeois-democracy" nor a fully established "socialist state", the People's Democracy occupies a middle position between the two systems, heading, however, towards the latter.

In the Polish People's Republic the "power to rule belongs to the working people of towns and villages" (Art.1(2)^{xx}). The Constitution offers no definition of the class of the "working people" recognised as the source of power and holder of sovereignty, but segregates by implication what is scornfully called the "bourgeoisie", the definition of the latter to be found in the teaching of the Marxist-Leninist philosophy. The preamble discussed above is of no assistance to ^{the} elucidation ^{t. of} this point, and the provision of Art.69^{xxx} offering equal opportunities to all citizens as well as

x see general discussion, Chapter 15

xx cf Soviet Constitution Art.3; xxx cf Soviet Constitution Art.123

Art. 81^x recognising the electoral rights of "every citizen without distinction of race, nationality, religion, education, social origin, profession or means" only obscures it. It is as difficult, therefore, to reconcile Art. 1 with Arts. 69 and 81 as to circumscribe the "working class". If we, however, exclude the class of "capitalist exploiters" and distinguish a sub-class of the "working intelligentsia" we may be nearer the mark, though this classification amounts to a mere juggling with words. The position of others than the "working class", on the other hand, resembles that of Cape coloured people who may vote, but are excluded from political power.

The power to rule is carried out on behalf of the working people by their representatives elected to the Sejm and the national Councils (Art. 2). This principle amounts to a recognition of the system that resulted in the reform of the national Councils and became, in effect, a conglomeration of a parliamentary republic with a state of soviets. The marriage of the two systems representing the western and eastern political philosophy, however, does not tend towards harmony, but domination by the latter.

A principle of the Soviet Constitution (Art. 142) that the members of the representative bodies (i.e. soviets) are responsible to the electors and may be recalled by them, adopted in the reform of 1950 for the system of Councils, has been extended also to the Members of Parliament (Art. 2(2)), thus bringing the system near a "direct democracy". The principle of co-optation, so far applicable to the Councils is done away with and the elections of members of Councils as well as of Parliament are based now on the same idea of "popular representation". The rules of the Electoral Law, embodied in the Constitution curtail, however, the appearance of a direct rule of the people since only undefined "political and social organisations of towns and villages" are authorised

x cf Art. 135 of the Stalin Constitution

to put forward candidates for election (Art.86),and the power of revocation mentioned in Art.2 remains to be defined by special legislation.(Art.88).

Having broken the opposing political parties,scattered the neutral ones and created a single party,the makers of the Constitution of 1952 now purport to use some undefined "political and social organisations" as channels between the formal source of power (i.e. the "working people") and the representative bodies. The situation resembles to a certain extent the political failure of the Polish democracy of 1935^x.At that time a constitutional experiment to establish a non-party Parliament was attempted,the power of political parties^{xx} to nominate candidates for election being transferred to certain defined "social,professional and municipal bodies".This experiment utterly failed,and it became obvious within a short time that it led to a decay of parliamentary life and the democratic system of government.Unqualifiedly critical of the pre-war system the post-war régime stripped the Parliament of its essential powers and authority,and in order to convert it into a "working body" filled the Chamber with members of the Government's own single party active in the "political and social organisations of towns and villages",but conscious or unconscious of the lesson of the past did not disband the Government party as did the pre-war régime in 1935^{xxx}.

The aims of the Polish People's Republic are as follows(Art.3):

- " 1.to guard the achievements of the working people.and secure their power and freedom against all hostile forces;
- 2.to secure development and growth of productive resources of the country through industrialisation and liquidation of the economic,technical and cultural reaction;

x see p.31 ante

xx the dissolution of the Government party,however,did not affect other parties.

xxx see p.32 ante

- " 3. to organise^a planned economy on the basis of nationalised enterprises;
4. to limit, eliminate and liquidate social classes flourishing on the exploitation of workers and peasants;
5. to secure the improvement of the welfare, health and culture of the masses; and
6. to secure universal development of the national culture".

The aims of the political system enumerated above are typical of a "fighting proletariat" (People's Democracy) as distinguished from a "triumphant proletariat" (Soviet Russia). At this stage the "proletariat" has to preserve the fruits of the class struggle, create economic and social conditions for further development and fortify its position as the ruling class, liquidating at the same time all possible enemies hitherto undestroyed. Contrary to pure Stalinist doctrine we have thus a political programme expressed in Art. 3, emphasising once more a mixed character of the system^x.

Administration. Having rejected the theory of the division of powers^{xx} the makers of the Constitution arranged the "organs of the state" into three groups :

- a) the supreme organs of the state;
- b) the supreme organs of the central administration; and
- c) the regional organs of the central administration.

In the first group the Sejm alone is formally named as the "supreme organ of the authority of state" (Art. 15^{xxx}), whereas the Council of State is included in the group without any classifying description. This omission may be attributed either to a fault in the draft^{xxxx}, in which case the Council of State as well as as the Sejm should be both considered "supreme organs", or to a deliberate arrangement to make the Sejm appear of greater importance see p. 260 ante; xx see p. 199 ante /tance.

xxx of Soviet Constitution Art. 30

xxxx the title of the relevant chapter is in plural

The Sejm is defined as the "supreme expression of the will of the working people to represent the sovereign rights of the nation" (Art.15(2)). The Council of State, on the other hand, must by implication be considered the collective head of the state, since the presidency was abrogated and the attributes of the presidential office transferred to that body.

The function of the Sejm is to legislate, control other organs of state (Art.15(3)), enact the yearly budget and pass economic plans (Art.19). The legislative initiative is in the hands of the Council of State, Government and the Deputies, all statutes being promulgated by the Chairman of the Council of State (Art.20).

The life of the Sejm extends over four years^x, a General Election being ordained by the Council of State^{xx} (Art.23). No dissolution is provided for before the expiration of this term, either by a resolution of the Sejm itself, or a decision of another body. The number of Deputies is not fixed, one Deputy being elected to represent each 60.000 inhabitants.

The Council of State is elected by the Sejm at its first sitting^{xxx} (Art.24). So the elected Council acts during the period of four years until a newly elected Sejm appoints a new Council. It consists of the Chairman, four vice-Chairmen, a Secretary and nine Members.

To all intents and purposes the Council acts as a head of the state, its competencies including^{xxxx} (Art.25) : arranging General Elections, convocation of a session of the Sejm, authoritative interpretation of statutes, legislation by decrees, appointment and recall of diplomatic officers, accrediting of diplomatic representatives of foreign states, ratification and denunciation of treaties, appointment of civil and military officers, conferment of orders, decorations and honorary titles, prerogative of mercy.

x five years before the war; xx of Soviet Constitution, Arts. 36 and 54; xxx ibid. Arts. 48 and 53; xxxx ibid. Arts. 49, 53.

The Sejm whilst in session has the power of deciding in matters of peace and war, and during its recess this power devolves upon the Council (Art.28(1)). The question of mobilisation of the armed forces as well as declaration of the state of emergency in the whole or part of the territory falls within the exclusive function of the Council of State (Art.28(2)).

We can see now that through the tortuous way of seven years development the Council of State became equivalent to the Presidium of the Supreme Soviet under the Stalin Constitution. Those two institutions resemble one another as far as their constitutional position and powers are concerned; they differ, however, on account of the official title and the arrangement of the representative bodies, the difference being negligible. Whereas the Stalin Constitution represents a model state of councils, the Polish Constitution is still labouring under the burden of the remnants of a parliamentary republic. The Polish Sejm functionally resembles the Supreme Soviet, but institutionally it is an oddity in the present system, hardly fitting into the conception of a state of councils.

The Sejm, similarly to the Supreme Soviet, is the supreme representative body and the symbol of sovereignty, but unlike the Supreme Soviet it is divorced from the system of councils. As in the preceding period the Council of State occupies the top of the pyramid of councils (Art.27), the dualism of representation through the system of councils and the Parliament still subsists, the liaison function being given to the Council of State. Besides that, Poland (being a unitary state) has a unicameral Parliament, whereas the Supreme Soviet consists of two chambers representing the whole population as well as the federated republics. In this respect the Council of State is an emanation of the unicameral Parliament, whereas the Presidium of the Supreme Soviet combines the function of representing both the whole population and the separate nationalities.

It is interesting to compare the relationship between the Sejm and the Council of State to the corresponding bodies of the Soviet system. The Council of State (Art.25(2)) in all its activities is subordinated to the Sejm, and the Sejm is the supervisory and controlling authority with regard to all organs of state (Art.15(3)). So much for the theory. The Constitution provides for no machinery to ascertain the superiority of the Sejm or to exercise its supervisory and controlling function. Once the Council has been appointed its members cannot be dismissed by the Sejm, and the period of office of the Council outlives that of the Sejm. By ordering Elections and arranging for the sessions of the Sejm it is the Council, in actual fact, that keeps its hand on the vitality of the Sejm. By exercising legislative initiative and legislating by decrees the Council takes a considerable part in actual legislation and by authoritative interpretation of statutes it formulates the way of the application of the law. Consequently, the Council could, in an extreme case, construe a statute even against its purpose or contrary to the will of the legislator, such interpretation being binding on the courts and other authorities and the Sejm's only recourse would be to repeal such statute at a session convened by the Council. In matters of foreign policy the Sejm has no say accorded by the Constitution since the question of formulating the policy is in the hands of the Government (Art.32 (8)), and the treaty making power resides in the Council of State (Art.25 (8)).

A similar situation arises under the Stalin Constitution. There the Presidium of the Supreme Soviet has in principle the same powers as the Polish Council of State, but in addition it can dis-
solve the Supreme Soviet^x, organise referenda^{xx} and annul decisions
 x in conformity with Art.47 in case of disagreement between the
 two Chambers (the Soviet of the Union and the Soviet of Nationalities).
 xx on its own initiative or on the demand by one of the Union
 Republics.

and orders of the Council of Ministers of the Union Republics.^x
It cannot, however, initiate legislation, though it may legislate by decrees.

On the whole the Soviet doctrine of "democratic centralism" finds its application, in the Polish Constitution, the Council of State occupying the topmost position in the hierarchy of the organs of state. In both cases the Council (Presidium) acts as a body and takes collective decisions. The Chairman has no individual (personal) powers except the representation of the body and formal attributes of his position such as honorary precedence and signing of statutes along with the Secretary to the Council (Presidium).

The second group comprises the "Supreme Organs of the Central Administration", namely the Ministers and the Council of Ministers^{xx}.
Hitherto it was an attribute of the President, as the head of the state, to appoint and dismiss the Prime Minister and on the latter's advice the Ministers. According to the Constitution of 1952 the whole Cabinet is appointed in toto by the Sejm, no distinction being made between the Premier and Ministers (Art. 29). Only during the recess of the Sejm may the Council of State appoint and dismiss Ministers on the advice of the Prime Minister. As a result of these provisions the power of appointing the Government has been shifted, in principle, from the head of the state to the legislature, imitating thereby the Soviet system^{xxx}, where the Council of Ministers of the Soviet Union is appointed by the Supreme Soviet.

The Constitution provides for no machinery to implement Art. 29 and it is not quite clear who and on what authority proposes

x if they do not conform to the law (Art. 49)

xx the term "Government" is used in Art. 29 in a descriptive capacity the term "Council of Ministers" being the technical expression employed in the charter.

xxx cf Constitution Arts. 49 and 56

f. Council of State,
h-264
- see h-
269-

appointment and dismissal of the Prime Minister and Ministers. No clue can be found even in the change-over in November 1952 when Mr. Bierut, appointed President in 1947 for seven years, became Prime Minister. According to the official communiqué he was made Prime Minister "by the Sejm" on November 20, 1952, one would think by acclamation, and the Ministers of his Cabinet were appointed the next day, some four Ministries being still vacant in March 1953. This practice, if really executed in the manner stated above, would mean a considerable departure from the letter of the Constitution only a few months after it has been voted.

In the system of the Constitution of 1952 we have a dual authority of the Sejm and Council, not conflicting, but supplementing one another. The power of the Council seems, however, less extensive, because on a strict interpretation of Art. 29 it appears that the Council can remove only Ministers but not the Premier, and these decisions must subsequently be approved by the Sejm.

The Council of Ministers consists of the Premier, vice-Premiers, Ministers and Chairmen of various Committees and Commissions appointed by statute (Art. 31). The conception of the Government is thus quite wide, exceeding the traditional form to include persons who, though not members of the Government in the strict sense, hold positions of national importance equal to ministerial rank. The Constitution names no such bodies, but it seems fair to infer that the Chairman of the Economic Planning Commission (if not already a head of some Government department) would be included in the Council of Ministers. The large number of vice-Premiers created on the implementation^x of the Constitution is indicative of the former practice where the vice-Premiers formed a sort of inner cabinet within the Government.

The Council of Ministers, according to Art. 30^{xx}, is the "highest executive and administrative organ of the authority of the state",

x see p. 289

xx cf Soviet Constitution Arts. 64 and 65

meaning thereby a body instrumental in the formation and execution of the general policy of the state, subordinated only to the Sejm and in its absence to the Council of State.

The relationship of the Sejm (and the Council of State) to the Council of Ministers is that of a body representing the sovereign ("working people of towns and villages") to the technical team administering the affairs of the state on behalf of the sovereign. This team acts within its own sphere of powers and duties defined by the Constitution as follows^{xx} (Art. 32) :

- a) co-ordination and supervision of the work of Ministries^{xxx} and other bodies;
- b) preparation of the yearly budget and national economic plan;
- c) supervision of the execution of the budget and economic plan;
- d) supervision of the execution of laws;
- e) care for the public security, interests of the state and rights of citizen;
- f) issue of executive decrees authorised by statute;
- g) formulation of foreign policy;
- h) care for the defence of the country and decision on the yearly conscription;
- i) supervision of the work of the Presidiums of national Councils.

The powers and functions of the Polish Cabinet are, in principle identical with those of its Soviet counterpart with the exception that the Soviet Council of Ministers may set up commissions for defence, economic and cultural matters, and that the Polish Council of Ministers supervises the system of national Councils. The latter

x N.B. under the Constitution of 1935 the Government was entrusted with the residue of powers reserved for other organs of state.

xx cf Soviet Constitution Art. 68

xxx due to a literal translation of the Soviet Constitution (Art. 68 a) it makes an impression as if Ministries were separate institutions besides the Ministers.

function of the Polish Cabinet is indicative of the lack of final development of the system of councils and a confusion of the parliamentary system with the system of soviets.

Ministers are heads of their respective departments and as such are authorised to issue executive decrees and orders based on statutes^x (Art.33), the Council of Ministers being able to annul such decrees and orders^{xx}.

The relationship of the Council of Ministers to the Council of State, as mentioned above, is that of the Cabinet to the Head of the State. The relation to the Sejm is not very clear. True, the Sejm appoints and may dismiss the Cabinet, and the budget as well as the economic plans must be submitted to the Sejm, but equally important business such as foreign policy, defence and conscription, by the letter of the Constitution seems to escape the control of the Sejm.

The question of parliamentary and constitutional responsibility of the Cabinet and Ministers is not defined by the Constitution. What is more, no machinery is provided to enable the Sejm to dismiss the Ministers, and therefore, if the Sejm wanted to exercise this power legislation would have to be passed first. Apart from the general provision that the Sejm "controls the activities of all organs of the state" (Art.15(3)), and the rights of deputies to question Ministers in Parliament (Art.22) there is nothing in the Constitution to indicate the principles of responsible Government and of sanctions to flow in case the responsibility of Government or Ministers is invoked^{xxx}.

The third group of the organs of state embraces the "regional organs of the central administration", in other words, the system of national Councils. The Constitution adopted the system as laid

x of Soviet Constitution Arts.72 and 73

xx this power exists under the Soviet system with regard to the Council of Ministers of the Union Republics, (Art.69)

xxx the question of responsibility of Ministers^{had} become obsolete already under the Constitution of 1947, see p.202 ante

down in the reform of 1950^x, hence there seems to be no purpose to dwell here on this subject. Though only a summary of the law of 1950 this chapter lacks precision, its provisions containing a great deal of phraseology and nebulous generalisations, leaving, however, further elaboration of the system to future legislation.

Art. 36 is perhaps the most characteristic illustration of the above opinion. It runs: "The National Councils strengthen the link between the authority of the state and the working people of towns and villages, absorbing larger and larger masses of the working people to a participation in the government of the state".
Justice. The reform of the Judiciary of 1950^{xx} as well as the law of July 20, 1950; on the office of the Chief State Prosecutor^{xxx} have also been incorporated into the Constitution.

To understand the judicial system better one must open this review with the statement on law in general embodied in the Constitution (Art. 4) : "The expression of the interests and will of the working people are the laws of the Polish People's Republic".

Such being the conception of the law, no surprise should be caused by the principles of Art. 48 that "courts guard the political system of the Polish People's Republic, protect the achievements of the working people, defend the people's legal order, public property and rights of citizen; they punish the offenders".

More space will be devoted for a discussion on the rôle of the law in the system of the People's Democracy; it seems sufficient for the purpose of the present review to observe that the conception of law adopted by the Constitution is subjective and opportunistic. It is a "class law" designed to protect a section of the community, it is a "political law" to secure the so called "people's legal order", that is to say, to preserve the political system and the course of its development. The courts are no longer organs of the administration of justice, meaning thereby a function distinct from other purposes of the state, and whilst dis-

x see pp. 223 -228 ante;
 xxx see pp. 228-231 ante

xx see pp. 252-254 ante

pensing the criminal law, they no longer adjudicate upon prosecutions of crimes, but simply "punish the offenders".

The political purpose of the office of the Chief State Prosecutor is more distinctly stressed in the Constitution than in its organic law: It is the function of the Chief State Prosecutor to "preserve the people's legal order, and to secure protection for the public property and respect for the rights of the citizen". He has to superintend "prosecution of crimes against the constitution, security, and independence of the Polish People's Republic" (Art. 54)^x.

The Constitution affirms the system of judges adjudicating cases in the company of laymen (the "people's assessors"), both judges and assessors being elected (Art. 50)^{xx}. The method of election, as well as the duration of the office are left to be defined by later legislation. The judges of the Supreme Court, however, are to be elected by the Council of State for five years (Art. 51(3))^{xxx}.

Judicial independence^{xxxx} is guaranteed by the Constitution, the judges being subject only to laws^{xxxxx} (Art. 52). In reality, however, this guarantee appears of little value owing to the conception of the law, the rôle of the courts designed by this very charter and general legislation, in particular the law of 1950 on the judiciary.

The Constitution also guarantees the accused a "right of defence" (Art. 53(2)), but it seems that this "right" is of little avail (especially in political trials) owing to the position of the legal profession,^{xxxxxx} the extensive jurisdiction of Military Courts and their superiority over the Ordinary Courts,^{xxxxxxx} as well as the rules of procedure which are particularly oppressive in laws on x of Soviet Constitution Art. 113; xx of *ibid.* Art. 108
xxx of *ibid.* Art. 105; xxxx of *ibid.* Art. 112
xxxxx but quære whether it applies also to assessors
xxxxxx see pp. 254-256; xxxxxxxx see pp. 167 and 174 ante

political crimes^x.

Fundamental rights and duties of citizen. One third of the Constitution according to the number of Articles, and about one fourth in volume has been dedicated to the enumeration of the citizen's fundamental rights and duties.

Though the Constitution announces that the "Polish People's Republic, perpetuating and enlarging the achievements of the working people, fortifies and extends the rights and freedoms of citizen" (Art. 57), the enumeration of most of them makes an impression of platitude hardly appropriate to the solemn nature of a constitutional charter.

The citizen has a right to work, that is to be employed for remuneration (Art. 58), to rest (Art. 59), to be aided in case of illness or inability to work (Art. 60), to be educated (Art. 61), to benefit from cultural achievements and participate in the development of the national culture (Art. 62).

The People's Republic, according to the Constitution, *is solicitous* for ^{the} universal development of science (Art. 63), literature and art (Art. 64) and offers particular protection for the "creative intelligentsia" (Art. 65).

The Women have equal rights to men, and are entitled to equal opportunities, equal pay and special maternity protection (Art. 66).

Matrimony and family are under the special protection of the People's Republic and illegitimacy is in no way a cause of discrimination (Art. 67).

The Constitution guarantees education to youth (Art. 68).

Art. 69 appears of particular interest in the present time of
 x see pp. 164, 165, 167, 174, 178, 185, 232 ante
 xx of Soviet Constitution Art. 118; xxx of ibid. Art. 119
 xxxx of ibid. Art. 120; xxxxx of ibid. Art. 121
 xxxxxx cf pp. 259 and 264 ante
 xxxxxxx viz. "scientific workers, educators, writers and artists,
 technicians and inventors" - Art. 65
 xxxxxxxx cf Soviet Constitution Art. 122

purges of Jews and religious unrest in the Soviet area. It runs: "All citizens, notwithstanding their nationality, race and religion are given equal rights in all spheres of public life, political economic, social and cultural. Any interference with this principle through establishment of direct or indirect privileges or restraint in rights on account of nationality, race or religion is liable to punishment. Spreading of hatred or contempt causing quarrels or humiliation of man on account of national, racial or religious differences is forbidden^x".

The wording of this Article is rather curious. At the first glance announcing equality, it seems to conflict with the idea of the "state of workers and peasants", but a closer consideration reveals the lack of protection in case of "social and economic" differences. The equality of men is thus realised only to a certain extent, one might say, for export purposes, whereas the canon of the Constitution consisting in the differentiation between people for "social and economic" reasons remains in force. Repeating three times the causes of forbidden discrimination the Constitution threatens with punishment those who break this rule, whereas judging by the recent Prague trial^{xx}, arrests in Moscow^{xxx}, East Germany^{xxxx} and Hungary^{xxxxx} no question of "privileges" is involved, but simply the elementary right to live which is endangered by a definite policy of the ruling groups.

Freedom of conscience and religious belief is guaranteed by Art. 70, qualified by the clause that "abuse of that freedom for the purposes conflicting with the interests of the People's Republic is liable to punishment". We shall return later to this question; at the moment it seems sufficient to observe that the ~~x of Soviet Constitution Art. 123~~
 x x the trial of Slansky and others in December 1952
 xxx arrest and later release of doctors in January 1953
 xxxx arrest of some Jews in January 1953
 xxxxx purge of Jews, see Daily Telegraph of February 11, 1953

qualification of this right is indicative of the state not being indifferent to the religious activities of the citizen.

Art.7^x recognises freedom of expression by means of word and print, freedom of assembly and meetings, processions and demonstrations. No qualification accompanies this statement, moreover, the realisation of those freedoms is secured in the words of § 2 by the "handing over to the service of the working people and their organisations of all the printing establishments, stocks of paper, public buildings and halls, means of communication, radio and other necessary means". The nationalisation of printing and distributing establishments, control of the buildings, communications and radio, the allocation of paper as well as the censorship of the Press by the Government officials, must, therefore, for the purpose of Art.7¹, be construed as "handing them over to the service of the working people".

Freedom of assembly (this time considered separately) is guaranteed for the second time in Art.7² for the purpose of the "development of political, social, economic and cultural activities of the working people". A qualification (already contained in the constitutional purpose of the freedom of assembly) contains a clause forbidding "creation and membership of organisations whose aim or activity threaten the political and social system of the legal order of the People's Republic".

Art.7³ guarantees the citizen a right to bring petitions and complaints^{xxx} to all organs of the state and goes on to say that such petitions and complaints must be speedily dealt with, those responsible for delay or a "callous and bureaucratic attitude" incurring liability at law.

Art.7⁴ guarantees freedom from arbitrary arrest, inviolability of dwellings, secrecy of correspondence and protection of private
 x cf Soviet Constitution Art.125; xx cf ibid. Art.126
 xxx already mentioned in Art.5 of the Constitution

property. It is quite a different matter whether this provision operates in practice in view of the powers of the police undefined by statute^x, the physical rule of the Ministry of Public Security, marks on letters received abroad, and the "socialisation"^{xx} of property.

A provision of international range closes this list of fundamental rights guaranteed by the Constitution. By Art. 75^{xxx} the Polish People's Republic extends the right of asylum to "citizens of foreign countries persecuted for scientific activity, defence of the interests of the working people, striving for social progress, activities in the defence of peace and struggle for national liberation". It is submitted that since the Constitution, being a national charter organising the machinery of the state, has a technical character, the provision of Art. 75 notwithstanding its noble inspiration, has no room in the Constitution proper, but should be rather relegated to the preamble, the preamble being a more appropriate place for ideological and propaganda declarations.

The list of fundamental duties is headed by the obligation of the citizen to "observe the provisions of the Constitution and statutes as well as the socialist labour discipline, respect the principles of social relationship and conscientiously perform duties with regard to the state"^{xxxx} (Art. 76).

Every citizen must "take care of public property and protect it as the fundamental basis of the development of the state and source of wealth and power of the fatherland". Persons guilty of "sabotage or economic diversion and those who in whatsoever manner assail the public property incur all the severity of the

x see pp. 159 - 161 ante

xx sometimes officially stamped, usually with marks indicating opening.

xxxx to a direct translation of Art. 129 of the Soviet Constitution the clause on "social progress" and on the "defence of peace" has been added.

xxxx cf Soviet Constitution Art. 130

law" (Art.77~~x~~).

The citizen is obliged to render military service (Art.78~~x~~) and exert vigilance with regard to "enemies of the nation"^{xxx}(Art79)

The extensive list of rights surpasses even the Constitution of 1921, which for other reasons presented the nation with a charter of rights previously denied during the national bondage. The duties, on the other hand, are scarcely enumerated and hardly balance the volume of rights.

Yet it is difficult to see why so much truism and platitude had to be incorporated in the chapter on rights and duties, especially as Marxism-Leninism does not favour (in theory) verbalism and declarations being made part of the constitution^{xxxx}.

Economic and Social Structure. The Constitution registers the economic and social system built up during the preparatory period of 1944-1952. This system being the "basis" of the present Constitution and the result of the practical application of the Marxist-Leninist philosophy is nothing else but a record of achievements in the development parallel to the political reform.

In matters of the economic system envisaged by the Constitution the principal questions appear to be that of property rights and the question of production. These problems are correlated and both of them revolve around individual rights and the interests of the state in shaping the general policy of the community. Since economics is the starting point of Marxism and the animus movens of its action it is only natural to find a chapter on this subject in a Constitution inspired by that philosophy.

In the development recorded by the Constitution we can distinguish three types of property:

x cf Soviet Constitution Art.131; xx cf ibid. Art.132

xxx cf ibid. Art.133

xxxx cf Stalin's speech introducing the Constitution of 1936

- 1) public property,
- 2) private property in the means of production, and
- 3) individual property.

The first class, of course, embraces the bulk of the material wealth of the country controlled by the state "on behalf of the people". The second class represents only that fraction of the means of production so far unaffected by the nationalisation decrees. The third class covers what has been left in the hands of the individual for his exclusive enjoyment. Public property can be subdivided into state property and the co-operatives (including collective farms), both being "socialist" forms of property.

Though the Constitution favours and promotes the system of "socialist" property (Art.7(1)), it also purports to protect what has been left in private hands: "The People's Republic recognises and protects within the existing legislation individual property as well as the right of inheritance of land, building and other means of production", but limits this concession to "peasants, handicraftsmen and farmstead holders" (Art.12). Art.13 repeats the same principle without qualifying the subjects of protection (the word "citizens" is used instead). This contradiction in terms is of little importance since the substance of property rights has been reduced to the very minimum. Besides that, further reorganisation is envisaged by Art.7, "socialisation" being the spirit and aim of future development.

The system of the Stalin Constitution^{xx} appears far more advanced towards the "socialist" form of economy, allowing only

x According to official figures of 1951 96,9% of Industry and Trade, 97,9% of Building Trade, 94,6% of Transport and Communication, 98% of Wholesale Commerce, 60% of Retail Commerce, but only 12,2% of agricultural production were in the hands of the state.

xx Arts.9,10, and Arts.4 - 8

"small private economy of individual peasants and handicraftsmen based on their own labour and precluding the exploitation of the labour of others"(Art.9).Furthermore,public property under the Stalin Constitution "belongs to the people"(Art.6),whereas the Polish Constitution only commends public property to the care of the "state and all citizens"(Art.8).

The heterogeneity of the economic system in the People's Poland,as compared with the uniform system of the Stalin Constitution,is explicable by the general nature of the two countries, the former being at the stage of "building socialism",the latter at the stage of "established socialism by the triumphant proletariat".

The social structure of the Polish People's Republic is based on the "alliance of workers and peasants",which the state undertakes to strengthen through economic planning,bringing in consequence the fruits of industrial production to the village in exchange for agricultural produce (Art.9).The state is to take care of the "individual farm of the working peasant,to protect him against capitalist exploitation and assist him in the increase of production,improvement of the technical level and general standard of living"(Art.10(1)).

A strong propagandist note is struck in this undertaking to protect the "working peasant" against the dangers of capitalist exploitation (already abolished^x),unless every other peasant who employs a man to help in his work is classified as a "capitalist exploiter".The unfortunate "kulak" falls under this classification and it is he whom the Constitution condemns to extinction as the part of the scheme for the reorganisation of the social structure.

Another feature having both social and economic results in view is the protection promised to the collective forms of agricultural production and the co-operatives(Arts.10(§§2,3) and 11).

x see p.259 ante

"Labour is a right, duty and matter of honour of every citizen" (Art. 14). Having this general idea, applicable not only to "workers and peasants", the Constitution goes on to give credit to "working people of towns and villages, who through their work, socialist labour discipline, competition at work and betterment of methods of work strengthen the might of the fatherland, raise the welfare of the nation and speed up the full realisation of the socialist system" (Art. 14(.)). This provision has a similar though definitely more flowery flavour than the provision of Art. 8 of the Constitution of 1935.

Another familiar sound is the idea of a national elite^{xx}, though this time it is the "leaders at work"^{xxx}, who are entitled to "universal veneration of the nation" (Art. 14(2)).

The Constitution ignores the first maxim of Art. 12 of the Stalin Constitution: "who does not work neither shall eat", but adopts the second one: "from each according to his ability, to each according to his work" (Art. 14(3)).

Electoral Law. Basic principles of the Electoral Law are also included in the Constitution. Elections of the national Councils are put on the same footing as the election of Members of Parliament. Every citizen over 18 years of age is entitled to vote, his "social or economic" position entailing no disqualification. Everyone over 18 may become a member of a national Council, whereas the minimum age for the members of the Sejm is 21. Military service does not result in temporary abeyance of electoral rights lunatics and persons deprived of political rights by court sentence alone being disqualified.

The candidates for election are put forward by undefined
 x of Soviet Constitution Art. 12; xx see p. 27 ante
 xxx this expression embraces all walks of life including art, science, theatre, literature and even military training.
 xxxx Arts. 80 - 88 copying with small alterations Arts. 134, 135, 137, 138, 141 and 142 of the Soviet Constitution.

organisations termed as "political and social organisations of towns and villages"(Art.86).

Miscellanea. Following the pattern of the Stalin Constitution the question of the symbol of the state, the flag and its capital are also dealt with (Arts.89^X and 90^{XX}).

The white eagle, stripped without any statutory authority^{XXX} of his golden crown, remains the symbol of the Polish People's Republic as well as the white and red flag. Warsaw - "the city of heroic traditions of the Polish nation"^{XXXX} - is recognised as the capital.

The Constitution can be amended only by statute passed by the Sejm by a two-thirds majority, at least one-half of the statutory number of Deputies being present^{XXXXX} (Art.91). No special procedure being provided, it may be inferred, therefore, that except for the qualified majority, the Constitution may be changed at any time by ordinary parliamentary procedure at the instance of the Council of State, the Government or Deputies.

Characteristics. The most important general characteristics of the Constitution, as already observed in the discussion on the preamble, are: anti-individualism, anti-liberalism and etatism.

Anti-individualism appears in the qualified form of the prevalence of a part of the community (i.e. "the working people of towns and villages") over the individual both in the sphere of personal rights and economic position.

Anti-liberalism is to be found in the segregation of the community and the differentiation between classes as well as the overwhelming power of compulsion invested in the machinery of state.

x of Soviet Constitution Arts.143,144; xx of ibid.Art.145
 xxx only in the law on National Councils of 11.9.1944 (Art.25)
 can we find a description of the post-war symbol, specifications being given there for the rubber stamp of the Councils.
 xxxx another example of verbiage;
 xxxxx of Soviet Constitution Art.146

Statism is the inevitable result of the anti-liberal attitude towards individuals and the community as a sum aggregate of citizens. Throughout the charter the terms "state, or Polish People's Republic^X" are most frequently used, indicating the impersonal, omnipotent holder of all power, grantor of all rights, and protector of its own ends.

By means of the "socialist system of planned economy", and throughout the pre-arrangement of social conditions, the state, wrapped in the robe of the "people's legal order", acts as the sole formulator and protector of the happiness of the individual and the selected part of the community. In the hands of the state are monopolised almost all human interests from the creation and enjoyment of material wealth to the formation and development of spiritual values.

Theory of State. According to the doctrine of the Constitution of 1921 the state was an emanation of the sovereign nation and an instrument in the hands of the people. This theory emphasised the superiority of the conception of a sovereign nation as the source and substance of all authority over the agent of that authority clothed in the form of the state.

The doctrine of the Constitution of 1935¹ formulated the state as a "bonum commune", thus bringing home a social conception of state being both the form and substance of sovereignty. Whereas the former theory was inspired by a liberal conception of state and constitution, the latter tended towards a totalitarian conception of state, the doctrine of the "sovereignty of the people" being distorted.

In distinction to the former Constitutions, the principal point of the doctrine of the Constitution of 1952 is the conception of the community as a conglomeration of antagonistic classes, the x this expression has been repeated 59 times, the sum total of Articles being 91.

division being determined by social and economic factors. Since of the political system (of which the Constitution of 1952 is only one of the stages) is supposed to be born in the conflict of classes, it is only logical that the Constitution itself bears the stigma of the class struggle. The state has, therefore, the features of a "class state", as opposed to the "classless" state of the former Constitutions.

There is ample evidence to support the view that the theory of state of the Constitution of 1952 is under the influence of the theory of the "antagonism of classes", one of whom emerged victorious from the struggle, though historical testimony proves that this theory could only appear as a result of the military conquest of Poland by Soviet Russia.

Advancing the programme of the ruling class the Constitution makes the state an instrument of the power of that class. It is true to say, therefore, that the state in the Constitution of 1952 appears in the form of the dictatorship of a class and as such remains totalitarian until (in theory) all class antagonism is disposed of and the only remaining class achieves final victory in the execution of its programme.

People's Democracy. The expression "People's Democracy", thus far used in popular parlance to denote the constitutional process during the post-war period in Central and Eastern Europe, became finally sanctioned as a technical term of Constitutional Law, and of narrow legal significance. As a term of art "People's Democracy" is descriptive of the form of government that emerged after the war and is by no means confined solely to the letter of the Constitution of 1952 (in Poland), but generally speaking we may define it as "a form of dictatorship of the proletariat in the present conditions of historical development."

Arrangement of the Constitution. The general arrangement of the charter is of great help in studying the type of constitution.

The Constitution of 1921, for instance, faithfully applying the Rousseau - Montesquieu philosophy, had its chapters arranged into subjects indicating the rule of the people and the separation of powers. The Constitution of 1935, on the other hand, following the doctrine of "unity and indivisibility of the authority of state" and treating the question of the separation of powers as obsolete, concentrated on the "division of organs and functions of the indivisible authority of state", and the position of the president as the supreme element co-ordinating the work of the "organs of state".

The Constitution of 1952 unquestionably adopted the idea of the unity and indivisibility of the authority of state, the Council of State being the chief instrument of the concentration of powers. The Executive decisively dominates the Legislative and Judiciary, the Sejm being only a representative of the "working class" and nominal legislator, the Courts being subordinated to the Council of State, the theory of law itself abandoning the idea of supremacy of the rule of law over the machinery of the state. But a more salient feature influencing the arrangement of the charter is the Marxist-Leninist philosophy, whose overpowering force and dominating ideology not only inspired, but in actual fact, formed, the system of the People's Democracy through the compulsive instrumentality of the Soviet Union.

Applying the Marxist-Leninist doctrine on the "superstructure" and "basis", the Constitution opens with the chapter on the "political structure" setting forth the principle of the rule of the "working class" in the "people's republic", clothed in the legal form of the "People's Democracy".

Then follows the chapter on "social and economic structure", registering the achievements in that field and preparing the

ground for further development. The political "superstructure" thus interlocks with the social-economic "basis" of the system, both elements influencing each other in an active, creative manner.

Subsequent chapters deal with the arrangement of authorities and the position of courts and the prosecution machinery. The long-winded chapter on "rights and duties" is followed by the principles of the Electoral Law and provisions on the symbol, flag and capital of the state as well as the amendment of the Constitution.

Pattern of the Stalin Constitution. The arrangement follows the pattern of the Stalin Constitution of 1936 with the exception of a special chapter on the "structure of the state". This is so, because being a federation, the Constitution of the Soviet Union had to define the relationship between the Union and the member-states.

Institutions, terminology, even whole paragraphs can be traced back to the Soviet Constitution^X, the fact emphasised by Mr. Biefut^{XX}: "...we are proud to benefit from the experiences and achievements of the Soviet Peoples".

Notwithstanding the similarities there are also differences between the two Constitutions. The principal difference is caused by a variance in the stages of the development of the two countries and their progress in "socialism". The Stalin Constitution represents a higher stage of development, whereas the Polish system is derivative of the Soviet state and still in a lower stage of development. In this respect certain relics of the old system (e.g. Parliament) have to be tolerated, whilst the system of Councils has yet to await perfection.

x Articles totally or partly translated have been marked by reference to corresponding provisions of Soviet Constitution, xx-in-speech to the Constituent Commission on January 23, 1952, see Panstwo i Prawo, 1952; No. 2(52), p. 167

Though Marxism-Leninism insists on "accord between form and substance", that is accord between legislation and the reality, only a part of the Constitution of 1952 conforms to this requirement, the chapter on rights and duties dissenting in matters of fundamental rights and constitutional freedoms.

Whereas Marxism-Leninism wants the Constitution to be purely and simply a "record of facts and achievements" and scorns programmes, the Constitution of 1952 is a mixture of the achievements of the past and plans for the future, the latter appearing distinctly in the chapter on social and economic structure.

Comparing the two documents one must acknowledge the superiority of the Soviet draft, the Polish Constitution being full of repetitions and superfluous verbiage^x. Whereas the Soviet Constitution leaves little to special (or future) legislation, the Polish draft is less comprehensive, referring as many as sixteen times to separate legislation, most of which is to be made in the future. This defect (someone else may consider this to be an asset in view of the fact that, following this technique, the charter is rather brief and not too bulky), is emphasised by the inclusion of extra-legal matters which, it is submitted, could be either relegated to the preamble or totally omitted. One has, however, to leave this question to the draftsman, whose judgment on what is essential for the Constitution is of decisive importance.

One has to concede that the propaganda value of the Polish draft is superior to its Soviet pattern, lofty slogans and nebulous formulations of legal principles being commonplace in the former.

Implementation. The Constitution was voted on, July 22, 1952 and on that date it came into force. A new Sejm was elected on October 26, 1952 and the change-over then took place.

x e.g. equality of sexes repeated four times (Arts. 66, 81, 82, 83), care of the state for development of national culture emphasised several times (Arts. 3, 7, 61, 63, 72).

The Elections of 1952 bore no resemblance to the Elections of 1947.^x This time the United Workers' Party marched under the personal leadership of Mr. Bierut to the booths with the banner of the "National Front"^{xx} representing the ruling class of "workers and peasants" (i.e. the régime) and easily won a victory on the unprecedented ^{xxx} basis of 99,8% valid votes cast for it by the record poll of 95% electors,^{xxxx} the army units polling as much as 99,87%.

The Election campaign was conducted by the "National Front", a Government-sponsored organisation set up to unite all "patriotic forces under the leadership of the United Workers' Party"^{xxxxx} which has now become a permanent institution. The "National Front" mobilised some 800.000 agitators each of whom had a number of houses allocated for his personal attention. The Electoral Law of 1952 (Art. 33) gave to "political and professional organisations, the co-operatives as well as other organisations of the working people", the right to bring forward candidates, which fact together with the activities of the "National Front" secured complete victory for the Government, no other candidates being admissible.

According to Mr. Klosiewicz^{xxxxxx}, the Chairman of the "Mandate Commission", out of 425 Members of the new Sejm 155 are of peasant, and 173 of labour "extraction" whereas 97 came from the ranks of the "working intelligentsia". Deputies with University education number as many as 136, secondary schools produced 120 Members whilst 169 Members received only elementary education. Some 113 Members are professionally engaged in industry and 67 of them
x see p. 121 et seq

xx Programme of the "National Front," see Panstwo i Prawo, 1952, No. 10
xxx figures given in Panstwo i Prawo, 1952, No. 11, p. 581
xxxx cf poll at Elections: 1922-67, 7%, 1928-78, 3%, 1930-74, 8%,
1935-46, 5%, 1938-64, 5%.

xxxxx J. Gorski, Front Narodowy, Nowe Drogi, 1952, No. 8, p. 91
xxxxxx Biuletyn Krajowy, London, 1952, No. 11/23, p. 2

are "leaders at work^x".

The Sejm chose the Council of State and appointed Mr. Bierut to the office of Prime Minister, the presidential office having withered away. The Chairmanship of the Council of State went to Mr. Zawadzki, and among the eight vice-Premiers there are Mr. Cyrankiewicz (hitherto Prime Minister), Marshal Rokossovsky - the Russian pro-consul, and Mr. Minc - the economic dictator. Out of a total Cabinet of 42, 39 are members of the United Workers' Party.

The Constitution did not touch the question of State Control and consequently the Supreme Chamber of State Control became tacitly set aside. The gap, however, was filled by, a Ministry of State Control^{xx} created on the pattern of the Soviet Constitution (Arts. 78 and 83).

*Since
which* Under the practice of the 1947 Constitution a new institution, the so called "presidium of the Government" sprang^{xxx} up. It received no sanction by the Constitution of 1952, but the practice is being continued and this body has recently received extensive powers with regard to the Church.^{xxxx}

Though the Constitution of 1952 is a record of seven years of change and experience in the People's Democracy it appears to have brought the Polish state only to the second stage of development from the "revolutionary proletariat" to the "proletariat building socialism", the next stage being the stage of the "triumphant proletariat", or a fully assimilated system of the Soviet State.

x see p.240

xx law of November 22, 1952, D.U.R.P. No. 47, sec. 316

xxx see p.210 ante

xxxx see p.350

Part IV. Theory and Practice of the People's Democracy.

Chapter 15. Characteristics of the Polish People's Democracy.

Meaning of Democracy. Before discussing the doctrine of the People's Democracy let us consider briefly the meaning of democracy in general. Though used in Political Science as a term of art, "democracy" is not, strictly speaking, a legal term. In its wide meaning it is a way of life, in its narrow sense it denotes a system of government.

"Democratia", or "government by the people", dates back to the Athenian community, but it was only as recently as the period following World War I that we can speak of its almost universal application. In the meantime centuries have passed in a constant struggle for popular rule, realised at times, in various countries, to certain degrees. But what seemed almost universal dwindled away between the two wars.

There seems to be no uniform conception of democracy nor any strictly definable form in which it must be clothed. It was, therefore, possible throughout those centuries of development to achieve various forms of government by the people, the progress keeping pace with the general progress of humanity.

Historically, democracy is a reaction to a tyrannical or arbitrary rule by individuals or privileged groups, this reaction manifesting itself in the seizure of power by the population. In this respect it gained a rather scornful name during antiquity denoting a rule of the populace or the mob, as opposed to a more desirable government by the best men or aristocracy.

x $\nu\gamma\mu\omicron\varsigma$ = the people; $\kappa\rho\alpha\prime\tau\omicron\varsigma$ = rule

xx Aristotle in his "Politics" and Plato in his "Republic".

In this form, as witnessed by modern times, especially during the French Revolution and the Bolshevik Revolution, the rule of the mob instead of realising the ideas of a "government by the people" degenerated into a reign of terror where a few leaders, exploiting the human frailty of the revolting masses, virtually reimposed arbitrary government behind the facade of a popular government. Aware of this experience democracy to be true and successful needs adequate conditions, first to establish a system where the sovereign power resides in the people as a whole, then to enforce a direct (through the people as a whole^x) or indirect (representative) form of government, the ultimate decision and virtual control remaining with the population.

Fascism and Communism. The ideologies of Fascism and Communism left an everlasting imprint on the era of modern democracy. Both born in the inherent weakness of human nature, both nurtured in dissatisfaction with the shortcomings of the democratic system, both animated by revolutionary ideas, they shook the stability of the world and interfered with the natural development of humanity. Though essentially totalitarian both systems claim to rest on the "rule of the people" and to work "for the people". A full discussion on those two systems representing two different ways of life would exceed the scope of this work, yet it seems necessary to mention them as phenomena opposing the historically established standards of democracy and quite related to the system of the People's Democracy. Communism, the avowed enemy of Fascism^{xx}, is the parent of the People's Democracy, yet the latter system may be linked with Fascism through its professed hatred of Fascism and unprofessed imitation of several methods of that régime.

Principles of Democracy. It seems rather difficult, if not impossible to define democracy other than by description. Without
 x possible only in very small communities
 xx except for periods of cordial co-operation in interests of
 common expediency.

attempting a definition more accurate than "government by the people" we can enumerate certain fundamental principles distinguishing democracy from autocracy^x or dictatorship exercised either by a group or an individual. Of those the most important ones seem to be :

- 1) political independence,
- 2) sovereignty of the people,
- 3) the state being agent of the people,
- 4) rule of law,
- 5) freedom and equality of citizens.

The first condition of a free society is political independence, or freedom from compulsion from the outside world^{xx}. A society whose constitution is formed under foreign compulsion can hardly call itself a free agent of its own destiny, and no matter how tolerant the paramount master may be, the government of such a society depends in principle on the will of the master.

The sovereignty of the people^{xxx} may be defined without entangling ourselves with the intricacies of the conception of "sovereignty", as the power of ultimate and final decision to shape the destiny of the community. The expression "sovereignty of the people" as a technical term found in several Constitutions denotes the fact that the government (or the power to rule) is vested in the whole population of the given community. This being so it is an expression of principle since it is obvious that a few months' old child or a person of unsound mind is quite incapable of exercising the power to rule vested in him as the member of the community. What actually matters is the principle and the substance of this x autocracy need not necessarily be totalitarian and tyranny need not necessarily be oppressive.

xx a unit of a federation is not deemed for this purpose subject to any constraint.

xxx cf discussion on the sovereignty of the state, pp. 51 and 52

power contained in a positive definition. If negatively defined "sovereignty of the people" means, on one hand, the exclusion of interference from outside, and on the other, the absence of privileged persons or groups endowed with the prerogative of constituting the ruling or dominating element. A further consequence of the principle that the power is vested in the whole population is the fact that every member of the community is a subject, not object, of political rights.

The working of this theory depends a great deal on the conception of the state in the given community. If the state is considered the agent of the people and the form of organisation (supreme though, but nevertheless a form) the principle of the "rule of the people" unquestionably obtains. If, on the other hand, the state is considered an "absolute fixed end in itself", or "supreme community" there is little, if any, room for the "rule of the people".

The question of Administration is allied with the conception of state. If the state is merely a form of organisation its apparatus exists for, and serves, the subject of the organisation. If, on the other hand, the state stands above the human element its apparatus serves the ends of the state irrespective of the needs and desires of the community. The authority of the state, necessary to fulfil its purpose, is like the sovereign power of the people, one and indivisible, but by no means superior to its source. Moreover, a free society may enlarge or curb the authority of its agent, the state, but whenever it renounces for the benefit of the state the power of taking final decisions this means the end of the sovereignty of the people.

It does seem necessary to think that in a democratic society the authority of the state must be divisible into separate and x and xx totalitarian conception of state formulated by Hegel and further elaborated by Bosanquet.

separated powers^x, the authority being one though the functions of the state are multifarious. Moreover, accumulation of functions in one organ of state does not seem to contradict altogether the ideas of democracy provided, of course, it does not amount to a sole exercise of the whole authority of the state, and the exclusion of any control. If the Administration is to function in an efficient manner the means of control must be devised so as not to obstruct the work of the organs of state but to assert their proper functioning in the service of the community. The lack of control is characteristic of non-responsible, autocratic government, and a denial of the rule of the people.

In matters of local administration a certain measure of self-rule or independence should be left in the hands of local authorities, thus keeping the central government concentrated on its work and entrusting local affairs to the citizens at large.

The rule of law is indispensable in an orderly community, aiming at a balance between authority and freedom. In this respect the conception of the law must not be subjective and opportunistic, but it must be absolute and objective, so that the organs of state as well as the citizen are under one abstract authority of the law. Though it is the function of the state to make laws, this function is purely technical, the final decision as to what ought to constitute the rules to be obeyed by the citizen and the state organs alike remaining with society. Consequently public opinion must not be disregarded, nor artificially built up by means of government propaganda. Appeals to the source of power by means of General Elections and Referenda should be made whenever the central authorities are doubtful whether their action in grave issues would be endorsed by the electorate.

Freedom of man in the general meaning of this word means one's unrestrained faculty to form one's own way of life. In the sense
x theory of Montesquieu

of Constitutional Law freedom seems to mean absence of arbitrary rule. Originally freedom was conceived as a purely personal status opposed to that of slavery. But the abolition of slavery did not free man from oppression by rulers or tyranny of the state. In the society of free men, therefore, the power vested in the organs of state must be adjusted to the freedom of the individual. Freedom cannot be exercised unqualified, for such a use by one man would mean oppression to his neighbour. Hence it must be restricted by one's own responsibility to his fellow man and the society as a whole.

The democratic form of government implies freedom of the citizen, for its very foundation rests on the individual's right to participate in the government and his responsibility for its success or failure. This involves not only freedom from arbitrary arrest, freedom of speech and conscience, freedom of assembly, and public manifestations, but also facilities to exercise criticism. The constitution or the apparatus of the state must not, therefore, be immune from criticism, since no state or institution made by man for the use of man is sacrosanct. Mere criticism of the political system should not be made the subject of criminal prosecution, still less a crime of treason^x, though the authority of the organs of state as well as the personal integrity of officials can be adequately safeguarded by the ordinary law of defamation operating to protect persons but not institutions^{xx}.

Toleration is the direct consequence of the idea of freedom. In a free society it is quite impossible, and it appears, undesirable to achieve total uniformity or unity in all matters. In order to avoid totalitarianism and regimentation, difference,

x cf pp.168 - 172 ante

xx The law of sedition, entailing no turpitude attached to treason, can provide an adequate balance between freedom and authority without frustrating the citizen's right (and duty) of criticism.

whether of political opinion, creed, nationality or race, must be respected. Toleration is a rare virtue of human nature yet it is a great test of culture and democracy. It implies ^{the} existence of free action, of ~~its own~~ ^{the} right of a political dissent or even opposition, and lack of discrimination against religious, national, or racial minorities. Toleration, however, is conditional upon the performance by the minority of its duty to refrain from action it would not be prepared to suffer were it itself the majority. The politically dissentient party must not, therefore, endeavour to impose its opinion by the argument of force or to overthrow the existing régime by violence, the minorities must remain loyal to the community in which they happen to live.

Equality of men is another cardinal rule on which rests the democratic system. Nobody can pretend to believe in absolute equality of men, other than that all belong to the same species of animal and that all are born, live and have to die. Democracy rests on humanity and, therefore, notwithstanding the physical and spiritual differences between individuals, it accords to all of them equal political status and equal standing before the law. This simply means absence of a privileged class or élite and reluctance to idolise men for their merits or qualities. Democracy depends on numerical strength rather than individual virtues or merits so difficult to define and still more difficult to accept as the absolute criterion of political rights.

Democracy believes in an equal start and equal opportunities in the service of the community, and promises every citizen a chance to attain the highest position in the community. Appointing its representatives by election, democracy recognises the principle of universal suffrage granting each elector one vote, the main reasons for temporary disqualification being immature age, unsoundness of mind and serious crimes proved in a court of law. In a democratic society decisions are taken by the majority, and though a majority cannot be always right, it seems safer and more

within the principle of the popular rule to follow a majority rather than an arbitrary decision.

With all its faults and shortcomings democracy represents a system where free men, in free society, in a free but orderly way are able to exercise (and actually do exercise) the power to determine the destiny of the society.

The above observations are only an attempt to reiterate the main principles of a democratic system of government, and it appears that they may fairly be taken as a test to determine the nature and quality of a polity. Democracy is a challenge and a programme inseparable from the progress of civilisation and the applicability of its principles depends much on the actual state of development of the given community. It is, therefore, impossible to define strictly the code of dogmas which must, without reservation, be accepted whenever a community aspires to be a democracy. Switzerland, notwithstanding the fact that universal suffrage does not apply to women, the United Kingdom, notwithstanding her aristocratic second chamber, the United States of America with her racial discrimination in certain states, these do not, therefore, cease to be democracies, whilst Soviet Russia does not become a democracy solely on account of universal suffrage or the official way of addressing her dictators as comrades.

Meaning of People's Democracy. The name People's Democracy suggests a derivative or species of the system of which "Democracy" is the genus. But if we accept democracy to mean government by the people the expression "People's Democracy" or "Popular Democracy" becomes a mere figure of speech, the key to decipher it being found outside the general science of Constitutional Law. Expressions like Parliamentary, Presidential or Judicial Democracy found in books on Political Science do not thereby denote any particular species of democracy, but describe the system of popular government with a characteristic feature given

by the arrangement of the constitution assigning the leading rôle to one of the organs of the state. By analogy "People's Democracy" should, therefore, indicate the stress on the sovereignty of the people - if the classification of the western doctrine is applicable to this eastern reality.

Since it appears not to be the case assistance must be sought in the Marxist-Leninist philosophy. As far as the tautology of the term "People's Democracy" is concerned it is explicable and reconcilable with logic only through the ingenious method of Marxist-Leninist dialectics.

The expression "People's Democracy" was not coined by theorists of Constitutional Law, but it emerged in the course of the actual development of the constitutional process. To serve originally as a political weapon of convenience it appeared at the close of the last war against the Axis which developed into an ideological war of "Democracy v Fascism". Since Soviet Russia found herself in the camp of the Western Democracies it was easy for her, especially with the success of her armies, to reorganise the political systems in her sphere of influence under the guise of fighting the fascist phantom even in places where it had made no appearance. The Soviet Union in fulfilling her primary mission of "spreading the revolution" successfully used the fascist bogey, and since "democratisation" was at that time the most fashionable slogan she set forth to found "new democracies" in the countries overrun by her armies. The People's Democracy, therefore, as far as its origin and historical development can testify, has nothing in common with the accepted conception of "Democracy". It simply means a concealed imposition of Marxism-Leninism on the nations under Soviet domination and the conversion of the formerly independent states into vassal states of the Russian overlord.

The People's Democracy being a creation of the Soviet Russian political expansion has its roots in the Marxist-Leninist philo-

sophy, but feeds upon organisms of the states where it was made to grow and flourish. It has, consequently, elements of what passes for democracy in the Soviet Union painted on the constitutional background of the former systems of government. This had to be so in the absence of genuine proletarian revolutions in Central and Eastern Europe, and because of the cordial war co-operation between members of the Grand Alliance. What the Central and Eastern European proletariat did not do had to be done by the country of the "triumphant proletariat" in the face of the Western Democracies' striving for the restoration of democratic governments but conveniently blind to the actual meaning of the political process arranged in the Soviet sphere of influence.

In a recent publication^x the origin of the expression "People's Democracy" has been attributed to Marshal Tito, who in 1945 advocated this form of government in preference to a monarchy. As far as the theory is concerned a distinguished Hungarian Marxist, Joseph Revai emphasised in 1949 that there was no difference between the "dictatorship of the proletariat" and the "People's Democracy", thus disposing of the propaganda claims (which in Poland died down with the fall of Gomulka) that "People's Democracy" meant a path towards "socialism" distinct from communism, separate from Russia, and genuinely national.

This confirms our view that both historically and as a matter of the theory of the constitution the expression "People's Democracy" has no scientific background and means practically nothing. The fact that by the provision of Art. 1 of the Polish Constitution of 1952 this expression has been elevated to a technical term of Constitutional Law in order to conceal the "dictatorship of the proletariat" in the transitory period from Capitalism to Socialism only depicts the flimsy foundation of the constitutional doctrine of the People's Democracy, which, was it
 x F. Borkenau, Der Europäische Kommunismus, Bern, 1953, p. 454

not for Marxism-Leninism-Stalinism, could not exist of itself.

The expression "People's Republic" is not entirely new to Poland since this was the form of the state proclaimed by the Provisional Government of 1918^x. In 1918 this description was utilised to emphasise the distinction between the reborn and the pre-partition Poland, the ancient commonwealth being a "Royal Republic" and ruled by the gentry^{xx}.

Expressions "People's Republic", "People's State" and "People's Poland" have been frequently used and are still being used, though^{xxx} the "People's Democracy" is now the constitutional definition of the polity, but the description "People's" has not the same meaning as it had in 1918. Moreover it seems not without piquancy to point out that Lenin^{xxxx} ridiculed the idea of a "People's State" and that Marx speaking on the ultimate dissolution of the state said: "however many thousands of times, the word "people" is combined with the word state, this will not bring us one iota nearer its solution"^{xxxxx}.

Aims. Whereas no one can predict the development of democracy it is easy to see the aims headed at by the People's Democracy. The final end is indicated not only by the present development of that system, but also by programmes and authoritative announcements.

Whereas the principal concern of the liberal democratic system appears to be to secure means and opportunities for the individual development of citizens and to protect the way of life of the community, the primary concern of the People's Democracy revolves around the aims laid down in its doctrine. The aim is clear

x see p.15 ante

xx "Rzeczpospolita Szlachecka" until partitions, and "Rzeczpospolita Ludowa" proclaimed in 1918.

xxx see Chapter 14 on the Constitution of 1952

xxxx V. Lenin, The State and Revolution, London, 1919, p. 69

xxxxx Lenin ibidem p. 88

and definite: it has to bring the community towards a "higher form of development", namely "socialism". This is the official direction, but "socialism" as the ultimate end is hardly defined by pointing out merely a general march-route. After all socialism is a way of life thought of by philosophers and reformers. Socialism is a reaction against injustice, but represents by no means a unique and coherent doctrine. Moreover, there have already been several views, several schools of thought all propagating "socialism", but each devising its own way and its own means to reach the end.

From the types of socialism the only one available for the People's Democracy is the Marxist-Leninist type as practised in the Soviet Union. There seems to be no other way owing to the arrangement of the Soviet area, loyalty to the Kremlin of the leaders of the People's Democracies, their training and discipline and the firm determination of their Soviet supervisors to enforce orthodoxy. "There is only one socialism in spite of the lying social-democratic legend about western and eastern socialism. Therefore the experience of the Soviet Union, the first country of the victorious socialism, is of enormous importance for all countries. Consequently the essential and fundamental principles of the victorious socialism in the U.S.S.R. are applicable to all countries struggling for socialism^x".

The task of building socialism, however, appears to surpass nowadays the capacities of one sole country, and in the opinion of a Soviet writer^{xx} "no country is able to organise the revolution without the effective assistance of the Soviet Union"

x H. Minc, speech at the United Workers' Party Congress, December, 1948.

xx N. Farbierow, O Charakterze Panstwa Demokracji Ludowej, translation from Russian, Nowe Drogi, 1949, No. 3, p. 159; cf also A. Burda, XIX Zjazd Partii Lenina-Stalina, Panstwo i Prawo, 1952, No. 11(81), p. 600

Since the Soviet state is supposed to be now in the more advanced stage of socialism^x the aim of the People's Democracy is first of all to reach that stage. Mr. Stalin, in his theory of "super-structure and basis" gives a support to this supposition hitherto confirmed by the present development of the system. "The super-structure", according to his teaching, "lives and develops only in the period of a given economic basis. Hence the short life of the superstructure is wound up and disappears together with the fact of the liquidation and disappearance of the given basis"^{xx}

Transitoriness of the System. A direct consequence of the above theory is the transitory character of the People's Democracy.

Striving for still more advanced forms the system does not aim at stabilisation but remains fluid and flexible, ready for a further moulding process. "The People's Democracy", said Mr. Bierut^{xxx}, "is not a form of a synthesis or permanent co-existence of two different social systems, but a form of elimination and gradual liquidation of capitalist elements, developing and consolidating at the same time the foundations of the future socialist economy!"

Depending upon the progress of economic development the growth of the People's Democracy seems conditional upon the eradication of private enterprise, socialisation of industry, and collectivisation of land. By 1952 the two former conditions appear to have been fulfilled, the third was, after 1950 vigorously driven towards completion, but since 1953 the collectivisation drive appears to be slowing down. Though collectivisation is the slowest and most painful operation, judging by the present progress, it may be completed by the termination of the Six-Year Plan of 1950, provided the Plan is not interrupted. Another constitutional reform will then, in all probability, be necessitated.

x Vyshinsky, op. cit. p. 77

xx J. Berman, Baza i Nadbudowa w Swietle Prac Towarzysza Stalina o Jezykoznavstwie, Nowe Drogi, 1950, No. 6, p. 20

xxx Podstawy Ideologiczne P. Z. P. R. op. cit. p. 50

State. The state of the People's Democracy is adapted to this transitory character of the system. It is the state of the proletariat since the "working class" is the ruling class. It is also a "socialist" state judging by the aims and purposes of the system. We have already discussed the conception of the state adopted by the letter of the Polish Constitution of 1952^x. Let us recapitulate now the position of the state in the general doctrine and practice.

Marx regarded the state as an organ of capitalism, an instrument in the class struggle and a means of keeping the exploited classes in subjection. In a classless society, he concluded therefore, there would be no state, the state losing its *raison d'être*. Both Marx and Engels envisaged in the period of transition a situation where the proletariat destroys by revolution the existing political bureaucracy, establishes the dictatorship of the people, and in converting the means of production into public property produces a classless society. The state, according to Engels, would "wither away" in that process.

Lenin, moving socialism to revolutionary action, also believed in the "withering away" of the state and proletarian dictatorship as soon as capitalism has been completely eradicated^{xx}. This has happened in Soviet Russia, but the state did not wither away. Moreover in the person of Mr. Stalin the state received a powerful champion, so much so that it became well established as a "socialist state"^{xxx}. The state, said Mr. Stalin, is a "machine in the hands of the ruling class for suppressing the resistance of its class enemies"^{xxxx}. "It cannot wither away in a single socialist country before the world revolution, because of the necessities imposed by capitalist encirclement"^{xxxxx}. In Mr. Stalin's teaching the

x see pp. 283 and 284 ante

xx The State and Revolution, op. cit. p. 86 et seq

xxx Constitution of 1936, Art. 1.

xxxx J. Stalin, Leninism, London, 1940, p. 32

xxxxx Stalin, ibid. p. 658-9

withering away of the state will come not through the "weakening of the state authority but through its maximum intensification, which is necessary to finish off the remnants of the dying classes and to organise defence against capitalist encirclement^X".

Modifying this important canon of Marxism-Leninism Mr. Stalin further elaborated his own authoritative interpretation by adding a theory on the functions of the state. In his view there are two functions of the capitalist state: the internal function consisting in keeping in subjection the exploited majority, and the external function consisting either in the defence of the territory against other countries or enlargement of the dominium at the expense of other states, both functions being identical with defence or extension of the power of the ruling class. Though the socialist revolution has defeated the bourgeoisie, expropriated capitalists and created a new machinery of state in the place of the old one, there is no reason, in Mr. Stalin's opinion, why the new proletarian state should not retain some of the functions of the capitalist state, adjusted, of course, to the needs and purposes of the proletarian state. Moreover it does not follow that the forms of the socialist state must subsist unchanged or that all functions of the state ought to be kept unaltered. On the contrary, the forms of the socialist state change and will be changed according to the development of the country and changes that occur in the external situation^{XX}.

In the Stalinist interpretation of Marxism there is a strong trace of a belief in the longevity of the state and its perennial purpose. Since the class struggle is likely to go on for ever (even in the "socialist state") postponing the advent of the utopian classless society, the state must be on guard like a mighty robot always ready to smash class reaction either within or outside its political boundaries.

x Vyshinsky, op. cit. p. 62

xx Stalin, Leninism, op. cit. p. 660

The Stalinist conception of state equally applies to the People's Democracy in its difficult period of the dictatorship of the proletariat and the reshaping of the traditional way of life. Hence the worship of the state and the etatism of the Polish Constitution of 1952.

Law. Since the "dictatorship of the proletariat is the domination over the bourgeoisie, untrammelled by law and based on violence and enjoying the sympathy and support of the toiling and exploited masses" the conception of the law peculiar to this stage of development of the "socialist state" must be devoid of the idealism and romanticism characteristic of the utopian speculations on the state and society in its advanced stage of development. For the time being the law means the use of power, and the power is law, or as put by a Soviet Minister of Foreign Affairs "law is an instrument of politics, any other theory being false". In his definition of law Mr. Vyshinsky, however, includes besides the "will of the dominant class" the "customs and rules of community life", thus impliedly admitting elements not necessarily created by the ruling class, but limits these latter rules of conduct and legal order to those principles which are "advantageous and agreeable to the dominant class".

There is a definite relationship between the type of the state and its laws : a "democratic" state is ruled by and makes laws according to the standard of principles on which it rests and the general will of the population. A "socialist" state, on the other hand, being based on a doctrine, and pursuing a fixed course of development, is governed by the canons of its doctrine and must realise adequate legislation to suit its aims and purposes.

x Stalin, op. cit. p. 32-33

xx at the last stage the law is supposed also to wither away,

Lenin, The State and Revolution, op. cit. p. 101

xxx Mr. Vyshinsky, quot. in The Economist of July 21, 1948

xxxx Vyshinsky, op. cit. p. 50.

The theory of the rule of law^{xx} obtaining in democratic countries uplifts the law to the pedestal of an abstract force governing not only individuals but also the organs of the state and indeed the state itself, and explains and justifies the necessity of compulsion on moral, ethical and practical grounds. This theory does not obtain in the eastern type of "socialist" states. Instead we have the theory of the "socialist legal order", or the "people's legal order"^{xxx}.

The Marxist theory of state and law, as mentioned above, emanates from the conception of an antagonistic class society, where by necessity one of the classes constitutes the dominating, and consequently oppressing, class. The theory of the "socialist legal order", according to a Soviet writer^{xxx}, is "one of the methods of protecting and consolidating the dictatorship of the working class and the rule of the socialist law". The same writer informs us that the "socialist legal order" is the result of the policy of the working class, aiming at the perpetuation of its rule and the development of "such social conditions as are convenient and favourable to the dominant class".

A further development and elucidation of the theory of the "socialist legal order" comes from a Polish vice-minister of Justice^{xxxx}: "The socialist legal order requires behaviour consistent with statutes and other legislative acts made by the people's authorities and embodying the policy of the Party and Government^{xxxxx}. It consists in the adherence to the political line fixed by the Party and Government, it means an understanding and execution of the policy of the Party and Government".

x as opposed to the arbitrary rule of class or dictator.

xx of Polish Constitution of 1952, see pp. 272 and 273 ante

xxx B. Mankowski, Zasady Radzieckiej Praworzadnosci Socjalistycznej, Panstwo i Prawo, 1950, No. 1, p. 25

xxxx T. Rek, O Roli i Zadaniach Sadow Powszechnych w Walce o Utrwalenie Socjalistycznej Praworzadnosci, Nowe Prawo, Warsaw, 1951, No. 9, p. 3-4

xxxxx N.B. the precedence given to the Party.

Mr.Rek's interpretation of the theory goes deeper into the practical considerations than the academic opinion of his Soviet colleague.It is,however,the first time that we hear from the vice-Minister of Justice of the Party taking precedence before the Government in formulating the policy and influencing the enactment of laws.This frank admission of what is commonplace but quite unbelievable for one unfamiliar with the system,drives home the apprehension that the Party constitutes the actual backbone of the political system and the driving force behind the machinery of the state.The rôle of the law has thereby been reduced to an instrument of policy,a mere weapon of convenience and a technical set of compulsive rules expressing the changing policy of the Government as dictated by the Headquarters of the Party.In the general arrangement of authorities the law is no longer above the Government, for gone is the power of moral and legal restraint upon attempts at official arbitrariness.

Since the law had to descend to obscurity the administration of justice had to follow the same fate.The reform of the Polish Judiciary in 1950 constituted in the words of a Director of Department in the Ministry of Justice^x, "repudiation once and for all of the legend of the classless,independent and non-political court".This utterance is grounded,of course,in the belief that the"function of courts was never and cannot ever be independent of the will of the ruling class^{xx}".

The theory of the "socialist legal order" applied to the Judiciary means,in the opinion of Mr.Rek^{xxx}, "an administration of justice from the standpoint of class,from ^{the} standpoint of the class struggle and interests of the working masses".On the rôle of courts Mr.Rek passed the following comment: "The principal re-
x H.Chmielewski,Po Reorganizacji Sadow,Nowe Prawo,1951,No.1,p.11
xx.T.Rek,Organy Wymiaru Sprawiedliwosci w Walce o Praworzadnosc
Rewolucyjna,Nowe Prawo,1951,No.6,p.3
xxx Rek,ibid.p.7

quirement and yardstick of an adequate administration of justice is the appreciation by courts of the task imposed on them by the struggle for socialism and absolute participation by the courts in the building up of the basis for socialism. This means that the courts must follow the directives of the Party, they must act in accordance with the policy of the Government, they must obey the law, and study and learn from the achievements of progressive legal science".

Any comment on this clearly stated position of the law in the system of the People's Democracy seems quite superfluous.

From reading the Reports of the Supreme Court one learns that the courts have adopted the official attitude in as much as the former, instead of quoting precedents, quotes now Marx, Engels, and Bierut to support its decisions^x. Cases are decided on the principles of "proletarian internationalism", "dictatorship of the proletariat"^{xxx}, and the considerations of a "political and class conflict"^{xxxx} determine the verdict in each individual case.

There is, however, a considerable discrepancy between the doctrine and practice on the one hand, and the formulation of the constitutional principle on the other. A confusion of ideas is particularly apparent in the provisions of Art. 4 of the Polish Constitution of 1952. In alinea 1 of the said Article the principle of the "socialist legal order" is clearly stated, the law being "an emanation of the interests and will of the working people". Alineas 2 and 3 constitute a considerable departure from the doctrine as explained above in so far as they state the "bourgeois-democratic" principle of the law being above "all organs of the state".

x Reports, 1950, vol. 1, case No. 1 ; xx Reports, 1950, vol. II, case 16
xxx Reports, 1951, vol. 1, case No. 12; xxxx Reports, 1951, v. II, case 19

One must note the absence of such provisions in the Stalin Constitution as well as the difference in the official position of the Party. Under the Stalin Constitution (Art. 126) the Bolshevik Party enjoys a constitutional standing as the "vanguard of the working people in their struggle to strengthen and develop the socialist system" and "the leading element of all organisations of the working people, both public and state". The Polish Constitution is silent on the position of the Party, though in actual fact the Party plays the decisive rôle in the present system of government. In other words what the Polish Constitution did not state exists in practice, the practice faithfully following the doctrine and Soviet experience, and what it did state in Art. 4 is a confusion of the traditional conception of the "rule of law" with the present doctrine of the "socialist legal order".

From this fact one can infer that the doctrine of the People's Democracy grows with the practice, that is to say, it is being formulated ex post facto, and that the formulation stumbles occasionally on the remnants of the old trend of thinking.

Constitution. The theory of Constitution in the system of People's Democracy is under a threefold influence: the theory of the dictatorship of the proletariat; the theory of the "superstructure and basis"; and the theory of law.

In the Marxist-Leninist philosophy the Constitution is a formal registration of the rule of the dominant class. The Constitution is, therefore, formed for the benefit of the ruling class and to the detriment of the ruled classes. In this respect it is not a charter of law but a statute to further the interests of the privileged class. In Lenin's opinion the Constitution ought to illustrate the "relationship of the forces engaged in the class struggle", and if it does not comply with this requirement x see p. 325 et seq

it is a fictitious Constitution characteristic of the "capitalist-bourgeois" system^x. The inference therefrom is that a proletarian Constitution must register the fact of the dictatorship of the proletariat - which was done by the Polish Constitution of 1952.

The doctrine of the "superstructure and basis" requires the Constitution to be a true expression of the state of the society in the given stage of development. It cannot be, therefore, as remarked Mr. Stalin^{xx}, "a code of law but only a fundamental statute", thus on the one hand picturing the actual progress, and on the other giving a general framework for the institutions of the state and society. A further consequence of the doctrine is the principle that the Constitution must reflect the given stage of development and cannot by means of programmes or declarations further theories or claims belonging to a more advanced stage of the development of the society which it has not as yet as a state achieved. Hence the insistence and emphasis on the differentiation that Soviet Russia is not yet a communist country, but "building communism"^{xxx}, and that the People's Democracies are not yet socialist states but in the stage of "building socialism"^{xxxx}.

Belonging to the superstructure of the social and economic system the Constitution remains under the influence of the changes occurring within the society and dies with the advancement of the society to a higher stage of development. In this respect the Constitution is flexible (to a certain extent) not because it is adaptable to the living and changing "basis", but because it may be authoritatively interpreted^{xxxxx}, the limit of such interpretation (and life of the Constitution) being fixed by the stage of the development of the society.

x Lenin, Works (17th Russian ed), v. XV, p. 308, see Rozmaryn, op. cit. p. 288

xx Stalin, Leninism, op. cit. p. 580; xxx Stalin, ibid. p. 569-70

xxxx Bierut, Podstawy Ideologiczne, op. cit. p. 60

xxxxx by the Presidium in Russia and the Council of State in Poland

As far as the machinery of amendment is concerned the Constitution is flexible enough to allow speedy action^x, though discrepancy between the letter of the Constitution and the actual practice is of little importance.

Owing to the conception of the law the doctrine of the hierarchy of statutes does not seem to be applicable and in actual fact neither the Stalin Constitution nor the Polish Constitution provides for any machinery to decide in case of doubt whether an Act of Parliament or an executive decree is constitutional or not. Moreover the system under which courts have the power to decide upon the validity of legislation is considered "anti-democratic and only serving the interests of the possessing classes"^{xx}. The institution of a special Tribunal created for that purpose is condemned as well for the same reasons^{xxx}. There is, therefore, no constitutional restraint on the law making bodies to enact laws inconsistent with the Constitution and public opinion cannot be voiced to that effect owing to the Government control of the Press and the Government monopoly in the printing business.

A further consequence is the confusion between the constituent and legislative power, which we could observe from the very beginning of the^{xxxx} system. In theory the "working class" is the master of the situation and no legal restraint can limit its rule. It is logical, therefore, that the "people's representatives" (i.e. Parliament and executive bodies elected or appointed from the only candidates submitted by the ruling "Workers' Party") are entitled to take whatever measures they think necessary for the benefit of the "working people".

x Soviet Constitution Art.146; Polish Constitution Art.91

xx.Rozmaryn, op.cit.p.302; xxx.Rozmaryn, ibid.p.303

xxxx N.B. the controversy over the Constitution of 1935

see pp.96 and 150 ante

In such conditions constitutionalism is unthinkable and the authority of the Constitution together with the respect it used to command in the past, for better or worse, is bound to wither away.

Popular Element. The People's Democracy, as far as theory runs, is a political system where the democratic government is carried out by the "people" in contradistinction to the western "plutocracy" or "bourgeois-democracy" where the government is supposed to be performed by the privileged class for the benefit of that class. Since "people" mean a definite class of "workers and peasants" the People's Democracy is as much a class system as is supposed to be the western "plutocracy". The theory of the sovereignty of the people is, therefore, at least as much distorted as is the opinion of the critics in the case of western democracies, the twist only turning the other way round. The difference, of course, lies in the fact of the People's Democracy actually professing and practising the distortion, whereas the distortion of the western democracies exists chiefly in those critical minds animated by the reformatory zeal of the Marxist-Leninist philosophy which assumes that the "proletarian government" represents the overwhelming majority of the population whilst the "capitalist" countries are ruled by a small minority.

When the Soviet armies swept across Eastern and Central Europe in the later part of the last war new governments sprang up in the shadow of their tanks. They professed to represent the "broad masses", being composed of members of various political parties which rallied to fill the constitutional vacuum. The Communist Party did not at that time claim the monopoly of leadership but other movements in coalition with it were encouraged. In Poland, for instance, there was (and still is) no official Communist Party at all since what was created in 1942 as the agency

of the Kremlin called itself a Workers' Party, and in Hungary^x the Smallholders' Party, was built up practically from nothing only to be smashed later when the "Smallholders" proved not to be "revolutionary peasantry". The "broad national fronts" trading under the name of "all-democratic parties" included, indeed, members of various parties but hardly distinguished leaders. Men of authority were later either disposed^{xx} of or had to turn into ardent worshippers of Marxism-Leninism. In the course of time popular fronts disappeared and a single party system took their place. Opposition, of course, ceased to exist. The popular element, being in theory the core of the system, dwindled away or shrank into a distinguishable, but quite a minute body - the ruling party.

Similarly to the development in Soviet Russia where the dictatorship of the proletariat devolved into a party aristocracy^{xxx}, the popular element constitutionally embodied in "workers and peasants" as the holders of sovereignty in People's Democracy remains largely a theory, the actual potentiality to rule being vested in the party as the sole medium of forming the government and representative bodies.

Democratic Element. Communism professes to be a democratic movement of the "highest^{xxxx} type" and so does the People's Democracy^{xxxxx}. One has, however, to bear in mind that in this context the word "democracy" could have a double and probably contradictory meaning if in the wording of the definition of democracy stress be laid on the word THE people suggesting a government by a chosen class of people.

x cf F. Nagy, The Struggle behind the Iron Curtain, New York, 1948
 xx cf trials of Maniu in Rumania and Petkov in Bulgaria, but

a similar fate met many genuine communists as well.
 xxx for the population of about 200 million the Party membership amounts now to about 6 million.

xxxx Vyshinsky, op. cit. pp. 172-6

xxxxx Bierut, Podstawy, op. cit. p. 7

The régime of the People's Democracy was imposed on the pre-war political systems and in this respect it is a reform of those systems, but a reform aiming at a definite form of government and a way of life to be attained gradually. In whatever stage of development it has a certain amount of the traditional democratic element left as a hereditary residue and at the same time a certain amount of the acquired democratic element of the Soviet type. Being rival currents those elements do not form a synthesis, but resemble a reflux of the former under a forcible influx of the latter.

Owing to the fact that the doctrine of democracy does not rest on a catechism of fixed dogmas it is rather difficult to put the People's Democracy to a "democratic test". It must be regarded as a way of life inseparable from Marxism-Leninism-Stalinism and a form of government modelled upon the Soviet-Russian pattern.

The primary conditions indispensable for democracy as stated above hardly exist or at least are questionable in the countries of the Soviet Bloc, hence their claims to democracy must be considered in the light of reality peculiar to their position as members of the Soviet Bloc. We have singled out the questions of : political independence, sovereignty of the people, the position of the state, the rule of law and freedom and equality of citizens, to be the outstanding principles on which democracy is founded. Those principles are denied in the system of People's Democracy, if we test it by standards of western civilisation. If, on the other hand, we applied the Marxist-Leninist-Stalinist dialectics and read the meaning of words as taught by them our conclusion would probably be reversed.

In their version political independence means close co-operation and "brotherly alliance" with Soviet Russia, since
 x see pp. 291-297 ante

"loosening that co-operation endangers the independence of the country^x". The sovereignty of Poland is secured by "isolation from the American and British imperialism which tramples the sovereignty of nations, incites the German anti-Polish chauvinism and endeavours to restore German imperialism^{xx}". "Democracy", Mr. Vyshinsky^{xxx} tells us, "signifies literally the authority of the people, hence only the Soviet authority can be considered truly democratic". Applied to the system of People's Democracy this precept orders imitation of the system of soviets and the "democratic centralism" characterised by the concentration of functions in the hands of one organ of state and the absence of constitutional control. The state is the agent of the people because it is an instrument in the hands of the ruling class^{xxxx}. The rule of law is strictly enforced, meaning the "socialist legal order"^{xxxxx}. Freedom of the individual means absence of "capitalist exploitation and refutation of the influence of Anglo-American imperialists"^{xxxxxxx}. Equality signifies "liquidation of^{xxxxxxx} classes" and realisation of the principle: "from everyone according to his abilities, to everyone according to his work"^{xxxxxxxx}.

The verdict on the People's Democracy must, therefore, be left to the individual standards of reasoning and only by way of challenge it may be said that the system is as much "democratic" as is its parent system - Soviet Russia.

x-Ideological Declaration of the Polish United Workers' Party, see Bierut, Podstawy, op. cit. p.134
 xx ibid. p.141 xxx Vyshinsky, op. cit. p.168
 xxxx see pp.303-5 ante ; xx xxx see pp.306-9 ante
 xxxxxx J. Cyrankiewicz, speech at the Congress of the Socialist Workers' Party, recorded in Podstawy, op. cit. p.120
 xxxxxxxx Stalin, Leninism, op. cit. p.521
 xxxxxxxxx Soviet Constitution Art.12, Polish Constitution Art.14

Chapter 16. Some practical Aspects of the Polish People's
Democracy.

The People's Democracy is a totalitarian form of government and on account of this fact the Law of the Constitution covers a wider range of state activities than is the case with liberal systems. Bearing this in mind we have to devote some space to questions which in the system of Western Democracy would be probably only remotely relevant to the Constitution. In considering the practical aspects of the People's Democracy we have selected only a few of the many subjects regarded there as directly bearing upon the Constitution, and propose to discuss them in detail because they are closely connected with the study of this particular political system. It is also thought that a section on Education and Nationalism would not be out of place here since the former is regarded as one of the principal functions of the state in the period of "building socialism", and the latter question further explains why the system of the People's Democracy is being modelled upon the Soviet pattern.

Constitutional Practice. In presenting the development of Constitutional Law in post-war Poland we endeavoured to illustrate some features of the Law in actual practice, accompanying this with a discussion on the letter of the Constitution. Constitutional practice seems to consist of two elements: interpretation of the law, and its application by the supreme authorities of the state.

A characteristic phenomenon of the system of People's Democracy (at any rate in the later stage of development^x) is the lack of authoritative judicial interpretation typical of the x in Poland since the reorganisation of the Judiciary in 1950.

Western Democracies. This may be accounted for by the decline of the Judiciary and the vesting of the Executive authorities with the power of interpreting laws, their interpretation being binding on the courts^x. Consequently this task is being discharged by active politicians, whose utterances we have frequently quoted. In matters of doctrine, so important for the system, final pronouncements have been reserved for the Party leaders. It is not surprising, therefore, to ^{have to} record frequently Mr. Bierut's voice, whose pronouncements ex cathedra contribute immensely to the authentic explanation of the system.

In the system of the People's Democracy there is no room for conventions of the Constitution or constitutional usages, the theory of conventions in the opinion of Prof. Rozmaryn^{xx} constituting in the British system "an ideological support for the arbitrary rule of the bourgeois-dictatorship". Notwithstanding this condemnation of conventions, practices developed in the course of the application of the Constitutional Law, and those have not been reprobated by Prof. Rozmaryn, because, as he says in another ^{xxx} work, "they illustrate the actual will of the ruling class, that is to say, the binding system of the Constitutional Law". Far from antagonising the learned Professor^{xxxx}, it appears that what is objectionable to him in the "bourgeois-democracy" is perfectly acceptable under another name in the system of the People's Democracy.

The constitutional practice in the latter system has, however, a different purpose from the conventions. Whereas conventions are dictated by the necessities of changing life and serve to

x see p.230 ante

xx S. Rozmaryn, Nauka o Panstwie, Warsaw, 1949, p. 21

xxx S. Rozmaryn, Polskie Prawo Panstwowe, Warsaw, 1951, p. 312

xxxx He was invested with the State Award of Distinction for the year of 1952, see Panstwo i Prawo, 1952, No. 8-9, p. 193

complete or fill the gaps in the political system within the existing constitution, constitutional practice follows in the People's Democracy the course of social and economic changes and paves the way for the anticipated reforms of the constitution. In other words, constitutional practice develops irrespective of the letter of the Constitution but follows the pre-arranged line of future progress. The best illustration of this view is the practice of the President of the Polish People's Republic presiding at the Cabinet meetings during the period preceding the enactment of the Constitution of 1952. This quite unprecedented action of a head of state was a practical device to prepare Mr. Bierut for the office of Prime Minister, which office he assumed on the abolition of the presidency by the Constitution of 1952.

Political and Economic Power. A study of a Constitution should be concerned mainly with the legal and political aspects of the organisation of the community, yet it is not always possible to draw a clear line of distinction between the political and the economic.

Critics of "capitalist democracy" maintain that it tends to condone social injustice by leaving capital to dictate the course of development of society. Critics of "proletarian democracy", on the other hand, can easily point out that the state taking into its hands exclusive control and management of economic problems is apt to degenerate into tyranny.

There is no doubt about the social rôle of property and the fact that society and individuals contribute to the creation of wealth. He who holds political power can alter the course of the economic development of society, and vice versa, whoever commands the resources and wealth of the society can influence the political set-up of the state. In a "capitalist" state the economic power is (at least as the theory runs) separated from

the state and freely apportioned according to the fluctuations of the economic forces. In a "proletarian" state, on the contrary, the entire economic power is vested in the society as a whole (the society consists of the "proletariat"), and actually accumulated in the hands of the state.

The state, owing to its purpose and function, is made to interfere with property. This interference in a "capitalist" society takes the shape of controls and redistribution of wealth chiefly by means of fiscal policy, that is to say taxation on the one hand, and subsidy on the other, the latter taking various forms such as family allowance, free social service, free schooling, food subsidies and the like. In a "socialist" society the state controls, first of all, the sources of wealth, that is primary resources and means of production. By means of nationalisation (with or without compensation), the state eliminates free competition, and (in theory) the employment of man by man, steps into the shoes of the owner and employer. This involves interference with the rights of private property (guaranteed by "capitalist" constitutions) and, of course, influence of the position of the individual. The immediate effect thereof is the equation of the social level and the elimination of extreme differences in wealth between individuals.

The People's Democracy in realising the "socialisation programme" concentrated political and economic power in the state, leaving to individuals only very limited rights of private property. In doing so the state acquired almost absolute control over the individual and the community. The individual and the community are then at the mercy of economic planners. "Social planning is possible only by the rigid circumscription and total abolition of the rights of property. It is implicitly assumed that modern society fails to plan its economic processes through lack of intelligence. The fact is that the interests of

powerful and dominant groups, who profit from the present system of society are the real hindrance to the establishment of a national and just society^x"....Once the hindrance has been removed the planning process can smoothly proceed, but the "road to serfdom" appears to be another equally dangerous extreme^{xx}.

Planning is a matter of degree, the communist system meaning a 100% planning of whatever is accessible to the organs of state. The People's Democracy at present is nearest this mark, as the study of yearly and periodical economic plans reveals. Without going into the merits and demerits of a planned society one has to be aware of the danger (or advantage ?) of the concentration of political and economic powers, and their being entirely deposed in the hands of the state. On the one hand the ensuing result is the totalitarian type of state on the fascist pattern and, on the other, the totalitarian type of state on the communist pattern. The third type may be an egalitarian type of state with a great deal of centralisation, and distinctly authoritarian. Whichever type of state is reached the position of the individual suffers for the benefit of the community or state, the loss or gain of the citizen being measurable by methods employed by the state and by the final end, that is whether it aims at justice or mere efficiency. The People's Democracy has chosen its path and definitely goes towards communism, through socialism of its own interpretation.

Chiefly because of the concentration of political and economic power, the Government of the Polish People's Democracy was able to alter considerably the face of the country. Reconstruction work and development of new industrial areas (initiated already before the war) could be operated on a large national scale according to central plans and schemes for Government investments.

x R. Niebuhr, *The Nature and Destiny of Man*, 1946, p. 213
 xx F. Hayek, *The Road to Serfdom*, London, 1946

The conservative peasants, always reluctant to leave the overpopulated rural areas, had to be brought practically by the scruff of their necks to the new industrial centres. The rural population toiling upon the ever-dwindling farmsteads of their ancestors and amounting to about 65% of the pre-war population, was reduced, by the end of 1952, to about 50% of the nation. The exodus from crowded land to undermanned factory provides a gross ^{upon} ~~to~~ the fallacy of the post-war agrarian reform. The slogan: "give land to the peasant" operated in practice as a scheme to create dwarfish and therefore hardly economically sound farms and satisfied neither the land-thirsty peasant nor the marxist reformer loathing the very idea of private ownership. Though the reform broke up landed estates and dispossessed their owners in accordance with the designs of a proletarian revolution, it nevertheless retarded the progress of collectivisation. A Government offer to sell a piece of confiscated land to each small-holder was at the initial stage of the People's Democracy the indispensable bait to convince the peasant that the régime was on his side. Once the régime was established and consolidated, collectivisation had to commence in the face of stubborn opposition by the peasant. Notwithstanding the various incentives^x and propaganda, collective farms are still rather unpopular and the Government drive had reached by 1951 only a meagre yield of 12,2% of the agricultural production brought by the "socialised land".

The thinning down of the density of the rural population resulted on one hand in an increase of the "industrial proletariat" at the expense of peasantry, and on the other in the decrease of the population enjoying the security (precarious though it may be) of the possession of land. An agricultural country, where for centuries land was the chief economic factor,
 x see pp.244-7 ante

is being turned into an industrial state and consequently the remnants of a tradition of dashing cavaliers of the past, peculiar particularly to eastern Poland, are rapidly fading away, making place for a cult of "leaders at work" - the heroes of the "socialist economy".

The growth of the state-owned and managed industry and agriculture breeds a new bureaucracy and fashions a novel class of servants of the state. Totally depending on the policy of the state and economic planning they constitute a social and political element of considerable importance whose significance as yet remains to be evaluated.

Position of The People's Democracy being a form of the Individual dictatorship of the proletariat is predestined to put into practice Lenin's^X maxim that the "dictatorship of the proletariat must be a state that embodies a new kind of democracy for the proletarians and the dispossessed and a new kind of dictatorship against the bourgeoisie". At the very foundation of the system, therefore, lies a segregation of the population into the privileged class invested in theory with the plenitude of rights, and the capitalist class doomed to extinction as a class.

Lenin's theory would work perfectly well if that segregation could be effectively concluded and if the individual "proletarian" was in a position to assume the political rôle assigned to him by the doctrine. As that is quite not the case he has to endure the dictatorship along with the bourgeoisie until reorganisation of the society finally takes shape. Trotsky^{XX} summarised the actual position in cruelly realistic words: "No organisation except the army has ever controlled man with such severe compulsion as does the state organisation of the

x-quot. by Stalin, Leninism, op. cit. p33

xx L. Trotsky, Dictatorship v Democracy, New York, 1922, p.170

working class in the most difficult period of transition".

The social doctrine of the People's Democracy is not quite clearly formulated in the Polish Constitution of 1952. Since, however, the system is transitory from a "capitalist to socialist society" one may assume that the Marxist-Leninist social doctrine is being gradually introduced. "Socialism", says Mr. Stalin^x, "does not deny individual interests, it amalgamates them with those of the collective". It appears that the quintessence of this terse statement is the preference given to the society over the individual. No conflict is, therefore, imaginable between the individual and the society since what the society wants is supposed to be his own desire. A collective life being the ideal of socialism, the individual sphere must be narrow and subordinated to the common good.

The fact of the concentration of political and economic power, as mentioned above, not only influences the economic doctrine but also determines, to a large extent, the position of the individual. The arrangement of economic control gives the state tremendous power over the individual, which power can effectively be used for the benefit of the society. As a result of the socialisation of industry and considerable collectivisation of land, unemployment^{xx}, which between the wars was the curse of the "capitalist" state, has been liquidated. Whether in actual fact the unemployed drawing benefit in a "capitalist" country was worse off than the employed worker under the "socialist" system of Soviet Russia or the People's Democracy is immaterial, the disappearance of unemployment being the common phenomenon in systems where effective use is made of the individual for the benefit of the state.

x quot. by Vyshinsky, op. cit. p. 497

xx The lack of unemployment usually follows a war even in a "capitalist" state, whilst war destruction provides plenty of work.

Representing a new way of life the People's Democracy is in quest of a new man. The new man must be a collective-minded man, an enthusiast of the development of the political, social, and economic progress in the spirit of the Marxist-Leninist-Stalinist doctrine; he must become a model of the "socialist discipline" at work. The evaluation of the man does not entail probing into his individual quality, but into his usefulness to the society. The constitutional principle: "from everyone according to his abilities, to everyone according to his work" reflects the general trend of thinking, where the state exacts from every citizen the share of effort the citizen is deemed to be able to provide, and offers him in exchange the equivalent of his actual merit.

Adoption of "socialist competition at work", as well as the Stakhanov movement, together with its incidents (publicity, civic honours, state rewards and the like) not only signifies a tendency to exploit to the maximum human strength but also strives to attain a fully conscious attitude towards sacrifice for the benefit of the society. The state, through the medium of economic plans setting targets for the individual and communal effort, acts in this respect as an arbiter both of the needs of the society for its development, and the contribution the individual must bring to satisfy these needs.

A new duty recorded in the Constitution^{xx} considerably burdens the position of the individual. The duty of vigilance against internal and external enemies requires the citizen to be on the alert and also to participate actively in all schemes advanced to this effect by the Party and Government. First of all x Mr. Radkiewicz, the Minister of Public Security, also received the first class "order of work" for his merits, see Polish Daily of January 21, 1953
xx Polish Constitution of 1952, Art. 79

"revolutionary vigilance" is required to help the authorities in the liquidation of the remnants of capitalist elements^x. Secondly "patriotic vigilance" is urged in order to combat the internal diversion bred by the "Titoist provocation"^{xx}. Thirdly "peace vigilance" is imposed to defend the achievements of the People's Democracy against "Anglo-American imperialists"^{xxx}. The citizen must search his own conscience and watch his neighbour, since vigilance means constant attention and the expectation of danger striking from any quarter.

Party and State. The Party fulfils two principal functions: as an ideological and political school bringing the citizen up for his duties and share in the government, and as an apparatus providing the framework of the political system. The edifice of the state thus rests on the Party, which rears potential members of the Administration and supplies the best means of selection for leadership. At the bottom the Party acts as an agent of the régime and guardian of all righteousness.

"The Party", in Mr. Stalin's^{xxxx} words, "must be first of all, the vanguard of the working class". In this respect it must embody the best elements of the working class, and being armed with revolutionary theory, lead the proletariat in its political struggle. The Stalinist conception of the Party goes far beyond the rigid limits of one political organisation. Since the proletariat needs several organisations it is the function of the Party to rally them into one stream under its own direction. Non-party organisations, such as Trade Unions, Co-operatives, and such like, must, therefore, be subordinated to the Party leadership.^{xxxxx}

x cf Ideological Declaration of the P.Z.P.R. op. cit. pp. 136-7, 138

xx B. Bierut, Zadania Partii w Walce o Czujnosc Rewolucyjna,

Nowe Drogi, (separate publication), 1949, p. 13-4

xxx Bierut, Podstawy Ideologiczne, op. cit. p. 57 and Cyrankiewicz, ibid. p. 120

xxxx Leninism, op. cit. p. 73; xxxxx ibid. p. 78-9

The Party being the "highest form of organisation of the proletariat", is the instrument of the proletariat^x. It is through the Party that the proletariat, according to the doctrine, can seize power and organise a state organisation of its own. The Party is necessary to maintain the dictatorship and lead the society towards socialism. Having fulfilled its mission, viz. having brought the society to a classless stage, the Party is due to disappear when the dictatorship of the proletariat withers away^{xx}.

The Marxist-Leninist Party, no matter what is its official name, greatly contributed towards the introduction of the system of the People's Democracy in various countries, earning probably the highest merit in Czechoslovakia through the operation of the coup d'état of 1948. The appearance of a multi-party system is a characteristic feature of the People's Democracy, explicable first of all by its growth out of the former system and the lack of genuine revolution. The historical conditions in which the system was formed were quite different from those which gave birth to the Soviet Union. The direct consequence thereof was the fact that the Bolshevik Party achieved a monopoly through its being the party which organised, fought and won the revolution, whereas in the case of People's Democracies the Marxist-Leninist parties were minute, practically in swaddling-bands, and what may pass for revolutions in those countries was actually achieved with the effective assistance of Soviet Russia.

In the course of time the conception of a political party completely changed, so much so that only names remained of the traditional parties, no programme or action separate from the ruling Party being conceivable. The Polish "broad democratic

x Stalin, Leninism, op. cit. p. 79

xx Stalin, ibid. p. 80

front of national unity" (fostered by the Grand Alliance by the close of the war) had shrunk by 1952 to four parliamentary groups^x representing the United Workers' Party, United Peasants' Party, Democratic Party and an entirely new creation, the Catholic-Social Club, consisting of three persons^{xx}. The United Workers' Party absolutely dominated the political scene and at the Elections of 1952 led the National Unity Front on the same footing as in Soviet Russia the Bolshevik Party leads the National Bloc in alliance with non-party candidates supporting the régime^{xxx}.

Before this stage was achieved (roughly by 1950) the Workers' Party had not only to secure absolute domination, but also to put itself into the position of its parent party in Soviet Russia. This development accompanied the process of merger with the Socialist Party described elsewhere^{xxxx} and had severe repercussions within the Party. The root of the trouble lay in a conception of the rôle of the Party termed "Gomulka'ism", which happened to differ from the Stalinist teaching. Gomulka, the leading schismatic, seems to have believed in a multi-party system and did not think a single party was desirable. This is what he wrote^{xxxxx} when at the summit of his career: ". We have chosen our own Polish way of development which we call People's Democracy. In that way and in our conditions the dictatorship of the working class and still less the dictatorship of one party is neither necessary nor appropriate. Our democracy and the social system built and perpetuated by us are without precedent in history. Our experience proves that they pass their test well. Poland can go and goes its own way, approved also by our party".... And later^{xxxxxx}: ". both parties aim at independence -

x There were originally seven Groups in the Government Bloc, see p. 214 ante

xx see p. 214 ante

xxx Vyshinsky, op. cit. p. 160

xxxx see pp. 215-8 ante

xxxxx Jednoscia Silni, Nowe Drogi, 1947, No. 1, p. 4, and 14

xxxxxx Na Nowym Etapie, Nowe Drogi, 1948, No. 8, p. v

for the Socialist Party as well as the Workers' Party the independence of Poland represents the supreme end to which all other questions are subordinated"...

Gomulka's schism lived a short life. Expounding a theory inconsistent with Marxism-Leninism, that is discarding the orthodox doctrine of the dictatorship of the proletariat as well as the Stalinist conception of the Party having one leadership and monopoly in government, he sealed his doom. The first rebuke came from his Party chief, who declared:.. "the view of comrade Wieslaw (Gomulka's Party name) undoubtedly constituted an open and premeditated revision of the Leninist evaluation of the history of our movement"... After Jupiter had thrown his thunder at Gomulka's attempt at a "right-wing nationalist deviation" the theory of the "separate way" had to be abandoned. In the plenary session of the Party's Central Committee in July 1948 other leaders (MM. Berman, Zawadzki and Spychalski) condemned Gomulkaism, he was made to resign his post in the Party and the Cominform, was expelled from the Party (third plenary session in November 1949) and later imprisoned ironically enough together with General Spychalski, one of his most bitter critics^{XX} in 1949.

Gomulka repented and in his expiatory speech^{XXX} he declared: "My attitude towards the Soviet Union and the WKP(b) must have been the core of my rightish-nationalistic complex. In practice, however, my attitude can be reduced rather to the relationship between the state of Poland and the Soviet Union than to the relationship between the Parties WKP(b) and PPR. I have never conceived a thought that Poland might go towards socialism without the support of the Soviet Union. I have realised those things, but it was difficult for me in practice, though I have

x B. Bierut, O Odchyleniu Prawicowym i. Nacjonalistycznym w Kierownictwie Partii, Nowe Drogi, 1948, No. 11, p. 13

xx M. Spychalski, Lenin i Masy, Nowe Drogi, 1949, No. 1, p. 126

xxx recorded in Nowe Drogi, 1948, No. 11, p. 144

frequently appreciated it in my mind, to bring my attitude towards the Soviet Union to the ideological Party level"...

Orthodoxy was restored in the Ideological Declaration of the United Workers' Party proclaimed in December 1948. The Declaration restated that: "the Party is the instrument of the dictatorship of the proletariat", thus finally disposing of the schism. It stated further that the "People's Democracy realised co-operation of democratic parties under the leadership of the United Workers' Party", accepted the "Lenin-Stalin theory of state", and confirmed the doctrine that the "People's Democracy meant a way towards socialism and consisted in a form of the dictatorship of the proletariat".

The brief story of the plight of the Gomulka schism confirms the former opinion that only in the early stage of the development of the People's Democracy a multi-party system was tolerated as the "National Front". By 1952 the "National Front" meant consequently the "Front of the working class with the masses of peasantry and working intelligentsia against capitalist elements". The United Workers' Party led the National Front to the polls in the October Elections of 1952, the Front consisting of representatives, "united and unanimous in the appreciation of the principal needs of the fatherland", of numerous organisations as well as groups of the community (e.g. writers, artists, leaders at work) among whom were also mentioned representatives of the United Peasant Party and the Democratic Party.

There is, however, a difference in the position of the Party in Soviet Russia and the People's Democracy. Under the Stalin Constitution (Art. 126) the Party has been formally accorded
 x full text printed in Podstawy Ideologiczne P.Z.P.R. op. cit. pp. 129-143
 xx S. Rozmaryn, Ustawa Wyborcza Polskiej Rzeczypospolitej Ludowej, Nowe Drogi, 1952, No. 8, p. 94
 xxx cf the Electoral Programme, Panstwo i Prawo, 1952, No. 10, p. 403
 /et seq

a constitutional standing, thus embodying the doctrine and registering the actual fact of the Party being the backbone of the system. Being an organic part of the Soviet system the Party "must develop its decisions through Soviet organs within the framework of the Constitution: the Party seeks to guide, not to replace, the activity of the Soviets^x".

The organisation of the Marxist-Leninist Party runs on the pattern of the Bolshevik Party. Its intrinsic strength consists in centralisation, discipline, strict adherence to doctrine and frequent purges, its external power in the fact of having its H.Q. in the Kremlin and being able to count on actual support from the Soviet Union. It is truly international owing to its direct dependence on Moscow and contacts with the Cominform countries. Though as yet it has not attained the constitutional position of the Bolshevik Party, in actual practice it enjoys the authority and performs the function of the former.

A study of the constitution and activities of the Polish United Workers' Party reveals both imitation of the organisation of the Bolshevik Party and its rôle in the Soviet system. It claims in its Ideological Declaration mentioned above to be "the brains, honour and conscience of the working class^{xx}" and, therefore, considers itself the only legitimate directive force of the dictatorship of the proletariat. In fact it fulfils this latter function.

The Party selects its own members, full membership being granted after a yearly waiting period, and membership is coveted owing to the practical benefits it brings. Not only does the Party form a sort of proletarian aristocracy of brains and political potentialities, but Party membership is required for
 x from the Resolution of the VIIIth Congress of the WKP(b),
 see Vyshinsky, op. cit. p. 159-160
 xx Podstawy Ideologiczne P.Z.P.R. op. cit. p. 143

important posts in the state administration and managerial positions in the socialised industry and agriculture.

The structure of the Party is based on what is termed "democratic centralism". The features of "democratic centralism" (which also applies to the hierarchy of constitutional institutions^{XX} as well as the Trade Unions^{XXX}) are :

- a) the principle of the election of the executive at every level of the Party;
- b) observance of Party discipline and absolute subordination of the minority to resolutions carried by the majority^{XXXX};
- c) strict performance by the lower organs of directives and resolutions coming from above;
- d) periodical reports of the executives of all levels to their rank and file.

A peculiar feature of the organisation is the right of every member to communicate directly with the Central Committee of the Party, whereas all branches must observe the hierarchical ladder of authorities.

The regional organisation of the Party is centralised and arranged on certain planes. At the bottom there are the primary organs, that is to say the smallest cells e.g. in a factory or agricultural collective; then comes the organisation of a village, small town, and a sector in a bigger town. At a higher level are the district, town, and sectors of Warsaw and Lodz organisations. Above those again is the provincial organisation and that of Warsaw and Lodz. Finally we come to the central authority of the Party.

x Art.14 of the Constitution of the Party

xx see p.268 ante xxx Rozmaryn, op.cit.p.214

xxxx cf Gomulka in his expiatory speech: "It would be immoral to assume that I was right when the K.C. resolved that I was wrong"; Nowe Drogi, 1948, No.11, p.58

The supreme authority is vested in the all-Party Congress. The Congress elects the Central Committee of the Party (K.C.), whilst at all the lower organisational levels enumerated above assemblies of members elect their executive committees. The committees can appoint commissions to investigate particular questions and convene what ~~is~~^{are} called "consultations of the active members" to deliberate on the work of the Party.

In the period between the all-Party Congresses the supreme authority of the Party is exercised by the Central Committee. What is more, according to Art. 27 of the constitution of the Party, the Central Committee not only directs the work of the Party, but also "directs and controls the activities of the members of the Party occupying leading positions of national importance". This provision is in fact an unofficial substitute for Art. 126 of the Stalin Constitution since it brings the Party to the level of a constitutional organ of tremendous power and importance. The Central Committee of the Party thus constitutes a shadow government whose position is stronger than that of the Government of the country.

The Central Committee appoints the following three highest organs of the Party: Politbureau, Secretariat, and Orgbureau. It has the power to expel its members and co-opt others in their place up to one fifth of the whole.

Of the three highest organs of the Party the Politbureau is the most important since it provides the link with the parent Party and a channel through which comes the so called "precious advice of the WKP(b) and personal directives of comrade Stalin"^{XX}-whilst he was alive.

The controlling organ of the Party consists of two sections, the Central Commission of Control and the Central Audit Commissior
 x of R. Zambrowski, Stalinska Nauka o Sojuszu Robotniczo-Chlopskim, Nowe Drogi, 1949, No. 6, p. 158

The former is concerned chiefly with the enforcement of the ideological orthodoxy, Party discipline, and matters of organisation, the latter controls the finances of the Party.

The Party pervades the national life in all spheres, its members holding key positions in all walks of life, whereas all organisations allowed by law have to look to the Party as a senior and leading element of the proletariat, and seek from it guidance and example. This must be so since the Party is supposed to be "the supreme form of organisation of the proletariat" and has the monopoly of expounding the doctrine upon which the political system is being formed and the reorganisation of society conducted. The prestige of the Party must be kept very high because it is the primary instrument of forming the general policy of the state, the guide to the interpretation and application of the law, the body vetting the national economic plans, the inspector of national education and controller of professional activities.

Mr. Zambrowski, writing on the position of the Party, asserted that "building up the Party we have secured for it the leading position in the state apparatus". His statistics for 1949 reveal that Party members were: 176 out of 269 Chairmen of the District National Councils; 62 out of 66 Chairmen of Town National Councils (big towns); 192 out of 269 District Governors; 63 out of 69 Mayors of medium-sized towns; 2516 out of 3822 managing directors of state-run enterprises; 143 out of 274 Chairmen of the Committees managing the Co-operatives and 554 out of 975 managers of the estates administered by the state. If in 1949

x of Art. 51 of the constitution of the Party

xx see pp. 210 and 332 ante; xxx see pp. 306-8

xxxx E. Szyr, *Wezlowe Zadania Gospodarcze, Nowe Drogi*, 1951, No. 6, p. 60

xxxxx see pp. 335 and 337; xxxxxx see p. 243-4 ante

xxxxxxx R. Zambrowski and H. Swiatkowski, *O Statucie i Zadaniach*

Organizacyjnych P.Z.P.R. Warsaw, 1949, p. 9, statistics p. 12

the hold of the Party was so strong, one can safely assume that by to-day it has become still stronger^x.

The Party takes, thus a considerable share in the Administration, and as shown in diagram No. 3 A, it is synchronised with the system of national Councils (equivalent to the Soviets). The organisation of the Party runs, so to speak, parallel with the Administration, both having a common head. If we, however, compare the Soviet system during the Stalinist era with the Polish system of 1953 we shall see in the latter a missing link between the Parliament and the system of Councils, this being accountable, it appears, to the historical heritage of the system and the lack of genuine revolution in the genesis of the Polish People's Democracy.

Though Mr. Malenkov, as Mr. Stalin's successor, had to relinquish his position as Secretary General of the Party, the system of the Polish People's Democracy survived this important change in the Soviet constitution. So did the system of Bulgaria and Hungary where Mr. Tchervenkov and Mr. Rakosi (until his retirement from premiership in June 1953^{xxx}) respectively occupied the same position as Mr. Bierut in Poland.

State and Education. The search for a new man and the necessity of a wholesale reorganisation of society lays heavy responsibilities on education. Education in the People's Democracy means consequently re-education of older generations and bringing up the younger ones in the spirit of Marxism-Leninism^{xxxx}.

x cf M. Rybicki, *Rady Narodowe w Walce o Realizacje Aktualnych Zadan na Wsi, Nowe Drogi*, 1951, No. 4, p. 65

xx see App. No. 3 A, p. 365

xxx The post of Secretary General (so far held by Mr. Rakosi) has been abolished and the powers of the Hungarian Prime Minister made similar to that of Mr. Malenkov in Russia, see *Daily Telegraph* of July 1, 1953.

xxxx Education in Western Democracies, though considered a vital function of the state, is far from being conducted on purely political lines.

Education, according to the doctrine^x, is one of the principal functions of the state in the advanced stage of development towards socialism, but owing to the regimentation of life and state control of all spheres of human interest, what may be termed "general education" is hardly separable from the political indoctrination. Education is in the hands of the state to the exclusion of such powerful elements as religious or denominational ~~schools~~^{bodies and}, trade or professional private teaching establishments, and the state is a Marxist-Leninist instrument of class domination.

The Constitution of 1952 frequently refers to the duty and care of the state to foster development of education and national culture, promises facilities for the schooling of youth (Art.61) and protection of the "creative intelligentsia" (Art.65). Though intelligentsia is not considered a separate class it is mentioned in the Constitution in that particular sense, the conception of "creative" worker being, of course, applicable to all walks of life.

In matters of Education a great part is assigned to the Party. The Polish United Workers' Party has its own research establishments from which the new cadres graduate, a successful accomplishment of the Party course being equivalent to a university degree^{xx}. The Party publishes intellectual periodicals of which the "Nowe Drogi" is the most important (and has been frequently referred to in this work), and maintains general supervision over the process of remodelling the society.

The central event during the post-war "educational revolution" was the Congress of Science of 1951 attended by a large delegation of Soviet intellectuals. "The Congress^{xxx} had an epoch-making significance for the development of Polish Science. It created

x S. Rozmaryn, *Poskie Prawo Panstwowe*, op. cit. p. 52
 xx see p. 249 ante
 xxx quot. from "Tygodnik Powszechny" (Cracow) of July, 29, 1951

new foundations for Science, viz. ~~the~~ dialectical materialism, centralisation and schematisation, team work, assimilation of science to the needs of the People's Poland, and made it a part of the Six Year Plan".

The Six Year Economic Plan of 1950^X unfolds quite an ambitious general programme for furthering education by "raising the level of all schools, enlarging the amount of educational publications and increasing the number of qualified persons to supply the Administration and socialised economy."

Commenting on the Plan Dr. Ozga^{XX} writes in Poland that the purpose of the Plan is to "bring up the young generation to be conscious fighters and builders of socialism in their own country and fully aware participants in the struggle against injustice, exploitation and oppression of the workers in the whole world". The teachers, in his opinion^{XXX}, in order to live up to the aims of the Plan must be absolutely free from the "narrow pseudo-moral, class and educational superstitions of the past as well as the inhibitions of a bourgeois society". Marxism-Leninism, fully assimilated by the new educators, seems, consequently, the only substitute for the above.

The Plan^{XXXX} lays particular stress on the need of technical education and utilisation of the "Soviet experience in the field of schooling and raising the working qualifications". The Plan advocates further reception of the Soviet forms of organisation and methods as well as the "foundation of all studies and research upon Marxism-Leninism and the achievements of the Soviet science".

The new school must be "practical and brought near the workshop; it must be allied to the working class and peasant masses;

x Chapter 1, sec. 1, §§ 12 and 13 of the Plan

xx W. Ozga, Rozbudowa Szkolnictwa w Planie Szescioletnim, Warsaw, 1951, p. 14

xxx Ozga, *ibid.* p. 59

xxxx see Chapter 3, sec. 10, 11, 12, 13 and 14 of the Plan

Nationalism. Before the war the Central and East European states had the reputation of being extremely nationalistic. Whatever the accuracy of this opinion we are faced now with the fact of nationalism being officially banished from the People's Democracies. The explanation of this phenomenon, it appears, must be sought in the nature of the general arrangement of the area, the extraordinary flexibility of Marxism-Leninism, and the ingenious capacity of its interpreters to reconcile the irreconcilable. Such are the ideas of nationalism and internationalism which found their way into the Polish Constitution of 1952^x, and became reconciled, at least on paper.

Marxism realised that nationalism is born of oppression, but regarded the struggle for political independence merely as a struggle between the ruling classes of the "dominated and dominating nations"^{xx}, in which struggle the "bourgeoisie" played the leading part. Mr. Stalin in his early writings advocated a right of self-determination of nations, maintaining that all nations are equal and sovereign^{xxx}. His slogan of self-determination, lived, however, only for a short time and he modified it into the "right of nations to political secession"^{xxxx}. Curiously enough this right appears to apply only to the peoples of colonial empires, since the peoples of Soviet Russia, irrespective of their diversity of race and nationality, "have willed to stay together"^{xxxxx}, so much so that it seems unthinkable that they would ever part, though each Soviet Republic retains in theory the "right to leave the Union"^{xxxxxx}. We say 'in theory', because the rift between Marshal Tito and the Kremlin did not result in a peaceful secession of Yugoslavia from the Cominform, nor did it save her from hostile

x see p.260 ante

xx J. Stalin, Marxism and National and Colonial Question, p.14

xxx Stalin, ibid. p.19

xxxx Stalin, ibid. p.106

xxxxx Stalin, ibid. p.106

xxxxxx Stalin, ibid. p.152

ostracism of the Soviet Bloc. The example given to us by the case of Yugoslavia does not suggest that the right of secession could be freely^s, and without serious consequences, exercised by any of the countries in the Soviet Bloc. On the contrary such a situation is incredible.

Mr. Stalin's great service to All-Russia lies in the liquidation of separatist movements within that colossus of nationalities^x, and the promotion of the Federation, amalgamating various Republics. His great disservice to Marxism lies in the revival of Russian nationalism. What he fiercely combatted between the wars as the "departure from Lenin's internationalism^{xx}" was the "deviation towards nationalism"; what he promoted during the last war and consolidated afterwards was Russian nationalism clothed in the form of Russian leadership in Central and Eastern Europe, and, indeed the whole world of the proletariat. In this revolutionary reversal only the interpretation of the words "nationalism" and "internationalism" have changed, their sentiment remaining the same.

The revival of Russian nationalism knocked the skeleton of Pan Slavism out of the cupboard, in which the leading rôle is assigned to the Russian people. The theory of the leadership of the Russian people can be reconciled with the Stalinist maxims urging the proletariat to "fight under its own banner" and advocating an international type of organisation which "serves as a school of fraternal sentiments and is a tremendous agitational factor on behalf of internationalism^{xxx}". Since the fight against capitalism must be concerted and organised on an international scale an overall leadership is needed, the natural leader being the country of "victorious socialism" which had already inspired the "oppressed peoples from Ireland to India^{xxxx}" to fight

x Stalin, *ibid.* pp. 149 and 164; According to his figures in 1921, of 140 mil. of the total population of Soviet Russia 65 mil. were non-Russian peoples. xx Stalin, *ibid.* p. 267
xxx Stalin, *ibid.* p. 16; ~~xxxx~~ Stalin, *ibid.* p. 60; ~~xxxxx~~ Stalin, p. 102

imperialism. Furthermore, since it is "impossible for small emancipated countries (referring here to the Hungary of Bela Kun) to survive unaided against the capitalist assault", and "impossible to build up socialism in an isolated country without Soviet assistance^{xx}", Russian leadership becomes a matter of tactics of Marxism--eninism and an indispensable instrument of promoting proletarian revolutions. Communism had, therefore, to cease to be international and had to become a monopoly of Soviet Russian policy.

Discussing the Gomulka schism in Poland we were able to quote Gomulka's corrected view on the relationship between Soviet Russia and the countries of her Bloc. It is determined, according to Gomulka^{xxx}, by the relationship of the Bolshevik Party to the Marxist Parties in particular countries. The Party indeed is the primary factor politically and ideologically cementing the Soviet Bloc, and it is through the instrumentality of the Party that regional nationalism must be stamped out, and the notion of patriotism revised. In other words, we have the Stalinist thesis restated in application to nations other than the peoples of the Soviet Union.

Nationalism in the subjected countries signifies not only defiance of the Soviet leadership but even any direct action against her mission. "Nationalism", teaches Mr. Bierut^{xxxx}, "is the antithesis of sincere and real patriotism". This rather startling statement is understandable when read together with the conception of patriotism devised by the same gentleman. He distinguishes between "patriotism" and "proletarian patriotism". The former includes elements like love of one's country, pride in the national cultural and progressive traditions, social conscience and a feeling of responsibility for one's own

x Stalin, *ibid.* p.103 xx see p.142 ante xxx see p.328 ante
 xxxx *Podstawy Ideologiczne P.Z.P.R.* op.cit.p.58

country's participation in the progress of humanity. The latter means a struggle for a better and juster social system, care for one's own country's leading rôle in the international revolutionary movement, sacrifice for the building of socialism in one's own country and the extension of socialism into other countries. The proletarian patriotism equals the "deepest revolutionary internationalism^x". In short, patriotism, in Mr. Bierut's view, equals loyalty to the international movement of the proletariat led by Soviet Russia. Stigmatising nationalism as a symbol of "narrow-mindedness, selfishness, savagery, and the cause of the loss of national sovereignty", Mr. Bierut appeals for the combatting of "national sectarianism" and entrusts to the Party the task of educating the working masses in the spirit of "proletarian internationalism^{xx}".

Mr. Cyrankiewicz, seconding Mr. Bierut, condemns the traditional Polish Socialist Party (i.e. as it was before 1948) for its struggles against Russia which were inspired by nationalism^{xxx}, and for its separation of the struggle for independence from the class struggle^{xxxx}.

Those leaders of the Polish People's Democracy, reading Marxism in the Stalinist Gospel-like interpretation, appear to have substituted loyalty to Soviet Russia for patriotism, and internationalism for the interest of the country as a whole. Nationalism in the People's Democracy signifies deviation from Marxism-Leninism-Stalinism and, is therefore, wrong; patriotism, on the other hand, means the glorification of Soviet Russia and is, therefore, right and commendable. Transplanted into the field of ^{the} Constitution these ideas bring the builders of People's Democracies into one category, that of enthusiastic imitators

x Podstawy Ideologiczne, op. cit. p. 58; xx ibid. p. 59

xxx ibid. p. 87

xxxx ibid. p. 88

and plagiarists of the Soviet system in the service of "building socialism" in the spirit of the international solidarity of the proletariat.

State and Church. Engel^x regarded religion as the "opium of the people" and Marx predicted the disappearance of every trace of religion with the transformation of society. This uncompromising attitude of the fathers of the modern communist doctrine was put into operation in Soviet Russia in two forms: through the combatting of any appearance of organised religion (particularly the Orthodox Church, an integral part of Tsardom), and the eradication of the notion of a "religious man".

The methods of struggle belong to the story of the Bolshevik Revolution and the exploits of the "League of the Godless" combining ruthlessness with ingenuity. Yet the Russian "religious man" was not completely wiped out, and Marxism had to be revised in this field. Since 1936 one can observe a gradual return to religion, the Constitution (Art. 124) guaranteeing "freedom of religion and freedom of anti-religious propaganda", and Soviet historians began acknowledging a "progressive influence of Christianity upon the history of Russia^{xx}". During the patriotic war of 1941-45 the use of appeals to religion in order to bolster up patriotism and fortify resistance, proved not only effective as a propaganda weapon but almost a salutary necessity. God was thus allowed to return from exile and the Orthodox Church resumed a servile co-operation with the state.

The position of post-war Poland seems entirely different. First of all Poland strongly resisted communist infiltration before the war, moreover, being predominantly catholic, she represented throughout centuries an Ecclesia Militans proclaiming a historical mission on the eastern border of Europe.

x quot. in Strategy and Tactics of World Communism, op. cit. p. 14

xx K. Mehnert, Weltrevolution durch Weltgeschichte, 1951, p. 10

The authority of the Church was always high and certainly increased during the German occupation owing to the defiant stand of the clergy, and their suffering together with their flock.^x The loyalty to the Vatican of "Polonia semper fidelis" was unquestionable. The struggle between the Marxist-ruled state, a newcomer, and the Church, an institution established in the early history of the Polish state, ensued from the very beginning of the People's Democracy, and no early conclusion could be predicted. In the struggle for the rule over souls the Church could rely on her authority and tradition, the state had to fall back on its political power. The state's *ordre de bataille* revealed two main aims: to sever the Church from the Vatican, and to create a "National Church" on the pattern of the Orthodox Church in Soviet Russia.

The relationship between the Vatican and the Polish state was formally defined by the Concordat entered into by Poland and the Holy See on February 2, 1925. According to that treaty the Church was recognised³⁵ independent in matters pertaining to religion and internal organisation of the Church. Archbishops and Bishops were appointed by the Holy See, the President of the Republic having the absolute veto on a *persona non grata*. The Bishops had to take on their appointment an oath of loyalty to the Republic, the ceremony taking place in the presence of the President. In matters of territorial organisation the Concordat recognised the principle that no part of the territory of Poland could be administered by a Bishop having his see outside the political boundaries of the state.

In 1945 the Concordat was repudiated by the Warsaw Government which charged the Holy See with the violation of the treaty by authorising, in 1940, German Bishops to administer Polish terri-
 x 3. Bishops and 1263 priests died in concentration camps in addition to 584 priests shot by the Germans, see J. Szuldrzynski, *Polózenie Kosciola w Polsce, Kultura, Paris, No. 5 (special edition) 1953, p. 8*

tory annexed by Germany. In actual fact Mgr. Splet[†], the Bishop of Danzig, was in 1940 given administration over the Chelm diocese, but this seems in conformity with Art. 3 of the Concordat since the territory of Danzig was considered in Poland part of Polish territory.^{xx} The German priest Breitinger, on the other hand, was not appointed administrator of the Gniezno diocese, as alleged, but was given jurisdiction over the German population living in Poland during the war.^{xxx} In no way was the jurisdiction of Polish Bishops curtailed by these arrangements, and there seems to be hardly a case for violation by the Vatican of the Concordat on this account.

The real reason for the repudiation of the Concordat seems the fact that the Holy See has not as yet recognised de jure the post-war Government and did not revoke the authority of Polish Bishops in the territory annexed by Russia and still inhabited by Polish Catholics.

Having severed relations with the Holy See the Government at first adopted a friendly policy with regard to the Church, the most generous gesture of which was a temporary exemption of the Church from the axe of the Agrarian Reform. The activities of the Church were, however, carefully invigilated, the first light of danger being the suppression of the Primate's Pastoral Letter of September 1946 on the subject of General Elections. From the extracts^{xxxx} published after censorship we learn that the Primate warned his flock that: "Catholics may not belong to organisations or parties, the principles of which contradict Christian teaching, or ^{the} deeds and activities of which aim, in reality, at the undermining of Christian ethics". He told them that: "Catholics x sentenced to imprisonment for "collaboration" with Nazi, see Daily Herald of January 31, 1946. xx S. Wawryn, Sprawy Kosciola, Przegląd Powszechny, Cracow, June, 1948, No. 8; xxx ibidem xxxx of The Tablet, November 16, 1946

may vote only for such persons, lists of candidates, and electoral programmes, as are not opposed to catholic teaching and morality, and that catholics may neither vote, nor put themselves forward as candidates for electoral lists, the programmes or principles of which are repugnant to common-sense, the well being of the nation and the state, to christian morality, and to the catholic outlook".

After the Elections another Pastoral Letter^X appeared in which Cardinal Hlond openly denounced the "modern heathendom" and declared that "no truce was possible between Christendom and Atheism".

In conjunction with the general question of christian ethics the problem of education presented a more acute issue owing to the secularisation of schools and the hampering of the teaching of religion. The Church felt obliged to protest against the instillation of Marxism which became an obligatory part of the educational programme. The Pastoral Letter signed by all Archbishops and Bishops of 1948, and addressed to Youth told them that^{XX} "the Church cannot accept the education of catholic youth without God, without mentioning His teaching, without following His commandments. You should preserve special calm in the face of the onslaught of the Press, and the propaganda of the apostles of materialism".

The position of the Church, especially in the light of the laws of August 5, 1949,^{XXX} and March 20, 1950,^{XXXX} became more and more precarious.

The former law, purporting to guarantee freedom of all religious beliefs recognised, at the same time, the right of

x quot. by T. Beamish, *Must Night Fall* ?, London, 1950, p. 23

xx quot. *ibid.* p. 242

xxx D.U.R.P. No. 45, sec. 334

xxxx D.U.R.P. No. 9, sec. 87

anti-religious propaganda and granted the authorities extensive powers, such as the imposition of heavy penalties on clergy manifesting dislike of the régime.

The statute, notwithstanding penalties ranging from three years imprisonment to the death sentence, is quite elastic and admits a wide scope of interpretations. To give a few examples of the above opinion, Art. 2 threatens with five years imprisonment "whosoever limits the rights of the citizen on account of his religious belief or irreligiousness". Art. 3 makes it a crime "to hinder another from participation in religion or to force one to participate in religious practice". Art. 7 (§1) provides the punishment of five years imprisonment for "insult or abuse in public of a social group or single person because of their religion or irreligiousness", while Art. 8 makes liable for imprisonment, for not less than three years, anyone who "misuses the freedom of conscience and religion for purposes hostile to the system of the People's Republic".

Art. 4 constitutes a reprisal for the papal decree of July 1948 forbidding administration of sacraments to militant communists, and a direct interference with the purely internal power of the Church in the distribution of her spiritual wealth. It authorised five years imprisonment for anyone "who misuses the freedom of religion by refusing access to religious ceremonies and sacraments because of political, social, or scientific views". By this provision the faculty of the Church to decide upon one's worthiness to share in the spiritual welfare of the Church was taken over by the state and the clergy put into a serious dilemma, either to obey the law of the state and participate in what, by the Church law would amount to sacrilege, or to obey the law of the Church and the commands of the office and incur the severity of the law of August 5, 1949.

The Minister of Justice, commenting on the above statute,

bitterly resented "the negative attitude of the hierarchy towards the People's Democracy, who within the five years of the existence of the régime, showed not a single appreciation of the achievements of the régime". In his opinion the Church failed in her duties since she "declined to combat capitalism, and endeavoured to undermine the enthusiasm for socialism". Assailing personally the present Primate Cardinal Wyszynski he reproached him for sending his blessing to the emigré Poles.

The law of March 20, 1950, mentioned above, struck at the material resources of the Church, declaring confiscate all landed property of the Church (Arts. 1 and 2); places and buildings of worship as well as the dwellings of the clergy were excepted. This law, however, by way of exception, left in the hands of the parish priest farms of a size not exceeding the limits set by the Agrarian Reform decrees (fifty hectares, and one hundred hectares in certain areas) to be their personal source of support (Art. 4, §2). The Minister of Public Administration was authorised to decide whether such farms constituted "farms of the parish priest". The property so confiscated came under the administration of the state (Art. 8), which would set aside a Church Fund for the purpose of the "upkeep and reconstruction of churches, salaries, and pensions of the clergy, and for charities" (Art. 9).

These measures were accompanied by attacks against the clergy which were particularly acute during certain political trials. In 1949, as far as it was possible to ascertain from the scanty records available, catholic clergy were implicated in eight such trials, in which nine priests were sentenced to death

x H. Swiatkowski, Wolnosc Sumienia i Wyznania w Polsce Ludowej, Warsaw, 1949, p. 31

xx Swiatkowski, ibid. p. 32

xxx Swiatkowski, ibid. p. 30

xxxx see Polish Daily of: 19.2.1949; 5.3.1949; 16.3.1949; 15.8.1949; 19.8.1949; 7.9.1949; 9.9.1949; 30.12.1949

and several to imprisonment, the main charges being co-operation with the Germans (one trial, two death sentences), collaboration with the Underground, activities designed to overthrow the régime, and sabotage (charge: "industrial wastage"). The year 1950 opened with a trial of members of the Bonifratres Order who were directly accused of "Hitlerism", and a big trial of the Caritas, a charitable organisation of the Catholic Church embracing the whole country, as a result of which the charitable work of the Church was forbidden and the property of the Caritas put under the direct control of a body appointed by the Government.

In this atmosphere negotiations began between the Hierarchy and the Government with a view of settling the differences between the Church and State. An agreement was reached in April 1950, under which the State recognised the authority of the Pope as supreme in matters of the Church. This pact, however, proved to be only a truce in the struggle which continued, the Church always being on the defensive.

The 1951 Cracow trials of members of an Underground organisation "Armia Polska" (Polish Army) in which two priests were convicted provided ammunition for wholesale attacks against the clergy, and a background for the Government action in expelling five apostolic administrators in the regained territories, and ordering election by the chapters, of capitular vicars to act in their place. Though this arbitrary action of the Government, under the pretext that no interim administration was necessary, was a breach of the truce of April 1950 and an assault

x Polish Daily of 9.9.1949; xx Polish Daily of 16.3.1949
 xxx Polish Daily of 26.1.1950; xxxx Polish Daily of 16.2.1950
 xxxxx Tygodnik Powszechny, Cracow, April 1950, No. 4
 xxxxxx Polish Daily of January 18, 19, and 20, 1951

on the papal authority, it caused no serious dissension among the Hierarchy since the election of the vicars was recognised by the clergy and the Primate formally invested them with the necessary canonical jurisdiction.

The short-lived harmony that ensued was disturbed by the so-called "Stockholm Peace Appeal" which received great publicity and Government support. The clergy were pressed to join and promote it among the faithful, but at first refused co-operation, arguing that the Peace Appeal had purely political aims. Intimidated, they gave in and in May 1951 the Episcopate and the clergy signed the so-called "National Charter of Peace Plebiscite" as required by the Government. This, however, brought no peace for the Church. Among the subsequent trials the most outstanding ones were against the members of the Jesuits Order and the St. Bernard Order^{xx}, the latter yielding two death sentences.

During 1952 the Government particularly concentrated on the fostering of the activities of the so-called "patriotic priests", that is to say clergymen who during the seven years struggle have been won to the side of the State. The "patriotic priests", representing a negligible minority of the clergy, enjoy material and propagandist support, the Government hoping they will become a nucleus of a church independent of Rome and subservient to the State. In Poland the throughout catholic country the last independent catholic paper "Tygodnik Powszechny"^{xxx} ~~has been~~^{was} suspended and its editor imprisoned in March 1953, whereas several papers (daily and periodical) in the hands of the "patriotic priests" and the "progressive catholics"^{xxxx} (a pro-Government organisation) still circulate. The "Tygodnik Powszechny" reappeared, x Polish Daily of 20.9.1951; xx Polish Daily of Oct. 12, 13, 18, 1951 xxx weekly paper controlled by ecclesiastical authorities xxxx Most important periodicals: "Ksiadz-Obywatel"; "Dzis i Jutro"; "Zycie i Mysl"; and daily papers: "Slowo Powszechne" and "Trybuna Ludu".

however, on July 12, 1953 in its original form, but no longer under the auspices of the Cracow Church authorities and with a new editorial board, the articles in this new edition indicating a complete change of the character of this paper^x.

The close of 1952 brought news of the disappearance of three Silesian Bishops^{xxx} who for quite a time were under heavy propagandist fire, and the arrest of several priests in Cracow on charges of espionage and sabotage^{xxx}. In January 1953 five dignitaries of the Church including one Archbishop were reported under arrest, the seizure of Archbishop Baziak causing a public demonstration in Cracow suppressed with violence by the Security Police^{xxxx}.

In February 1953 a trial of four priests and three laymen charged with espionage for the United States of America, took place and Mr. Bierut announced that the Government, under the pressure of public opinion aroused by the said trial, had taken control of the Church^{xxxxx}. Consequently, in future all appointments to the Church Hierarchy will be subject to Government approval and all prelates occupying official position in the Church must swear loyalty to the régime^{xxxxxx}.

The decree of February 9, 1953, under the authority of which the State assumed control over the Church contains a curious anomaly if viewed purely from the angle of Constitutional Law. It purports to put Bishops under the control of the "Presidium of the Government" (Art. 4), a non-existing body under the letter of the present Constitution. We may recall here that such a body was created under the practice of the Constitution

x see Polish Daily of July 20, 1953

xx Polish Daily of 28.11.1952; xxx Polish Daily of 2.12.1952

xxxx Polish Daily of 6.1.1953

xxxxx Daily Telegraph of 14.2.1952, Polish Daily of 16.2.1953

xxxxxx Arts. 3 and 5 of the decree of February 9, 1953,

D.U.R.P. No. 10, sec. 32

of 1947, but discarded by the Constitution of 1952. The position is, therefore, similar to that obtaining under the Soviet Constitution where although no "Presidium of the Government" is mentioned in the Stalin Constitution, yet such body exists and functions.

In reply to the decree the Bishops addressed a letter to Mr. Bierut on May 8, 1953, pointing to the "tragic position of the Church" and charging the Government with a premeditated action aiming at the destruction of the Church and religion. They stated that the decree was illegal because the Council of State (which issued the decree) had no authority to make it, and that it was contrary to the Constitution of 1952 as well as the law of 1949 on freedom of religion. Arguing that the Government policy was bound to cause irreparable damage to the national interests the Bishops appealed to the "leaders of the Marxist camp for revision of the principles of hatred and ostracism with regard to religion, Church and God".

The letter was suppressed by the Government, but its contents reached the West by October 1953. During those few months, however, the Church suffered severe blows. First a trial of the Bishop of Kielce Mgr. Kaczmarek (arrested in 1951) was staged before the Military Tribunal in Warsaw much on the lines of the trial of the Hungarian Primate Cardinal Mindszenty. Then the Primate of Poland Cardinal Wyszynski was seized and confined, his fate resembling so far that of the Archbishop of Prague Mgr. Beran. With the arrest of Mgr. Bernacki the Suffragan Bishop of Gniezno in October 1953 and the difficulty of appointing new Bishops the number of the Episcopate became seriously reduced, and it appears that by October 1953 there were only nine Bishops Ordinary in office for a total of thirty dioceses.

This state of affairs together with Government support for the "patriotic priests" indicates an important development towards the creation of a "National Church" on the pattern of the Soviet

Orthodox Church.

The struggle between the Church and State affecting more than 90% of the population of Poland has not only direct repercussions on individual rights and freedoms, but is also a great test-case for the democratic claims of the People's Democracy.

Footnotes from p.351

x see pp.210 and 211 ante

xx e.g. the Government prevented the Episcopate from installing Polish titular bishops in the re-gained territories.

xxx cf The Economist of October 31,1953

xxxx details of the trial, Polish Daily of 16,17,18,19,21 and 22 September,1953

xxxxx The Daily Telegraph of 29 and 30 September,1953

xxxxxx ibid.20 October,1953

xxxxxxx see Polish Daily of October 8,1953

Conclusions.

1. The historical development of the Polish state, as far as it was possible to ascertain, reveals no elements indicating that the system of the People's Democracy might be a result of national evolution. No case can be made either for the idea (mentioned without serious attempt at substantiation in some writings) that the People's Democracy is a natural reaction to the failures of the Polish Democracy during the twenty years of the independent republic. This period of independence is of a special significance in as much as perhaps three systems of government were tried, and undoubtedly, new and valuable experiences were made. That which took other nations centuries to achieve, Poles were expected to do within those two decades and were severely criticised for failing in "Democracy".

W. J. ...
 by ...
 done?

The overwhelming historical evidence points to the creation of the system by imposition by Soviet Russia, acquiesced in by her partners in the Grand Alliance. Whatever the motives of the Soviet diplomacy the fruit borne by the Stalinist era amounts to a reversal of the "cordon sanitaire" and the seizure of power by the Communists in Central and Eastern Europe without "proletarian revolutions". The proletariat indeed was presented with a fait accompli and it is only a matter of highly dubious speculation whether the "workers and peasants" would have gone to the barricades to fight for a Russian type of "socialist state" had not that institution been imported in the baggage train of the Red Army. The opportunity that arose on the defeat of Germany was not so much a chance for the working masses as it was for the Moscow-trained professional revolutionaries, and their colleagues of the home Communist Party.

To achieve power in Poland they had to destroy the Underground State and with it both the Socialist and the Peasant Party, the pillars of the Underground State and genuine representatives of the working masses. The ruling faction of Poland today is a classless body of men and their connection with the Polish proletariat (if any) is very remote. Studying the personal background and career of the dignitaries of the present régime one can say without exaggeration, and without offence, that those self-styled tribuni plebis only emerged on the tide of events either from the ranks of frustrated intelligentsia or from the classrooms and the conspiratory cadres of the Bolshevik Party. The native element of the "willing Poles" became mingled with the foreign experts "functioning as Poles", whose predominance at the present time cannot be questioned. Consequently the system of government that ensued bears a threefold characteristic : native elements, imported ideas, and a predictable course of development.

2. Contrary to the practice of the Tsarist Ochrana and the brutal attempts at Russianisation in the past, the present domination tends to conceal its physical features and to remain limited to ideological guidance and overall protection. Whatever happens, therefore, is being done in the name of the Polish nation, and announced as another national attainment, tributes at the same time being richly paid to Soviet Russia without whose aid and assistance nothing could be achieved. As a matter of tactics the Russians did not come this time as conquerors but as liberators and helpful friends, guides in the reconstruction and building of their way of life on Polish soil.

3. The system of the People's Democracy is a result of the Soviet control of the area and the application of Marxism in x expression coined by Prof. H. Seton-Watson, The East European Revolution, London, 2nd edition, 1952, p.168-9

all spheres of life. When we speak of the Marxism of today we must bear in mind the modifications this philosophy was subjected to under the reformatory influence of the powerful personality of Joseph Stalin. Without attempting to evaluate his merits in this field it seems more appropriate to speak of Stalinism instead of Marxism, thus giving due credit both to the diplomatic skill and the ability to adapt the doctrine to the machinery of government displayed in such a powerful and dynamic way by the Red Tsar of both Russia and the vassal states. The Stalinist era is not likely to come to an abrupt end with the death of its creator, on the contrary, the legend will probably continue for some time and Joseph Stalin will remain, together with Marx and Lenin on the pedestal of "great teachers and leaders of world proletariat". This, of course, means a lot, signifying *prima facie* the acceptance of Stalinist modifications of the doctrine^x. How long this will hold it is quite a different matter.

As a matter of genesis and development the People's Democracy emerged, formed, and set forth on its course under the auspices of Stalinism and consequently bears the stigma of Stalin's practical politics and his modifications of the doctrine. Therein as well as in the diversity of historical conditions lies perhaps the most important difference between the birth of the Soviet State and the People's Democracy. Whereas the Soviet State, from the beginning was reared under the rigour of the Bolshevik Revolution and Lenin's guidance, the People's Democracy received ready-made forms of the authoritarian state modelled under Stalin's dictatorship.

The Soviet State is an original creation whereas the People's

x The idea of "collective leadership" propounded so far by Stalin's successors, and the recent tendency of discarding the worship of individuals does not seem to aim at disowning the Stalinist version of Marxism.

Democracy is not. The Soviet State is a product of national revolution, an edifice built over the mass-graves of the massacred "bourgeoisie" and a monument to the defunct idea of a "proletarian democracy". The People's Democracy, on the other hand, is a result of the ideological and political expansion of the Soviet Union mingled with the revolutionary elements of the countries concerned. Whereas, therefore, the leadership in the Soviet Union is Russian (certain non-Russian nations forming part of the former tsarist empire having their members in the Kremlin) the leadership of the People's Democracy is composed of partly native, partly foreign extraction.

4. Due chiefly to the mode of the seizure of power and lack of genuine revolution the People's Democracy showed in the first phase of its existence certain signs of originality which, however, disappeared with the consolidation of the régime. At any rate there was never any serious deviation from the principal aims and purposes for which the Soviet State stood. In other words, the countries of the People's Democracies pursued the course traced by the development of the Soviet State, though as a matter of tactics this had to be adapted to the particular conditions and circumstances in which the régimes started to work.

The method adopted by the People's Democracy strictly followed the pattern of the Bolshevik Revolution in so far as the seizure of power was linked with schemes for economic revolution and social transformation of the community. Though the measures were definitely less drastic (but by no means mild) the effect they aimed at was identical :

- a) destruction of "bourgeoisie" and capitalism;
- b) nationalisation and "socialisation" of industry and collectivisation of land;

- c) awakening of a class-consciousness among the wage-earners and mounting of the so-called "workers' and peasants' alliance" ;
- d) assigning of the monopoly of leadership in all matters to the Communist Party.

The People's Democracies are now, broadly speaking, at the stage of development corresponding to that of the New Economic Policy (N.E.P.) of the Soviet Union, that is to say, in the transitory period from "Capitalism to Socialism", This manifests itself by the presence of certain remnants of "Capitalism" (e.g. private property), the lagging behind of the collectivisation scheme, and the necessity of wiping out certain signs of opposition to the régime. To use the technical Marxist jargon, the "economic and social basis has not yet been adequately prepared for the superstructure of the state of triumphant socialism".

5. If we accept as a criterion of comparison the Soviet theory of state, distinguishing two stages of development (viz. a) stage of building socialism; and b) stage of triumphant socialism) the People's Democracy is still in the first stage of development, whereas Soviet Russia is already in the second stage. Yet the form of the Soviet State in the first stage was not identical to the constitutional form of the People's Democracy.

The characteristic feature of the Soviet State in the first stage was the "Soviet Republic" or a state of councils consisting of delegates of assemblies of workers, peasants and soldiers, the class of "workers" having distinct electoral privileges as compared with the class of "peasants".

The characteristic feature of the People's Democracy is the "People's Republic", or a state of a predominantly "bourgeois" character ruled in an arbitrary fashion by the so-called

"Dictatorship of the Proletariat". Only in the later part of the first stage did the People's Democracy adopt the fully developed system of soviets and carry out constitutional reforms corresponding to the predestined trend of development.

The dictatorship of the Bolshevik Party is supposed to be, according to the doctrine, a result of the dictatorship of the proletariat and a form of the "alliance of workers and peasants". No Marxist Party (whatever its official name) could claim this position at the first stage of development of the People's Democracy. Consequently the so called "National Front of Democratic Parties" - an organisation unknown to the Soviet State - had to be devised, first to marshal the electorate under the leadership of the Marxist Party, then to pave the way for a single party system.

The position may be summarised thus : though the People's Democracy differs in form from the Soviet State, both represent the same tendency and the same system of the "Dictatorship of the Proletariat". Since the form of government matters little as compared with the system, the People's Democracy is nothing else but a derivative and imitation of the Soviet system of government.

6. Turning now to the Polish People's Democracy one can easily trace its stages of development as well as a certain analogy to the history of the Soviet State.

Poland is still in the period of "building socialism", though by her new constitution the system of government only slightly differs from that obtaining in the Soviet Union. As far as the social and economic transformation of the country is concerned Poland has yet quite a way to go.

The first stage, or preparatory period, extends from the crossing of the Polish frontier by the Red Army to the Consti-

tution of 1947. In that period the Underground State was destroyed and the Government in Exile ousted. The ensuing constitutional vacuum was filled with the "Provisional Government of National Unity" which subsequently established its dictatorship and liquidated opposition. Nationalisation of industry and expropriation of the private property in land were the chief features causing revolutionary changes both in national economy and social structure. Draconian measures coupled with practically unrestricted powers of the Ministry of Public Security and jurisdiction of Military Courts kept the Government in power and facilitated the performance of its programme. This period bears a certain analogy to the Bolshevik Revolution, particularly in that it resulted in the establishment of the "Dictatorship of the Proletariat" in the form of the "People's Republic", the only difference being that the Bolshevik dictatorship was sovereign and the dictatorship in Poland devoid of sovereignty^x.

? The Constitution of 1947 was principally a "bourgeois" constitution, its only purpose being to serve as an interim measure and channel of transition from a "Capitalist" to a "Socialist State". It initiated the formulatory period where the foundations were laid for the state of People's Democracy and the Constitution of 1952 defining its principles. Whereas the Constitution of 1947 (not so much in form as in function) corresponds to the Bolshevik Constitution of 1918, the Constitution of 1952 corresponds to the Soviet Constitution of 1924. }
 } Though the Polish Constitution of 1952 was faithfully modelled upon the Stalin Constitution of 1936 and only to a negligible degree differs from the latter, as a matter of marxist classification Poland was not yet promoted to the stage of "triumphant socialism", mainly, it appears, owing to the inadequate progress she made in the field of economic and social achievement.

x see A. Sobolew (Russian writer), *Democracja Ludowa jako Forma Politycznej Organizacji Społeczeństwa*, Nowe Drogi, 1951, No. 5, / p. 90

In 1947 the real power situation in Poland was very similar to that of Soviet Russia in 1924, but the formal text of the Constitution differed. In 1952 no change in power was apparent, but the formal text of the Polish Constitution was brought closer to the Stalin Constitution, though social and economic factors resembled, rather, the situation of Russia in 1924. This discrepancy between the formal and the actual aspect of the polity seems to be explicable by the insistence of Marxists on a rigid application of the doctrine which requires the state to go gradually through stages of development without skipping over any one of them.

The Constitution of 1952 being the closing chapter of the prior development, there begins the period of modifications which, one can anticipate, will, if uninterrupted, bring the system closer to the ideal of "socialism" as understood and practised in Russia. The theoretical line of progress will follow Stalinism unless another myth becomes clothed in practical directives and Stalinism is shelved in the same manner as Leninism was within the last two decades.

7. Besides the strict doctrinaire attitude of the leaders of the People's Democracy one can notice their affection for formalities and zeal in search of a legalistic facade even in cases of action in violation of what passes for the law. This was well manifested at the initial stage of the system during the "battle of the constitutions" when they endeavoured to prove by all means that in the defunct Constitution of 1921 they had a legal title for seizing power.

Another feature of the leadership is the importance of semi-official bodies, such as the Party or institutions unmentioned in the Constitution, such as the Presidium of the Government. This gives an impression of secrecy and preference for behind-the-scenes activities characteristic of the Stalin régime.

In such conditions there is a great discrepancy between the

theory and the practice of Constitutional Law. Whereas the theory addicts itself to formalism, rigidity of conceptions, dogmatic teaching and fear of deviation from the political line adopted by the Government, the practice aims at expediency and exhibitionism, frequently at the expense of the letter of the law. The Law of the Constitution, as far as its substance is concerned, is being made and interpreted by active politicians, only the question of systemisation being left to scholars. Consequently a standard text-book on the subject consists primarily of an exposition of the doctrine and quotations from writings and speeches of the leading personalities, less space being devoted to a discussion of the actual working of the constitution and none to criticism.

8. The classification into stages: "building socialism" and "triumphant socialism" seems artificial and devoid of any fundamental value from the point of view of Constitutional Law.

The machinery of the Soviet State has achieved its utmost intensification but there is, as yet, no sign of any transformation towards the utopian stage of communism. What one can observe at present is, on one hand, a tremendous drive towards economic development and, on the other, a tendency to consolidate the political power within the framework of the existing constitution. The immediate result of this situation appears to be a general increase of production but no sign of the fulfilment of the dream of the fathers of communism that "state and law wither away".

The Polish People's Democracy, as far as the Constitution of 1952 reveals, represents an almost complete assimilation to the Soviet Russian political machine, whilst the economic programme notably collectivisation, is still unfulfilled. Both states are distinctly totalitarian, but as a matter of history, Russia x e.g. the amount of political propaganda in ordinary legislation.

became a totalitarian state after the nationalisation of industry and collectivisation of land, whereas the totalitarian system was imposed upon Poland immediately upon the seizure of power by the present régime and before collectivisation achieved its present stage.

9. Poland together with other countries quite inaccurately termed "satellites" by certain writers forms part of the Bloc of states under Soviet control. Formerly sovereign states, enjoying their sovereignty in a rather ebullient manner between the two wars, they endure now the same fate and head towards the same destiny. A certain uniformity and levelling can be observed today in those countries which in the past could hardly afford cordial neighbourly relations, conveniently (and convincingly) blaming each other as well as the interference of big powers for the lack of co-operation among themselves.

Though their governments are in a position to declare at any time their incorporation into the Soviet Union this is not likely to happen, continuation of the separate status being more convenient.

The area under Soviet control represents now a homogeneous Bloc, the differences in political set-up, economic conditions and social structure being gradually eliminated. What is interesting, is not the domination by a country in many respects less developed than the area dominated, but the fact that Communism has been planted (or is being planted) on states of by no means low cultural standing, of neither primitive economy nor social organisation.

As far as Constitutional Law is concerned this particular state of affairs considerably weakens the theory of "super-structure and basis" (already modified by Mr. Stalin), one of the canons of the Marxist political philosophy. It is not,

therefore, the "social and economic basis" of the country, as propounded by the said theory, that models the "superstructure"; on the contrary, in order to build up the desired "social and economic basis" it is necessary to have political power, the manifestation of which is the Constitution. In other words, although the actual charter of the Constitution may contain a record of past achievements, the constitution itself (meaning the aggregate of written or unwritten rules by which the given community is governed) is partly elaborated structure of the organisation of the community, and partly a programme of future development expressed in relevant statutes.

10. It seems futile to speculate on the possibility of future modifications of the system of the People's Democracy other than those indicated by the doctrine or development of the Soviet Constitution. The system stands or falls with the principal force that created it, and is only as firm as the hold of Soviet Russia over the peoples under her control.

Appendix No.1

Diagram No.1 A

Supreme State Authorities under the Constitution of 1921.

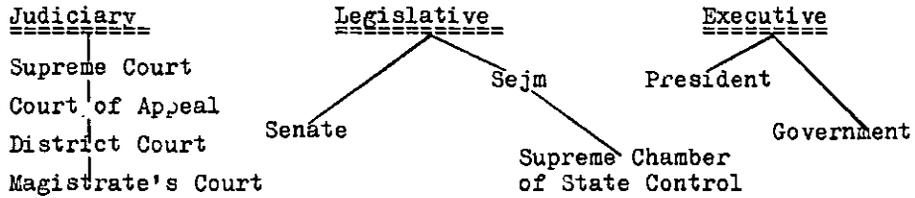
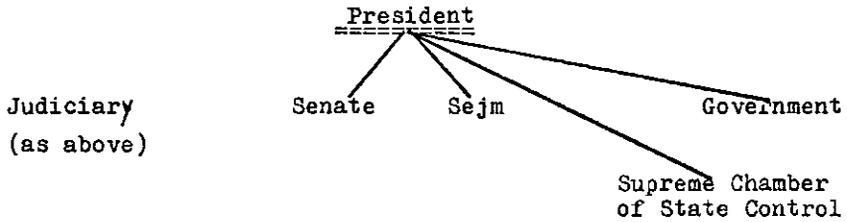
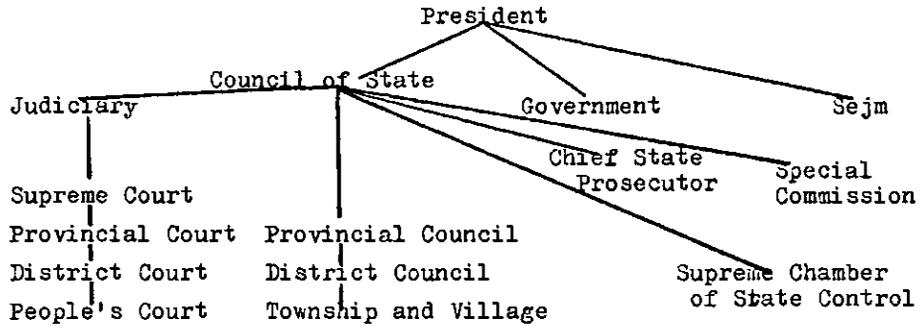


Diagram No.1 B

Supreme State Authorities under the Constitution of 1935.

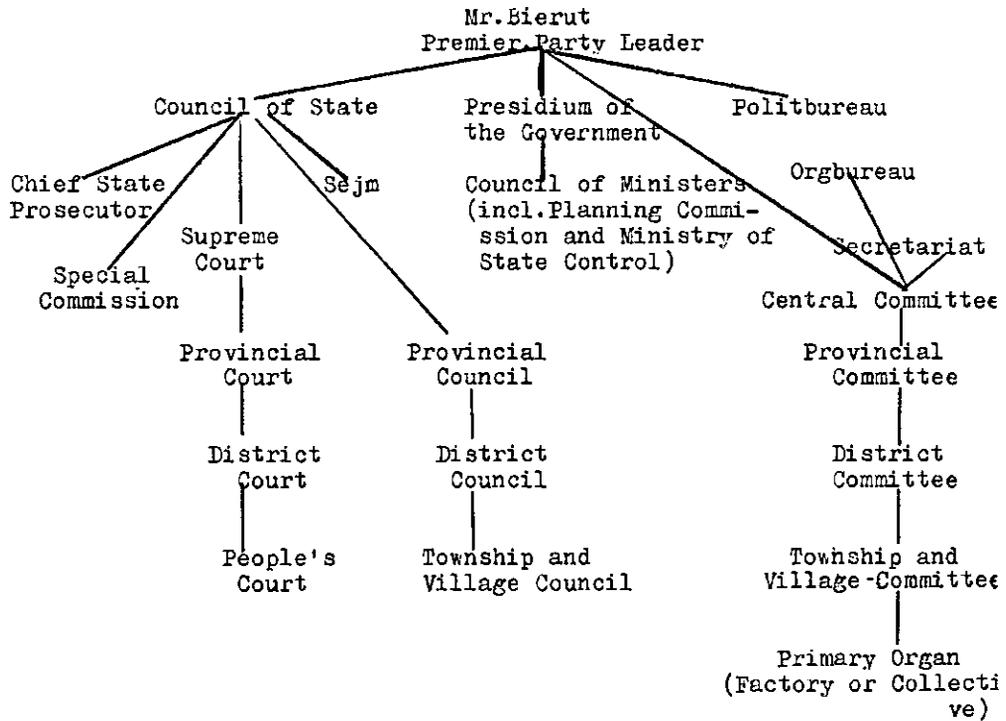


Appendix No.2Diagram No.2Administration during the period 1947 - 1952.

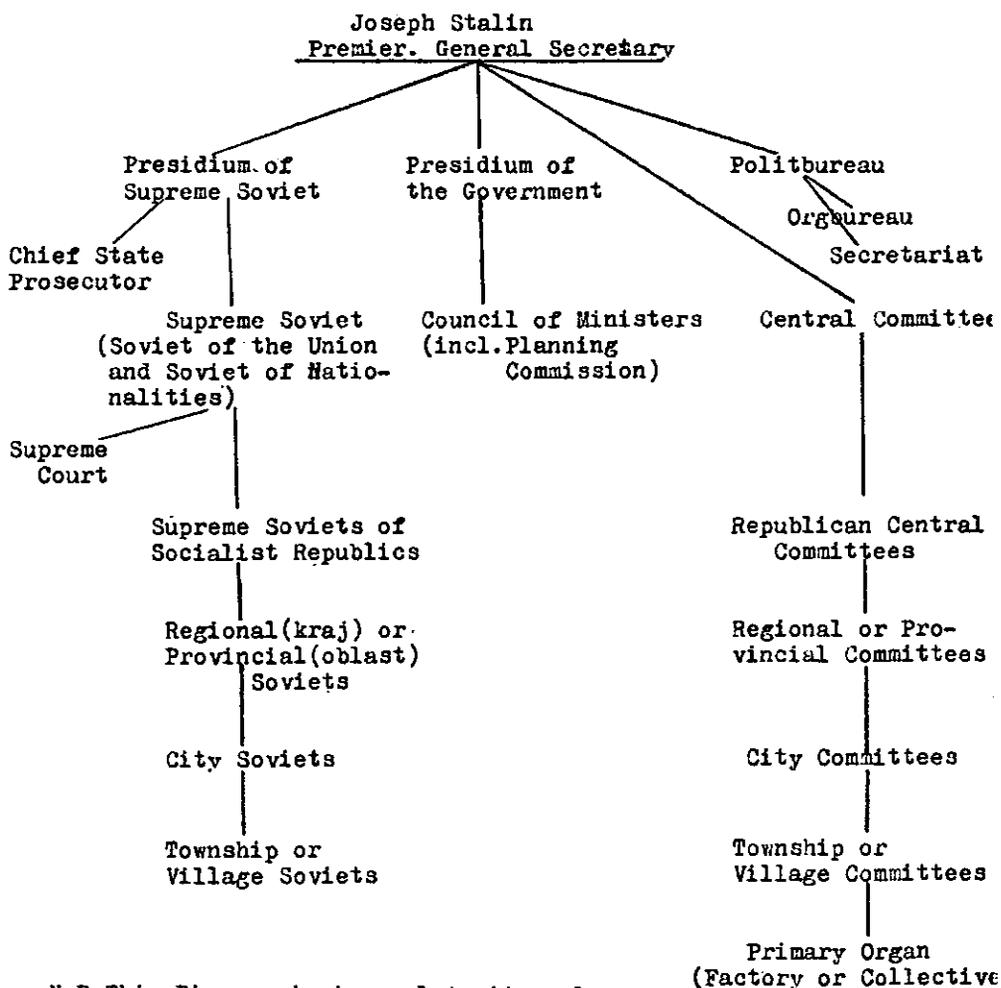
Appendix No. 3

Diagram No.3 A

State and Party Authorities under the Constitution of 1952^x



x to compare with Soviet system during Stalin era see Diagram No.3 B, p.366

Diagram No.3 BState and Party Authorities under Stalin Rule.

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