

*FOR THE RULE
OF LAW*

***Bulletin
of the
International
Commission
of Jurists***

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ASPECTS OF THE RULE OF LAW

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THE DUVALIER DICTATORSHIP IN HAITI

The International Commission of Jurists in its *Bulletin* No. 17 of December 1963 explained the reasons why, after vain attempts to carry out an investigation in Haiti to check the information it had received about the excesses committed by Dr. Duvalier's regime, and in face of the complete silence of the Haitian authorities, it felt that it was entitled to give publicity to the information it had, and most notably to present an overall picture of the deplorable state of affairs in the country. Since there has unfortunately been to date no improvement whatsoever with respect to what may legitimately be called the tyranny prevailing in Haiti, the International Commission of Jurists feels that it is in duty bound to draw world public opinion yet again to the persistent and flagrant violation of the most elementary principles of justice and respect for human rights, focussing its analysis in this instance mainly on occurrences in the field of law.

Only a brief reference will therefore be made to the hundreds of daily instances of the violation of human rights in Haiti. No detailed account will be given of, for example, the expulsion of the Bishop of Port-au-Prince, the placing of Monsignor Claudius Agenor, the Vicar Apostolic, under house arrest for referring in a sermon to the possibility of an amnesty for political prisoners, or the mass expulsions of priests of the Jesuit and other Orders in February 1964. The killings in the village of Jeremie and the township of Grand-Gosier, where whole families were exterminated in reprisal for the surreptitious infiltration of a handful of insurgents in August 1964, the constant illegal requisitions carried out by the President's personal police throughout the country, the summary executions of peasants in the Saltrou, Grand-Gosier and Anse-à-Pitre districts, the detention of all persons between 17 and 25 years of age at Jacmel as a result of another insurgent movement in mid-1964, and many other happenings that are a direct assault on the freedom and dignity of Haitian citizens, testify to the sinister activities of the *tonton-macoutes*, the political secret police, as a result of which the Haitians' personal safety is wholly dependent on Dr. Duvalier's own arbitrary decision. In addition, Haiti's very precarious

economic situation is growing steadily worse, largely owing to the widespread corruption of the civil service, the drain of trained personnel fleeing the reign of terror, the President's demagogic policy in exploiting, *inter alia*, the very real racial tensions between the negro majority and the mulatto élite minority and to the misappropriation of the scanty public moneys, which is aggravating the disastrous state of the economy of Haiti, one of the poorest countries in the Latin American region.

* * *

Readers will recall that Dr. Duvalier, in power since 1957 with the Army's support, had himself re-elected in 1961, before his term of office had expired and in open breach of the 1957 Constitution then still legally valid, for a further six-year term beginning on May 15, 1963. "On April 7, 1961, President Duvalier on his own authority made a Decree terminating the term of office of Deputies and Senators and providing for elections then and there for the new Legislative Assembly. Elections for this House took place at the end of April, but before that date President Duvalier had more or less eliminated opposition parties, and the Government party, the Democratic Party, was the only one offering candidates for the 58 seats. Thus the elections to the Legislative Assembly were a mere formality, but Dr. Duvalier managed to use this as a tacit re-election of himself by the electors. Above the name of the candidate on the voting paper he had printed his own name; when the votes had been counted, the Government announced that the fact that the President's name appeared on each and every voting paper was to be interpreted as an expression of the wish of the electors to re-elect him..."¹

In May 1963, despite the bare-faced breach of the Constitution, President Duvalier was enabled as a result of his previous six years in power, during which he had put down all attempts at opposition by the utmost use of force, to announce that he "accepted the responsibility of remaining as the head of the country" for six years more. By means of the device of a declaration of a state of emergency, all constitutional guarantees — only formally ensured by the 1957 Constitution — were suspended in and after 1958, and the President at various times was vested with a full delegation of powers, including the legis-

¹ See *Bulletin No. 17 of the International Commission of Jurists, The Situation in Haiti*, page 20.

lative, thus obtaining virtually the complete enjoyment and exercise of arbitrary power.

In April 1964, on the motion of the Government itself, rumours began to spread about the possibility of granting the presidential office to François Duvalier for life. Paul Blanchet, the Minister of Information at that time, stated that Dr. Duvalier was taking to heart the public demonstrations asking him to remain in power and the wish expressed by senior Army officers that he should take the oath to remain President for life. In late April, another demonstration was organized at Port-au-Prince to beg Dr. Duvalier to accept the Presidency for life. In a public speech Dr. Duvalier stated : " Let us look back at the reactionary governments. It is they who strive for power in order to use it against the people ; but now it is the people that is turning to a man and asking him to remain in power ... and it must be so ... I am not ambitious, I am a revolutionary."

In order to give a cover of legality to Dr. Duvalier's overweening political ambition, the Legislature, a rubber stamp for the Executive's wishes, was transformed into a Constituent Assembly and enacted a new Constitution on May 25, by which Dr. Duvalier was explicitly and expressly nominated President for life. The Constituent Assembly passed a decree whereby Article 197 of the new Constitution, designating François Duvalier President for life, was to be submitted to ratification by the people fifteen days later. The result of the carefully prepared electoral farce, required by the decree and held on June 14, was 2,800,000 votes for and 3,234 votes against, according to official statistics. When the Legislative Chamber was seized of the official results of the referendum of June 14, it adopted the referendum on June 21 as amending the new constitution, and the Presiding Officer of the Chamber proclaimed the Constitution of 1964 as the basic law of the country. This proclamation was made in the Chamber of Deputies and Duvalier's solemn investiture as President for life took place in the National Palace on June 22, 1964.

It is important to emphasize that Dr. Duvalier's appointment as President of Haiti for life amounts to an abuse of the law. Further, the terms of articles 196 and 197 of the new Haitian Constitution testify to the distortion of basic concepts and values towards which the Duvalier dictatorship has been tending for many years :

"Article 196: The Legislative Assembly issued from the elections of April 1961 shall exercise the legislative power until the second Monday of April 1967, the date on which the term of the present deputies expires.

In these circumstances, and in view of the fact that he has awoken national consciousness for the first time since 1804 by carrying out a radical change in the political, economic, social, cultural and religious situation in Haiti, the citizen Dr. François Duvalier, Supreme Leader of the Haitian Nation, is elected President for life, to ensure the conquests and the permanence of the Duvalier revolution under the flag of national unity.

Article 197: Whereas Dr. François Duvalier

has, by a timely reorganization of the armed forces, ensured the maintenance of public order and peace, gravely jeopardized by the tragic events in 1957;

has paved the way towards and brought about a reconciliation between the political factions which were violently opposed as a result of the fall of the 1950 regime;

has laid the foundations of the country's prosperity by promoting agriculture and the country's progressive industrialization by a programme of public works and by constructing the necessary infrastructure;

has placed the State on a stable economic and financial footing despite the sinister manoeuvres of a conspiracy of domestic and alien forces, and the aggravation of the situation by recurrent disasters arising from the violence of the elements;

has ensured the effective protection of the toiling masses by bringing into harmony the interests and aspirations of capital and labour;

has advocated and established a nation-wide organization of the rural sector and has, by means of a new code, introduced regulations governing life in the country areas and thus brought justice to the peasant and opened the way to his complete rehabilitation;

has undertaken and achieved the eradication of mass illiteracy and has thus fulfilled the aspirations of the humble and weak for enlightenment and well-being;

has established the requisite agencies for the protection of women, for mother and child welfare and for the family;

has established the State University of Haiti and met the legitimate ambitions of Haitian youth which aspires to the commanding heights of knowledge and the mastery of the future through learning;

has imposed respect for the rights of the people and the prerogatives of national sovereignty, has consolidated the prestige and dignity of the Haitian community and safeguarded the sacred heritage of our forebears against any assault;

has by his domestic policies gathered all social strata under his benevolent protection and, by a dignified foreign policy, defended the integrity of Haiti's territory and its national independence;

has directed his every action towards building a strong nation capable of fulfilling its destiny in full freedom and dignity, for the happiness of all its sons and for the peace of the world ;

Inasmuch as he has thus become the unchallengeable leader of the revolution, the champion of national unity, the worthy heir of the founding fathers of the Haitian nation, the restorer of the fatherland ; and inasmuch as he has merited the unreserved acclaim of the vast majority of the people as head of the national community for an unlimited period ;

NOW THEREFORE Dr. François Duvalier, elected President of the Republic, shall exercise his high functions for life, pursuant to the provisions of article 92 of the present Constitution. »²

The International Commission of Jurists hereby places on record its dismay at the flagrant disregard for the elementary notions of democracy in Haiti, both because the Duvalier Government has not in fact, unfortunately for the people it governs, put into effect any of the achievements claimed for it — for Haiti today is even poorer, less literate and more lacking in the implementation of social justice than it ever has been — and because the alleged popular vote granting Dr. Duvalier the life Presidency was vitiated by the use of coercion and force.

Haiti, the only French-speaking republic in Latin America, is a member of the Organization of American States³, established by the Bogotá Charter, one of the basic principles of which is that governments must be representative and their members periodically replaced. Admittedly, these principles have been breached only too often in the Americas⁴, but this is the first time in the history of the Organization that a precedent has been set of enshrining in a constitution the express determination to violate them and thus to flout the Charter of the Organization of American States and the Universal Declaration of Human Rights, Article 21 (3) of which states :

“ The will of the people shall be the basis of the authority of government ; this will shall be expressed in *periodic* and *genuine* elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures. ”

² Under Article 92, the President of the Republic must take an oath before the National Assembly to comply with the Constitution and respect the rights of the people of Haiti.

³ The Organization of American States (OAS) is a regional organization within the United Nations, and its basic statute is the Charter of Bogotá, 1948.

⁴ There are at present seven other *de facto* or non-representative Governments in Latin America : Bolivia, Brazil, Cuba, Ecuador, Guatemala and the Dominican Republic.

HUNGARY: GROWING NUMBER OF TRIALS FOR ANTI-STATE ACTIVITY

On June 27, 1964, the Procurator-General of the Hungarian People's Republic reported to the National Assembly a gradual decrease of criminality in general and of anti-state activities in particular. He said that in 1963 only 0.3 per cent of the persons brought before the courts were charged with anti-state activities. Criminal statistics for 1964, published by the Hungarian Central Bureau of Statistics (released on August 13, 1965, in *Esti Hirlap*) revealed that the number of criminal cases had again dropped by seven per cent as compared to 1962. It seems, however, that the last year has brought about a reversal of this trend. Cases of "anti-state activities" reported by Hungarian newspapers and broadcasts indicate that such trials have become more and more frequent since the autumn of 1964.

Two groups can be distinguished in these cases: those in which the defendants are charged with planning to "re-establish the former capitalist system" and "incitement" based on remarks alleged to be hostile to the regime; the other and by far the larger group embraces "incitement" committed by "illicit religious propaganda".

Political Cases

In December 1964, the Supreme Court of Hungary, at a trial held *in camera*, sentenced five men in their fifties for "anti-state conspiracy and seeking to re-establish capitalism". They included three members of former non-Communist parties no longer permitted in Hungary.

Dr. Ferenc Mateovics, former deputy of the Catholic Democratic People's Party, who had already been imprisoned by the regime for political crimes in 1949 and 1957, — years of a "hard line" — was sentenced as leader of the conspiracy and as an "incorrigible" to ten years imprisonment. Dr. Zoltan Teszar, a Budapest doctor and former Freedom Party member, was imprisoned for four years and six months, Dr. János Kalmár,

a Budapest teacher, for five years, Dr. István P. Keleti, a lawyer and former Democratic People's Party member, for three years, and József Gerendás, a tradesman, for ten months. The arrests were made in January 1964; there was no publicity given to the trial at first instance, and this might indicate that the procedural rules on custody and defence were violated. The case was shrouded in a complete news blackout. The essence of the charge for which the sentences were pronounced according to the *Népszabadság* of December 17, 1964 (the official newspaper of the Hungarian Socialist and Workers (Communist) Party) was "the organization of an illegal party to be set up immediately 'following the withdrawal of Soviet troops'". This charge implies that the accused did not attempt to change the existing situation in their country where Soviet troops are stationed. Their hopes for the future — as they might have expressed them in conversations with each other — were pinned on the implementation at some future date of the United Nations General Assembly's resolution of November 9, 1956, which requested the withdrawal of Soviet armed forces and declared that thereafter free elections under the auspices of the United Nations should be held in Hungary.

This is not the first case in which concern with the United Nations resolutions on Hungary served as a cause for arrest and detention. Dr. Tibor Pakh was arrested in October 1960, and sentenced in unknown circumstances — possibly at trial *in camera* — to fifteen years imprisonment for having written a letter to the Secretariat of the United Nations on conditions in the country.

In August 1965, three young men were tried in Budapest as reported in *Népszabadság* of August 19, 1965. According to the indictment, József Ligeti, 19, Antal Hoppe, 22, and Imre P., a minor, decided to set up an anti-state organization. They agreed to include in their group persons serving in the army, with the intention of obtaining weapons from them. Ligeti wrote several inflammatory poems which he showed to a number of people. In April, the defendants decided to escape from the country, but the police arrested them on the train while travelling in the direction of the border. The trial and the sentences were published in the press. They were found guilty of making preparations designed to organize a conspiracy and preparations to cross the frontier illegally. Ligeti was sentenced to four years and six months, Hoppe to two years and ten months, Imre P. to

September 9, 1965, in the provincial town of Komárom (see *Komárommegyei Dolgozók Lapja*, September 9, 1965). The Catholic newsagency *Kathpress* in Vienna announced the arrest of Sándor Puza, a lay priest, on August 12, 1965. A few days later, news of the arrests of József Szigeti, professor of Theology, Péter Vass, O.P., a highschool teacher, and Father Jenő Vác, O.P., followed.

In all these cases only one defendant, Sándor Puza, was charged with making anti-regime remarks, but the *Népszabadság* report denied that he ever was a priest, stating that he was a fascist, sentenced for brutalities committed during World War II and amnestied in 1959. In all the other cases, the charge was that the priests, who together with some 700 other Catholic priests had been excluded during the past seven years from the official teaching of religion in schools, had indulged in illicit religious propaganda at their places of work, thereby committing the anti-state crime of incitement. At the June trial, the officially appointed defence counsel pleaded that by giving evidence of their faith and conviction to their young fellow-workers the defendants only fulfilled their duty as ordained priests. To this the presiding judge had, however, the following answer: "We live in a society the basis of which is materialism. In such a society any activity which tries to influence youth towards idealism may become politically dangerous."

Such was the overstretched interpretation of the provision of the new Hungarian Criminal Code on incitement on which the sentences were based. Such an all-embracing interpretation of the concept of incitement is opposed to the provision guaranteeing freedom of religion and also to the spirit of the Vatican Agreement referred to above.

In addition to the great number of Catholic priests, including Father Mocsy, a famous professor, and Father Werner, a well-known composer of Church music, another outstanding Catholic intellectual recently had to stand trial. This was a case not of a priest but of a professor of ethnology at the University of Szeged, Dr. Sándor Bálint. He was charged and found guilty of "incitement committed continuously". His case seems to constitute an exception to the harsh policy applied at the former trials. He was left free during the process, and seems to have had a procedurally fair trial. However, the nature of his anti-state incitement was not disclosed, yet he was sentenced to a suspended sentence of three years imprisonment.

It is alarming that Hungarian authorities seem to revert once again to holding *in camera* trials in which the articles of the Criminal Code are interpreted according to the directives of a "firm line" of party policy, a procedure which, from the experience of the past, had always to be "corrected" and denounced later as a violation of socialist legality. It is only to be hoped that the criminal policy inaugurated with the adoption of the new Criminal Code and the Code of Criminal Procedure will be further developed, that the appeals will be heard in public and that the decisions of the appeal court will interpret the articles of the Criminal Code in the spirit of legality and of the Universal Declaration of Human Rights.

THE LATIN-AMERICAN PARLIAMENT

Introduction

Behind every effort to institute supranational bodies in recent years and in all regions of the world lies the concept of integration, which aspires to remove all artificial differences and discrimination in dealing with social realities, both in the political and economic sphere as well as in purely social and cultural fields.

Together with other approaches to integration, this basic idea took shape in post-war Europe with the establishment of the Council of Europe, the political institution which provides the general framework for European co-operation.¹ The Council is composed of an intergovernmental committee of ministers from the member countries and a parliamentary Consultative Assembly, constituted by representatives of the Parliaments of the member countries. The Council of Europe has enabled member countries to combine their efforts in such fields as human rights, in which the action of other European organisations was inadequate. The work of the Council of Europe has taken effect in a multitude of ways and the results achieved in more than 15 years have permitted an irreversible evolutionary trend to develop, representing a vital step towards the unification of Europe and, through it, towards world peace and union.

In the same general order of ideas and reflecting a tradition of very long standing, the Latin-American countries have devoted close attention to the concept of integration ever since their independence in the early 19th century; one result is that the oldest regional institutions originated in that continent. The very history of the present Organisation of American States is a

¹ Created on May 5, 1949, the founding States being Belgium, Denmark, France, Ireland, Italy, Luxembourg, Netherlands, Norway, Sweden and the United Kingdom; subsequently Greece, Turkey, Iceland and the Federal Republic of Germany became members, as did, later, Austria, Cyprus and Switzerland.

living example of this. But it was with the institution of the Latin-American Parliament at the end of 1964 that for the first time in Latin America a concept paralleling that on which the Council of Europe is based — the setting up of a supranational parliament — was translated into practice.

The Declaration of Lima (December 10, 1964) can be regarded as the charter founding the Latin-American Parliament. This Declaration, adopted unanimously, was signed by parliamentary delegations from Argentina, Brazil, Colombia, Costa Rica, Chile, El Salvador, Guatemala, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela; it was acknowledged therein that the Latin-American Parliament was to be charged with the task of promoting, harmonizing and channelling the movement towards the integration of the Latin-American countries. "As direct representatives of all manifestations of the will of the people and faithful interpreters of its needs and aspirations" — in the words of the Declaration of Lima — "the Parliaments of Latin America must contribute to the success of integration by mobilising public opinion, and by submitting and promoting in each country such laws and reforms as favour its achievement in a democratic manner."

At the December 1964 session of the First Latin-American Parliament in Lima, six of the 20 Latin-American republics — Bolivia, Cuba, Ecuador, Haiti, Honduras and the Dominican Republic — were absent, due to the suppression or forced recess of their representative assemblies.

The first Ordinary Session of the Latin-American Parliament was held from July 14 to 18, 1965, also in Lima. At that session the Statutes of the Parliament were discussed and approved, resolutions and recommendations of the greatest importance being adopted.

The Latin-American Parliament is a permanent unicameral body, composed of those national parliaments of Latin-American countries which, having been elected by popular suffrage, express their desire to participate in the Parliament. Member parliaments will be represented by delegations appointed by each of them and composed of a maximum of 16 representatives, the composition reflecting the proportional numerical strength of the political parties in the parliament concerned. Current membership of parliament is required of delegates of a member parliament.

Features of the Latin-American Parliament

The national parliaments will, in collaboration with the Secretariat General, attend to the ratification of the Statute of the Latin-American Parliament by the Latin-American States through the appropriate procedures or instruments.

The aims of the Latin-American Parliament are :

- to promote and guide the political, social, economic and cultural integration of the peoples of Latin-America ;
- to uphold the full rule of liberty, of social justice and the effective exercise of representative democracy ;
- to watch over absolute respect for human rights ;
- to further the development of the Latin-American community in all its aspects ;
- to fight for the elimination of any form of colonialism in Latin-America ;
- to combat imperialist endeavours in Latin America ;
- to contribute to the strengthening of international peace, legal order and security.

The functions of the Latin-American Parliament include, *inter alia*, the following :

- to take cognisance of, debate and give a decision by way of recommendation or declaration, according to the case, on any matter, motion or project related to Latin-American integration, whether political, social, economic or cultural ;
- to maintain relations with the national member parliaments or the parliaments of other countries and with Latin-American and international bodies ;
- to act as a consultative body for the national member parliaments ;
- to set up and maintain a Parliamentary Information Office which will gather, collate and disseminate information concerning the legislative action of members ;
- to encourage meetings of parliamentarians aimed at stimulating regional development.

Procedure

For the Parliament to sit validly, the attendance of delegates from an absolute majority of national member parliaments, and of at least one-quarter of the delegates accredited to the session,

is required. The decisions of the Latin-American Parliament will be taken by simple majority, with the exception of those concerning the admission of new members, amendments to the Statute or a declaration respecting a parliament, a government or an international organisation; for such decisions the presence of delegates from at least two-thirds of the member parliaments and a majority of at least two-thirds of the total membership are required.

Voting will be individual and each delegation will be entitled to cast a maximum of 12 votes, even when the number of delegates comprising the delegation is greater. If a delegation comprises fewer than 12 delegates, the members thereof may cumulate up to three votes each, the allocation of the votes to reflect the proportional strength of the political parties in the parliament concerned.

In accordance with Article 10 of the Statute, the Latin-American Parliament will meet in ordinary session once a year; it will meet in extraordinary session by its own decision or when a petition to this effect is lodged with the Secretariat-General by an absolute majority of the members. The ordinary sessions will be held by rotation in each country of which the parliament is a member of the Latin-American Parliament. Each ordinary session will decide upon the place and date of the next session.

The officers of the Parliament will comprise a president, a deputy president and five vice-presidents; they will be elected from among the members of different member parliaments. The Executive Committee, the supreme executive organ of the Parliament during the period between sessions, ordinary and extraordinary, will be composed of the president, the five vice-presidents and the Secretary-General. The Parliament will also dispose of a permanent office, located in Lima, Peru; this office will include the Secretary-General, a deputy secretary-general and five regional secretaries elected by the Parliament. These must all be members of different national parliaments. The Secretary-General and the deputy secretary-general must belong to the parliament of the country in which the Secretariat-General is located. The present Secretary-General is the Peruvian member of parliament, Mr. Andrés Townsend Ezcurra. An administrative secretariat will handle the work of the Secretariat-General, being subordinate to the latter and consequently located also in Lima.

The installation and operating costs of the Latin-American Parliament will be borne by the national parliaments. The annual budget approved on July 17, 1965, amounts to 70,000 U.S. dollars; this sum will be made up by equal contributions from the parliamentary delegations participating.

The Parliament is composed of the following Standing Committees: Political Integration, Economic and Social Integration, Cultural Integration and Education, Legislative Co-ordination, Statute and Standing Orders.

Decisions of the Latin-American Parliament

Of the motions and agreements adopted by the first Ordinary Session of the Parliament, meeting from July 14 to 18, 1965, in Lima, the following are summarised as being of the greatest interest and importance:

(a) *Motion of Sympathy with the Dominican People*

In view of the situation obtaining in the Dominican Republic since March 1965, the Latin-American Parliament, acting in its capacity of interpreter and representative of the ideas and sentiments cherished by the mass of the peoples of the continent, and desirous of making a useful contribution towards bringing about an understanding between the opposing political forces, resolved to express its sympathy with the Dominican people by making public its wish for a return to peace and to full operation of the democratic organs of popular representation.

(b) *Declaration concerning Agrarian Reform*

Conscious of the extent of the grave problem of land tenure in Latin America, the Parliament declared that "the carrying out of a comprehensive programme of agrarian reform should have as its primary aim the simultaneous introduction of a just system of land tenure, together with the provision to the beneficiaries of the reform of the requisite services in the form of technical assistance, agricultural credits, modern methods of marketing and distributing agricultural products and the building up of an agrarian infrastructure".

(c) *Social and Economic Policy*

The Latin-American Parliament commended as an urgent task incumbent on all the Latin-American governments the car-

rying out of necessary structural reforms, priority being given to social policy favouring wage-earners, with similar insistence on the extension of social security to all workers. It urged in particular that economic and social planning bodies be established in each country, and called for special attention to the setting-up of community development programmes. It also urged the institution in each country of a National Economic Council, with the participation of elements representing the State, labour and capital and charged with submitting to governments and parliaments proposals for measures to promote economic and social development.

(d) *Economic Integration in Latin America*

Since the economic integration of Latin America must be achieved by the peoples themselves, and in view of the need to hasten the process of integration, the Parliament urged the Latin-American governments to take the political decisions necessary to achieve this objective and recommended for this purpose the establishment of a permanent Parliamentary Economic Committee, composed of representatives of each of the member countries of the Parliament and having as terms of reference to study the economic problems of Latin America and to report at regular intervals thereon to the Parliament. Such a Committee would be required to work in close co-operation with the regional bodies entrusted with the study of the economic problems of the hemisphere, and collaboration on the part of the latter would be called for.² It also recommended the study of the report entitled "Proposals for the Creation of a Latin-American Common Market" by Felipe Herrera, Carlos Sanz de Santamaria, José A. Mayobre and Raul Prebisch.

* * *

The Executive Committee of the Parliament, meeting in Santiago de Chile from October 8 to 10, 1965, acting "in accordance with the principles leading to its establishment and reflecting the sentiments of the greater mass of the peoples of

² These are: the so-called Central American Common Market, the Latin-American Free Trade Association (LAFTA), the Inter-American Committee of the Alliance for Progress (CIAP), the Inter-American Economic and Social Council (IA-ECOSOC), the Economic Commission for Latin America (ECLA) and the Inter-American Development Bank (IDB).

Latin America", issued a categorical declaration rejecting and condemning Resolution No. 560 of the United States House of Representatives³, which favours unilateral armed intervention in Latin-American countries when there is a danger of subversive domination, and reaffirming that the regional system of the hemisphere is based on principles which the said resolution clearly violates; the declaration makes specific reference to Article 15 of the Charter of the Organisation of American States⁴, which lays down the principle of non-intervention, and to Article 17 thereof⁵, which prohibits any use of force on any grounds whatever, and to Article 1 of the Inter-American Treaty of Reciprocal Assistance.⁶ The Latin-American Parliament considers that the resolution in question indicates a serious reversal in relations within the hemisphere, revealing the existence of a profound crisis in the American regional system, and the Parliament invites national parliaments to maintain a constant watch in defence of the principles cited above.

At a subsequent stage the Executive Committee, meeting in Buenos Aires on November 4, 1965, unanimously approved a declaration underlining the urgent need, in view of the evident existence of new realities of a political, economic and social nature in Latin America and of the growing desire to accelerate development and to eliminate any form of subjection or hege-

³ Resolution of the United States House of Representatives, dated 20 September 1965, submitted by M. Selden (Alabama) and adopted by 312 votes in favour to 52 against, concerning United States policy in the American continent. It should be mentioned that resolutions of the House of Representatives alone do not define the foreign policy of the U.S.A.

⁴ "No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economical and cultural elements." Article 15, *Charter of the Organisation of American States* (Charter of Bogotá), 1948.

⁵ "The territory of a State is inviolable; it may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly, on any grounds whatever. No territorial acquisitions or special advantages obtained by force or by other means of coercion shall be recognised." Article 17, *idem*.

⁶ "The High Contracting Parties formally condemn war and undertake in their international relations not to resort to the threat or the use of force in any manner inconsistent with the provisions of the Charter of the United Nations or of this Treaty." Inter-American Treaty of Reciprocal Assistance (Rio Treaty), 1947.

mony within the Organisation of American States, to make basic amendments to the Bogotá Charter (the Charter of the Organisation of American States), which defines the American regional system which took material form in the Organisation of American States.

It is interesting to note that the Executive Committee of the Latin-American Parliament pointed out that "the existence of the inter-American system is inconceivable without the genuine exercise of representative democracy; governments not founded on popular suffrage or which in any way attempt to infringe complete respect for human rights cannot be taken into the Organisation of American States or receive assistance of any kind from the institutions in the hemisphere. The amendments to the Charter must incorporate those inter-American instruments or agreements which render impossible the presence of undemocratic governments in a system which bases its existence on the practice of genuine democracy within the States Members."⁷

In the same declaration the Executive Committee urges effective international safeguarding of human rights and the institution of an Inter-American Court of Human Rights to which cases could be brought by private persons and organisations claiming violation of the guarantees provided for in the Universal Declaration of Human Rights and the American Declaration concerning the Rights and Duties of Man; the Court should be endowed with adequate powers to impose effective sanctions on transgressors.

* * *

The International Commission of Jurists, having followed with the greatest interest and understanding the endeavours which resulted in the founding of the Latin-American Parliament, welcomes its creation and desires to give widest publicity to this creative initiative of Latin-American countries. Through this multi-national Parliament — an authentic spokesman of Latin American public opinion — they will certainly achieve major results in the search for the common good of their peoples.

⁷ In consonance with this declaration, on November 3, 1965, the eve of the Extraordinary Session of the Organisation of American States, the Executive Committee of the Latin-American Parliament issued the following statement: "Despite the need for an immediate meeting of the Second Inter-American Conference, the conditions necessary to enable it to meet in Rio de Janeiro do not obtain at present, since the political events which have occurred in the Republic of Brazil are incompatible with the basic principles of the Charter of the OAS and of the Latin-American Parliament".

PAPUA AND NEW GUINEA - THE PORT MORESBY SEMINAR

The New Guinea Branch of the Australian National Section of the International Commission of Jurists in collaboration with the Australian National Section held a Seminar at Port Moresby, the capital of New Guinea, from September 7 to 13, 1965. The theme of this Seminar, which was attended by about 250 participants, was "The Rule of Law in an Emerging Society". Having regard to the complexity of the problems of such an under-developed territory on the one hand and the obligations of the Australian Government towards this territory arising from its position as trustee on the other, this meeting was perhaps the most ambitious undertaking on which the Australian Section of the International Commission of Jurists has so far embarked.

The Seminar was presided over by Mr. Justice J. P. Minogue, President of the Papua and New Guinea Branch, who had given his best efforts to making it the great success that it turned out to be. Participants included lawyers of the territory, lawyers from Australia, local administrators both Papuan and Australian, many of whom also performed judicial functions, and distinguished visitors including Mr. Seán MacBride, the Secretary-General of the International Commission of Jurists, and Sir Udo Udoma, the Chief Justice of Uganda.

Among the principal speakers were Mr. MacBride, Sir Donald Cleland, the Administrator of Papua and New Guinea, Sir Alan Mann, the Chief Justice of the territory, Mr. H. L. R. Niall, the Speaker of the House of Assembly, and Mr. John Guise, the Papuan leader of the elected Members of the House of Assembly.

The principal problem in Papua and New Guinea was how a country where a considerable section of the population live in isolated valleys, where there is practically no system of communication in the interior and where the general standard of even primary education is alarmingly low, could find the most satisfactory method of proceeding on the road to ultimate self-determination and to establishing a society in which the Rule of Law will prevail. The excellent paper by Professor G. Sawyer

of the Australian National University on "The Problem of a Constitution" therefore provided the participants with much food for thought. So did the equally commendable papers on "The Rule of Law and the Administration of Justice in an Emerging Society" by Mr. Justice R. A. Smithers, member of the Commonwealth Industrial Court and formerly a Judge of the Supreme Court of Papua and New Guinea, and on "The Role of the Lawyer in a Developing Country" by Mr. W. A. Lalor, the Public Solicitor of the territory.

In view of the multiplicity of the problems involved, as many as 15 Committees were constituted, each consisting of about a dozen participants, and each including at least 2 or 3 indigenous members of the House of Assembly. The Committee discussions were specially designed to ensure a full understanding and exchange of views between the indigenous people and the various other categories of participants. This was another reason why it was felt that the number of members in each Committee should be kept down.

Although the original intention was that the Seminar should arrive at certain conclusions, the participants in the course of their deliberations decided by an overwhelming majority that they should, in lieu of adopting conclusions, merely "commend the suggestions set out in the Schedule as relevant and worthy of consideration by all persons and authorities concerned with the formulation of a Constitution for and the working of the legal and political institutions of Papua and New Guinea". Therefore, the document which emerged from the Seminar, having been adopted by unanimous vote, was styled "The Port Moresby Proposals, 1965".

The Political and Social Background of the Territory

The significance of the Port Moresby Proposals can be fully appreciated only against the background of the social and political position in Papua and New Guinea today.

The Territory of Papua and New Guinea comprises 183,000 square miles, much of which is very mountainous, rugged and almost inaccessible. It is inhabited by approximately two million indigenous people and 30,000 non-indigenous people of European or other origin. The economy of the country is primarily based on subsistence agriculture. The country is under-developed with little economic modernisation. Literacy is only at an incipient

stage and extensive steps to promote technical and higher education will be necessary if the territory is to achieve the human ability to govern itself and to develop its potential.

Papua was originally annexed by the United Kingdom in 1888 and was placed under the authority of the Commonwealth of Australia in 1902 and has continued as an Australian Colony since that time. The Territory of New Guinea, which was originally ruled by Germany, was the subject of a mandate conferred upon the Commonwealth of Australia by the League of Nations in 1920. In 1946 the Trusteeship Agreement for the Territory was approved by the United Nations in favour of the Commonwealth of Australia and in 1949 the Territory was placed under the International Trusteeship System.

The Present Constitutional Structure

The Commonwealth of Australia is ultimately responsible for the government of the Territory. Under the Papua and New Guinea Act (1963) of the Commonwealth of Australia, the former legislative body in the Territory was altered and a House of Assembly established consisting of 64 Members made up as follows :

- (a) 10 Official Members ;
- (b) 44 Members elected by the inhabitants of the Territory ;
- (c) 10 Members not being indigenous inhabitants of the Territory.

The 44 Members are elected by universal adult suffrage, each Member representing an Open Electorate. While under the 1961 register only 6,000 persons were registered as voters, the 1964 electoral roll contained over one million persons. The country therefore had its first real General Election in February 1964.

It should be noted that the inclusion of 10 official members and 10 non-indigenous elected members in the House of Assembly is intended merely as a transitory measure to ensure effective government until such time as the indigenous inhabitants are ready to assume the reins of government themselves.

The Importance of the Seminar

The following paragraph taken from the Preamble to the Proposals indicates the general approach adopted at the Seminar :

The Conference recognizes that substantial parts of the population of this country are at a very early stage of their development whether considered in a social, economic, educational or cultural sense, and have not up to the present been ready for complete self-government or independence, but proceeds in the sure and certain conviction that the country will within a future already foreseen be able to accept the responsibility of self-government or independence according to whichever meets the wishes of its people. It believes that the Government of Australia, of whatever party, should and will advance that development as rapidly as may be feasible. It also believes that the advancement of the general education of the community is of vital importance and should be given the highest priority. The Conference is confident that when the people of this country are ready for it, or ask for it, the grant of such measure will not be delayed. Only the passage of time will determine the exact nature of the relationship between Australia and the future Papua and New Guinea, by whatever name it may be called, but all present at this Conference join in the wish that it will be a relationship of close friendship and complete accord.

The importance of the Port-Moresby Proposals lies in the fact that they recognize that even in an under-developed country which lacks technical and administrative personnel the ultimate establishment of independence within the Rule of Law can be achieved provided there is goodwill and willingness to co-operate between the country responsible for the government during the period of transition and the indigenous inhabitants. This co-operation was amply manifested at Port Moresby where the Preamble to the Proposals recognized that Australia was committed to bring the people of Papua and New Guinea to self-government or independence of an appropriate nature. The Preamble also expressed its adherence to the ideals of the Rule of Law as expressed from time to time by jurists meeting under the aegis of the International Commission of Jurists and specifically affirmed that part of the Declaration of Bangkok which states

there are no intrinsic factors in the area which make the ultimate establishment, maintenance and promotion of representative government under the Rule of Law incapable of attainment.

The spirit of the Conference is best reflected in the ultimate paragraph of the Preamble which states

Finally, the Conference recognizes and affirms its belief that it will be for the people of this country, in due course, to decide on these matters for themselves. This Conference offers these Proposals in a spirit of assistance and co-operation to the people of Papua and New Guinea, to whose future happiness and welfare they are dedicated.

Its Proposals and Recommendations

The following are the Proposals and recommendations of the Seminar :

Schedule I

PROPOSALS

The Problem of a Constitution

The probable shape of the future Constitution for Papua and New Guinea will no doubt become clearer with the passage of time as self-government or independence, as may be desired, approaches more closely. The following represents the trend of opinion in the light of present conditions and the tenor of discussions at this Conference.

* * *

1. The future Papua and New Guinea might perhaps form a Seventh State of Australia, but if so this would necessitate, to be acceptable, complete equality with the other States and complete equality of treatment and of status as between the inhabitants of this country and the inhabitants of the rest of Australia, especially in relation to such matters as freedom of movement and residence, and in economic and working conditions. The Conference does not on the whole consider this a likely solution, but believes that in any event it would have to be preceded by referenda in Australia and in Papua and New Guinea, after self-government. On the other hand, there is complete agreement that there should be some form of "close, friendly and interdependent relationship" with Australia.

2. The internal constitutional structure of the Territory should, it is generally but not unanimously considered : —

- (a) be unitary, although with provision for decentralized or regionalized government ; and
- (b) include a single-chamber legislature, although views were expressed that there would be value in a consultative Second House and that the position might be reviewed later.

3. The Constitution which will be appropriate for the future Papua and New Guinea should possess, it is believed, the following characteristics : —

- (a) It should be in writing, and should follow the general pattern of the "Westminster model", with appropriate modifications to suit the conditions and circumstances of the country from time to time ;
- (b) There should be representative government under the Rule of Law ;
- (c) The Judiciary should be independent of the Legislature and the Executive, free to interpret and enforce, without external pressure, the provisions of the Constitution and the laws ;
- (d) There should be an affirmation of the fundamental rights and freedoms set forth in the Universal Declaration of Human Rights, and a constitutional guarantee of such of them as are capable of judicial enforcement ;
- (e) It should provide for the insulation of certain organs of government to ensure freedom from political control or interference for the Judiciary, and possibly for the Public Service, a Director of Public Prosecutions and an Electoral Commission. The possibility of a Judicial Services Commission was canvassed and deserves further study ;
- (f) It should provide machinery for its amendment ; at least in respect of certain provisions this must be adequate to ensure full consideration and to prevent over-hasty action in matters of fundamental importance ;
- (g) Adequate provision, with appropriate judicial safeguards, should be made for emergency powers not necessarily limited to an actual state of war.

4. It should not be assumed that the steps suggested above are relevant only at or after the achievement of complete self-government or independence ; the implementation of some should be considered before that time, so that people may become accustomed to new institutions before being asked to decide finally on them. In particular, the idea of a "constitutional ombudsman" to assist in the development of Governmental, Parliamentary and other practices not inconsistent with the anticipated Constitution, by reporting and advising thereon but without executive authority, should be explored further.

5. The form of government appropriate for Papua and New Guinea is a matter for decision by its people. The Conference affirms its confidence that the institutions as developed will

express the values of a democratic society imbued with respect for the Rule of Law, and draws attention to the papers and discussion at this Conference as indicating some of the problems and further detail as to available methods for dealing with them. In this last statement the Conference is unanimous.

The Rule of Law and the Administration of Justice in an Emerging Society

1. Policy should be consistently directed towards the evolution of a single system of courts, but as an essential interim measure provision should be made for establishing formally constituted local area tribunals to exercise precisely defined minor criminal and civil jurisdictions. Those tribunals, where necessary, could be initially composed of lay magistrates not possessing any legal training, but it should be a matter of deliberate policy to strengthen them with trained indigenous magistrates as such officers become available and acceptable to the people. The proceedings of such courts should be subject to appeal and supervision by the higher courts. The functionings of these local area courts should be open to the advice and guidance of specially appointed legal officers.
2. Courts and administrative tribunals at all levels should be required to observe the basic principles of a fair hearing such as the presumption of innocence, the rights of a party to be heard, the publication of reasons and the rule that no man should be judge in his own cause.
3. Efforts should be made in all courts to simplify procedure and to eradicate over-technical rules of evidence. The educative role of the courts should not be forgotten and efforts should be made to conduct proceedings and to report the decisions of the courts in terms intelligible to the indigenous community.
4. There should be a continued move towards the training and appointment of indigenous magistrates.
5. There should be a continued move towards the separation of judicial from administrative functions.
6. For a transitional period at least, there should be a limited right of appeal to a tribunal outside the national system of courts.

7. A Full Court of the Supreme Court should be established in Papua and New Guinea as the ultimate appellate tribunal within the national system.

8. The decisions of administrative tribunals and administrative actions, insofar as they affect the rights of citizens, should be subject to review and for this purpose simple and expeditious procedures should be provided.

9. Judges and magistrates should be free from executive direction and insulated from political pressures.

10. Native custom should, for the present, continue to be recognized and enforced by the Courts at all levels at least in disputes between members of a community in which that custom is universally recognized, provided that the custom is not repugnant to statute law, the general principles of humanity or the rules of natural justice.

The Role of the Lawyer in a Developing Country and the Nature and Degree of Professional Skill and Training Required

The Role of the Lawyer

1. Clauses II and IV of the Conclusions of Committee III of the Declaration of Bangkok are endorsed :

Clause II. — An indispensable aspect of the maintenance of the Rule of Law is the availability of lawyers to defend the civil, personal and public rights of all individuals and the readiness to act for these purposes resolutely and courageously. Such a readiness involves the obligation to take an active part in implementing and making effective schemes of legal aid for the poor and destitute.

Clause IV. — The lawyer should assist in the work of administration ; he should insist, nonetheless, that it be executed with respect for the rights of the individual and otherwise according to law, and strive to assure judicial review of all administrative acts which affect human rights.

The Legal Profession in Papua and New Guinea

2. The profession, private and official, is inadequate in size to cope with the present and expected demands for legal services.

Consideration should be given to ways and means of relieving the present situation.

3. The longer term solution to the problem of shortage lies in the training of a sufficient number of local lawyers for admission to practice.

4. The valuable role of the Public Solicitor in providing legal aid is recognized, but a scheme should be introduced for the participation of private practitioners in legal aid services.

Assistance to Members of the House of Assembly

5. In view of the number and kinds of problems confronting Members of the House of Assembly means should be explored of providing legal services to them, at the expense of the Government, immediately prior to and during the sittings of the House.

Professional Standards

6. In view of the diversity of legal problems in Papua and New Guinea the highest practicable standards of admission should be insisted upon.

7. In view of the present shortage of practitioners it will not be possible to separate the roles of barrister and solicitor for some time. Consequently the present rules providing for admission to practice as both should be retained.

Legal Education and Training

8. The following recommendations of the Law Council of Australia, adopted by the Commission on Higher Education in Papua and New Guinea, should be implemented as a matter of urgency :

- (a) Legal education should be provided within Papua and New Guinea at a Law Faculty of the University ;
- (b) This Faculty should be given high priority, a Dean of Law being among the first professorial appointments.

9. To attract suitable teachers of law to Papua and New Guinea, and students to law studies, adequate incentives (including appropriate salaries for law teachers) should be provided.

10. Professional training for admission should comprise :

- (a) a formal law course to include social science subjects such as politics and anthropology ; and

(b) practical training.

11. The total period of training, both formal and practical, could be spent partly in Australia and partly in this country, and special consideration should be given to the apportionment of time and content of training as between the two countries.

12. The special nature of legal education suitable for this country must be recognized and appropriate research into such matters as local law and custom is required. For the time being at least, extensive and imaginative co-operation between the proposed Law Faculty in this country and Australian Universities would seem necessary.

13. If practicable, students of law should serve articles before being admitted to practice; if not, practical training should be provided on an institutional basis.

14. As soon as practicable, full professional qualifications should be required for magistrates.

15. A special course in civic education, to include information on the Rule of Law, should be included in the curriculum of Secondary Schools in Papua and New Guinea.

Schedule II

RECOMMENDATIONS

This Conference recommends to the Australian Section of the International Commission of Jurists that it should:

- (a) continue to sponsor professional interest in the problems of Papua and New Guinea; and
- (b) indicate to the Select Committee of the House of Assembly on Constitutional and Political Development its willingness to assist in the formation of a committee representative of the Australian and local profession to advise the Select Committee on constitutional matters.

West Irian and Indonesia

It is perhaps appropriate to observe in connection with the Port Moresby Proposals that the interest and responsibility shown by Australia in the future of Papua and Australian New Guinea

represents a striking contrast to the attitude shown by Indonesia in the future of West Irian (West Papua) whose administration was, after the clash between the Dutch and the Indonesians over that territory, handed over to Indonesia under an Agreement entered into on August 15, 1962, between the Netherlands and the Republic of Indonesia. This Agreement, which was submitted by way of Resolution to and adopted by the General Assembly of the United Nations, commits Indonesia to steer West Irian to ultimate self-determination by 1969. Far from taking active steps towards achieving this goal, instances are numerous of violations of human rights in West Irian by Indonesia and even of attempts to suppress all nationalist movements in that country. The International Commission of Jurists hopes that the Government of Indonesia will soon follow the example set by Australia and take active measures for the betterment of the social, educational and cultural conditions of the people of West Irian with the ultimate objective of enabling them to determine their own future.

POLAND

Freedom of Thought, Conscience and Religion — Freedom of Expression

On October 20, 1956, Mr. Wladyslaw Gomulka, returning to the Polish political scene as leader of the oppositional faction in the Party, made a speech before the VIII Plenum of the Central Committee of the Polish United Workers' (Communist) Party which was held under dramatic circumstances and was unexpectedly visited by a top-level delegation of the Communist Party of the Soviet Union. In his speech he said, *inter alia* :

"It is impossible to escape from the truth. If one is hiding it, the truth emerges in the form of a dangerous spectre which haunts, worries, revolt and turns insane. The Party leadership became afraid of it."

The same Plenum elected Gomulka as First Secretary of the Party, and with him a new policy was inaugurated to overcome the blunders of the Stalinist past. The aims of the new policy were outlined by Mr. Gomulka in the following terms :

"It is necessary to exchange all the bad parts of our model of socialism, replacing them by better parts, to perfect this model by using the best existing examples and by introducing into it our own improvements."

The new policy brought about a revival of Polish public life and a vigorous exchange of ideas in an atmosphere of greater freedom. In the course of the years since then, unfortunately, freedom of expression has been gradually restricted, and indeed freedom of thought, conscience and religion has suffered serious setbacks from the actions of the Polish Government. The International Commission of Jurists called attention to signs of this unfavourable development in 1964 (*Bulletin* No. 21). In this article a short over-all survey of the restrictive measures which have followed since then will be given.

On March 19, 1964, a petition was handed to the Prime Minister of Poland by one of the most outstanding intellectuals of the country, Antoni Slonimski, a poet and former chairman of the Polish Writers' Association. The petition read :

"Restrictions on the allocation of paper for the publication of books and periodicals, and the tightening of press censorship, create a situation that threatens the development of our national culture. In recognition of the existence of public opinion, the right to criticize, the right of free discussion and honest information as necessary elements of progress, the undersigned, motivated by civic concern, demand that Polish cultural policy be altered so as to conform to the rights guaranteed by the Constitution of the Polish State and to be conducive to national welfare."

There followed 34 signatures of philosophers, writers and university professors, an impressive list of leading Polish intellectuals.

The *London Times* reported on April 17 that reprisals were taken against the signatories: some of them were banned from the news media, publication of their works was cancelled, University professors were suspended. The living of the signatories was thereby threatened. Some of these measures were later reportedly withdrawn, due to a vigorous campaign of protest launched in the world press. However, in addition to these administrative measures, other steps were taken against some of the signatories.

Wankowicz Case

On October 7, 1964, the Procurator-General of Poland announced an investigation against Mr. Melchior Wankowicz, one of the signatories, for "transmitting abroad material that was slanderous to Poland". He was, in fact, charged with transmitting the text of the petition abroad, where it was circulated widely in Western newspapers. Mr. Wankowicz was charged under a post-war decree of 1946, a Section of which provides for imprisonment for at least three years for anybody "who disseminates, draws up... or conveys written material which contain false information that could cause material harm to the interests of the Polish State". The judgment delivered on November 9, 1964, imposed a sentence of three years, which was cut to half on the application of the partial amnesty of 1964. Pending revision of his case the 74-year old accused was released from custody, "taking into consideration the advanced age of the accused, the state of his health and other factors..."

Mr. Wankowicz refused to appeal against this sentence. On February 1, 1965, news agencies reported that he was received by Mr. Gomulka. Mr. Wankowicz remained free; what happened to his 18-month sentence is not known. In any event

he was in custody for more than one month and suffered all the hardships of a trial and an adverse propaganda campaign in the Polish press.

On July 16, 1965, Radio Warsaw reported on proceedings started against other signatories of the "Letter of the 34". The Association of Polish Writers held a meeting, which was attended by the Minister of Culture, Lucjan Motyka, and the Procurator-General, Kazimierz Kosztirko. The meeting informed "the literary world as well as representatives of the press of unlawful activities of three members of the Polish Writers' Association, Messrs. Cat-Mackiewicz, Grzedzinski and Miller."

Miller Case

The case of J. N. Miller, who is over 75, was taken up by the Voivodship Court of the City of Warsaw. He was accused of having had published in 1961-64 a number of articles in a London émigré weekly. The charges were based on the same section of the same Decree as in the Wankowicz case. The trial was held *in camera*. Mr. Miller made use of a recess in the proceeding to read extracts from his defence to reporters waiting outside the court room. "There is no freedom of speech or thought or of the press in Poland. As one could not influence public opinion in Poland, I had to seek a publisher abroad", he said (Reuters, September 17, 1965). *Trybuna Ludu*, the daily newspaper of the Polish Communist Party reported his conviction as follows: "Jan Nepomucen Miller was accused of writing articles containing false information on the situation in Poland and slandering the country. These articles were published abroad in London by the émigré weekly *Wiadomości* under the pen name of Stanislaw Niemira. The Court found J.N. Miller guilty and sentenced him to three years imprisonment. By virtue of the amnesty the sentence was reduced to 18 months and suspended for two years. The Court took into consideration as a mitigating factor the defendant's advanced age." Mr. Miller was not in custody either before or during the trial. With the sentence suspended, his conviction seems to be rather symbolic, a warning to recall the strong hand of the Government.

In addition to Messrs Wankowicz and Miller, there are at least two more elderly gentlemen, personalities of the pre-war Polish opposition, who are also under investigation. Mr. Stanislaw Cat-Mackiewicz (Prime Minister of the London Government-

in-exile) is alleged to have written, under the pen name of Gaston de Cerizay, articles for the Paris émigré monthly *Kultura* and the New York *New Leader*. January Grzedzinski was also accused at the Polish Writers' Association meeting referred to above "of illegal literary activity". Whether their cases will be brought to court remains to be seen.

The wide interpretation of a post-war emergency Decree to cover charges of publishing abroad, an activity which for years was tolerated by the Government, seems to be a dangerous encroachment on the freedom to tell the truth, which, to quote Mr. Gomulka, once suppressed "haunts, worries, revolts and turns insane". Such circumstances may have prompted the Warsaw Chapter of the Polish Association of Writers to propose in March 1965 and to accept in May of the same year a motion asking for the abolition of the 1946 Decree quoted above — called also the Little Penal Code — for the abolition of capital punishment in general with the exception of cases of genocide, and for the abolition of summary jurisdiction. A demand for the abolition of preventive censorship was advanced in March but dropped between the two sessions.

In two further instances, the Polish Government's cultural policy has made use of criminal prosecutions against non-conformist intellectuals. On July 19, 1965, two assistants of Warsaw University, Messrs. Modzelewski and Kuron, were sentenced respectively to three years and six months' and to three years' imprisonment for having written a paper critical of the regime. On January 12, 1966, three other intellectuals who maintained contacts with the two convicted assistants, the economist Kazimierz Badowski, the historian Ludwik Hass and Romuald Smiech, a student of sociology, were each sentenced to three years' imprisonment for having distributed propaganda material detrimental to the interests of the Polish state.

Freedom of Religion

The Prime Minister of Poland also received another letter, this time from Cardinal Wyszyński, Primate of Poland, on April 29, 1965. The letter deplores systematic violation of freedom of religion in the country. "Informations Catholiques Internationales" in Paris published the full text of the letter on September 15, 1965 (pp. 34-37). Some excerpts are reproduced below :

"The Polish bishops are following with great anxiety the ever-increasing and ever more virulent developments which are proof of a growing participation on the part of governmental and administrative bodies in the bitter campaign, carried on with total impunity, which has been conducted for some time by atheistic groups against the Catholic Church in Poland.

"The programme of this campaign, which was worked out to the last detail and approved on August 12, 1963, in Warsaw, during a general meeting of the officials of the Fourth Department of the Ministry of the Interior, the object of which was to find means of annihilating all religious activity at the parochial level, must be repugnant to every decent person and must evoke from all representatives of civilised peoples a harsh condemnation of the anti-religious activists and their powerful patrons.

"In this grave situation, in face of the mounting wave of injustice and persecution arising from dangerous breaches of the elementary principles of the legal order, which compromise the peaceful ministry of the Church, the Polish bishops have appealed in vain to the public authorities: not only have they been refused any satisfaction but they meet, in their interventions relating to specific and concrete cases, with a pre-concerted refusal even to examine the case.

"The present policy in the campaign against the Catholic Church in Poland, against her clergy and the faithful who practise their religion openly, is expressed in a series of systematically organised actions, the object of which is to stifle all religious activity by minutely worked-out administrative methods which are designed to penetrate every aspect of the life of the Church, both at the social level and in the private life of her members, in flagrant disregard of the laws at present in force and of the principles of the Universal Declaration of Human Rights adopted by the United Nations and signed by the Government of the Polish People's Republic."

The International Commission of Jurists is deeply concerned by the policy manifesting itself in Poland and outlined above. It hopes that the basic freedoms of thought, conscience and religion as well as their manifestation in the freedom of expression will soon enjoy the same attention as was the case in Poland for some years after October 1956.

NEW STATUS FOR TURKEY'S PUBLIC PROSECUTORS

Since Turkey has a centralized government, with provincial officials appointed by the various ministries in Ankara, Turkish public prosecutors have always been merely another category of government employees, somewhat similar in status to judges by virtue of their legal training, but lacking recognition as members of a distinct profession and without job security. In the case of both public prosecutors and judges, such matters as appointment, transfer, promotion, retirement and dismissal fell within the competence of the Minister of Justice, a political figure, who not infrequently exercised the discretionary authority vested in him for the political benefit of the administration party.

The proclivity of the Minister of Justice to indulge in politically motivated use of his authority in this area, thus visibly violating the traditional independence of the Turkish Judiciary, was among the reasons which led the Turkish Armed Forces, on May 27, 1960, to carry out a *coup d'état* that toppled the ten year old Democrat Party administration of Premier Adnan Menderes and brought to an inglorious end the First Turkish Republic, which had been founded by Atatürk in 1923. It was recognized in Turkey that the conduct of the Menderes regime had been largely made possible by the inadequacies of the 1924 Constitution, which failed to provide any mechanism which would, or could, prevent an administration supported by a large legislative majority from violating with impunity both the letter and spirit of the Constitution. That awareness is reflected in the provisions of the Constitution of the Second Republic, approved by national referendum on July 9, 1961.

One of the innovations incorporated into the new Constitution was provision for the creation of a Supreme Council of Judges (*Yüksek Hakimler Kurulu*), an independent organ composed of judges elected by Turkey's highest courts and senior judges, with complete authority as regards the appointment, promotion, transfer, retirement and other personnel matters of judges. The Constitution outlines the organization, membership and functions of this Council only in broad terms, directing that the details should be spelled out in a special law to be enacted

by the Grand National Assembly. This the Assembly did on April 22, 1962, with the enactment of Law No. 45 (Law on the Supreme Council of Judges), which was promulgated in the *Resmi Gazete* (Official Gazette) of April 25, 1962.

The Law, which is a long one of 105 articles plus 8 temporary articles, not only provides the detailed rules for the organisation and functioning of the Supreme Council of Judges but also includes provisions which hereafter are to regulate the status of Turkey's public prosecutors. By the terms of the Law, public prosecutors are henceforth to constitute a distinct and separate profession, roughly equal in status, prestige and independence to that of judges. In recognition of this new status, the Law directs the establishment of a Supreme Council of Public Prosecutors (*Yüksek Savcılar Kurulu*), which will control the personnel affairs of public prosecutors in much the same way that the Supreme Council of Judges will control those of judges.

Public Prosecutor Corps

Law No. 45 provides for a hierarchical echelon of classes, grades and titles for members of the new profession, involving four classes, ten grades and seven positional titles. Henceforth, an individual will be accepted initially into the profession as: Class-Assistant, Grade-10, Title-Assistant Public Prosecutor. As he proves his ability, he can look forward to successive promotions, each involving appropriate advancement as regards class, grade, job, title and salary, as per the accompanying table:

| Class | Grade | Title | Monthly Salary (in liras)* |
|-----------|-------|-----------------------------------|-------------------------------|
| Assistant | 10 | Assistant Public Prosecutor | 500 |
| | 9 | Assistant Public Prosecutor | 600 |
| 3rd class | 8 | Assistant Public Prosecutor | 700 |
| | | Public Prosecutor | |
| | | Assistant Chief Prosecutor | |
| | 7 | Assistant Public Prosecutor | 800 |
| | | Chief Assistant Public Prosecutor | |
| | | Public Prosecutor | |
| | | Assistant Chief Prosecutor | |

* The rate of exchange in Turkey varies considerably from the free market rate. The official selling rate is approximately 0.10 \$U.S. or 8½d. sterling to one lira in Turkey.

| Class | Grade | Title | Monthly Salary (in liras)* |
|-----------|-------|-----------------------------------|-------------------------------|
| 2nd class | 6 | Assistant Public Prosecutor | 900 |
| | | Chief Assistant Public Prosecutor | |
| | | Public Prosecutor | |
| | 5 | Assistant Chief Prosecutor | 1100 |
| | | Assistant Public Prosecutor | |
| | | Chief Assistant Public Prosecutor | |
| 1st class | 4 | Public Prosecutor | 1250 |
| | | Assistant Chief Prosecutor | |
| | 3 | Court of Cassation Prosecutor | 1500 |
| | | Deputy Chief Prosecutor | |
| | 1 | Chief Prosecutor of the Republic | 2000 |

Under the procedures in effect prior to the enactment of Law No. 45, appointment to a position as public prosecutor was a matter of luck and circumstances. When judge trainees completed their training, they drew lots for such positions of assistant public prosecutor and assistant judge as might be vacant. The individual who drew an assistant public prosecutorship thereupon entered upon a career as a public prosecutor, without regard for his ability and preference. But whether he thereafter remained a public prosecutor was problematical, for the Minister of Justice had full authority to transfer someone from a public prosecutorship to a judgeship, or vice versa. As a result, a public prosecutor in an important city or province might suddenly find himself a judge in one of Turkey's remote Eastern Anatolian provinces, or the judge of today might find himself a public prosecutor tomorrow. Such transfers were, in fact, by no means rare. Also, the public prosecutor, or the judge, might be forced to retire or might find his job eliminated by the Ministry or might, to use the Turkish expression, be placed "at the disposition of the Ministry", meaning that he was relieved of his current assignment without being given a new one.

Law No. 45 curbs considerably this discretionary power of the Minister and the Ministry of Justice, and provides public prosecutors with a measure of security as regards both functions and personal status. The Ministry of Justice remains responsible for accepting an individual into candidacy status (i.e., for training), training him during that period, applying disciplinary

penalties when required, ending his candidacy, and administering other personnel matters. However, once the individual has graduated from his training course, the appropriate sections of the Supreme Council of Judges and the Supreme Council of Public Prosecutors shall decide, on the basis of the abilities demonstrated during the candidacy period and the needs of the two professions, whether the individual shall become a judge or a public prosecutor.

The Minister of Justice continues also to have authority to decide the specific posts to which public prosecutors, except for those in Class 1, shall be assigned and to transfer them subsequently to other posts. His discretion in these matters, however, has been restrained, since he may not take action until he has obtained the views of an advisory board composed of the Undersecretary of the Ministry (as chairman), the President of the Ministerial Inspection Board, and the Ministry's Directors General (e.g., Criminal Affairs, Civil Affairs, Personnel Affairs, etc.) and, in the case of Assistant Chief Prosecutors, the recommendations of the Chief Prosecutor of the Republic. Moreover, the relevant decrees must be signed jointly by the Premier and the Minister and approved by the President of the Republic.

Transfer of an individual from the judicial to the public prosecutor corps will henceforth be contingent upon the request of the individual concerned and the approval of the Ministry of Justice, with the concurrence of the Supreme Council of Judges; while transfer in the opposite direction — from public prosecutor to judge — will be contingent upon the request of the individual and the approval of the Supreme Council of Judges, with the concurrence of the Ministry of Justice.

Law No. 45 authorizes the Minister of Justice to appoint at his discretion a public prosecutor to a post in the ministerial services, but the consent of the individual shall be necessary and the time spent in such service shall be considered, for professional purposes (i.e., promotion, retirement, etc.), to have been spent in the public prosecutor profession.

The Law also provides additional job security by stipulating that a public prosecutor may not be deprived of salary and allowances by reason of reduction or abolition of cadres, may not be placed at the disposition of the Ministry, and may not be retired involuntarily except for age or physical infirmity. A public prosecutor left without an assignment because of a reduction or abolition of cadres must be offered any public prosecutor position

of equivalent grade and salary which is then vacant or thereafter becomes vacant. He may reject the first two offers if he wishes to do so, but he is considered to have resigned if he rejects the third offer made to him.

Class I public prosecutors, who comprise only a small number of persons, are governed by special rules made necessary by the fact that they are all assigned to the Court of Cassation, Turkey's highest court of appeals for civil, criminal, commercial, bankruptcy and enforcement cases (administrative cases are appealed to the Council of State, military cases to the Military Court of Cassation, and constitutional cases to the Constitutional Court). The Chief Prosecutor of the Republic is the government's principal legal officer on the Court and, as such, is roughly comparable to the U.S. Solicitor General. His office is divided into as many sections as there are criminal chambers of the Court of Cassation, namely seven, each of which is headed by a Deputy Chief Prosecutor and staffed by four Court of Cassation Prosecutors and as many Assistant Chief Prosecutors as may be necessary.

The equal standing of public prosecutors and judges provided for by Law No. 45 is perhaps demonstrated most clearly by the grades and salaries accorded Class I public prosecutors. The Chief Prosecutor of the Republic rates Grade 1 and a monthly salary of 2,000 liras, which are on the same terms as those of the President of the Court of Cassation. Deputy Chief Prosecutors are equated with the Vice-President of the Court of Cassation at Grade 2 and a monthly salary of 1,750 liras, while Court of Cassation Prosecutors and the member judges of the Court of Cassation are assigned Grade 3 and monthly salaries of 1,500 liras.

The Chief Prosecutor of the Republic attains his position by election from among Deputy Chief Prosecutors by a secret absolute majority vote of the full membership of the Plenum of the Court of Cassation; the Under Secretary of the Ministry of Justice, provided he was appointed to that post from among the ranks of Class I judges or public prosecutors, is considered a Deputy Chief Prosecutor as regards eligibility for election as Chief Prosecutor.

When a Deputy Chief Prosecutorship becomes vacant, the remaining Deputy Chief Prosecutors meet under the chairmanship of the Chief Prosecutor and, by an absolute majority vote,

nominate three candidates from among Court of Cassation Prosecutors. The Minister of Justice selects one of these candidates, who is then appointed by a decree signed jointly by the Minister and Premier and approved by the President of the Republic. However, the President of the Ministry's Inspection Board and the Ministry's Directors General, provided they have Class I status and Grade 3 rank, may be appointed Deputy Chief Prosecutors by joint decree approved by the President of the Republic without regard for such procedure.

Court of Cassation Prosecutors are selected by the same procedure as required for Deputy Chief Prosecutors, except that candidates are nominated from among qualified public prosecutors by secret ballot and absolute majority vote by the Supreme Council of Public Prosecutors.

Supreme Council of Public Prosecutors

The Supreme Council of Public Prosecutors (SCPP), charged by Law No. 45 with responsibility for supervising and guaranteeing the independence of the public prosecutor corps, is composed of the Chief Prosecutor of the Republic (as chairman), two Deputy Chief Prosecutors and six Court of Cassation Prosecutors (chosen for 2-year terms by a drawing of names), the President of the Ministerial Inspection Board, and the Directors General of Criminal Affairs, Personnel Affairs, and Prisons and Houses of Detention. The Council is divided into two sections, each headed by a Deputy Chief Prosecutor and including as members two Court of Cassation Prosecutors and two Ministry representatives.

The First Section, aside from its Prosecutor members, includes the President of the Ministerial Inspection Board and the Director General of Personnel Affairs. Its duties are to admit candidates into the public prosecutor profession, to approve all promotions and assignment to Class 1 standing, to approve the assignment of cadres, and to decide in appropriate cases whether or not an individual shall be permitted to remain in the profession.

The Second Section, aside from its Prosecutor members, includes the Director General of Criminal Affairs and of Prisons and Houses of Detention. Its duties are to assign disciplinary penalties against members of the profession and to order their suspension from their duties when necessary.

Objections raised to decisions and rulings of these Sections must be made to, and resolved by, the General Assembly of the SCPP, which also has responsibility for nominating candidates for appointment as Court of Cassation Prosecutors and for submitting, when so requested by the Ministry of Justice, its views on subjects involving the public prosecutor profession. The SCPP's General Assembly and its Sections must meet with all members present and take their decisions by an absolute majority vote.

Law No. 45 also directs the creation of a Supreme Court of Honour of Public Prosecutors (*Yüksek Savcılar Haysiyet Divanı*), composed of the Chief Prosecutor of the Republic (as chairman), the Deputy Chief Prosecutors, and one Court of Cassation Prosecutor from each Section of the SCPP, selected by a drawing of names. Its function is to consider the voluntary (i.e. non-duty related) acts and activities of Deputy Chief Prosecutors and Court of Cassation Prosecutors which touch on their dignity and honour as public prosecutors or on their personal honour or which are not compatible with the requirements of their position. The Court of Honour is directed by the Law to apply to these individuals the same provisions which the Law on Judges provides shall apply to similar acts of the Vice-President and members of the Court of Cassation. Acts of the Chief Prosecutor of the Republic which require disciplinary action or investigation fall within the competence of the Supreme Council of Judges.

* * *

Some of the provisions of Law No. 45 seem unnecessarily complicated, a conspicuous feature of many Turkish laws. The important question, however, is whether the law will prove effective. As the above discussion makes clear, Turkey's public prosecutor corps has not been completely divorced from the influence of the Ministry of Justice, although that influence has certainly been reduced considerably. Whether it has been reduced sufficiently to preclude future political interference and manipulation such as occurred during the Menderes regime remains to be seen. But whatever the Law's defects may prove to be, the Law clearly provides a greater measure of independence for public prosecutors than formerly existed and enhances their status and prestige by recognizing them as constituting a separate and distinct profession. By any criteria, those are definite steps forward.

ICJ NEWS

SECRETARIAT

WORLD CAMPAIGN

Thanks to the keenness of our national sections the proposal made by the Secretary-General of the ICJ for the launching of a World Human Rights Campaign has been very widely publicised. Leading newspapers and the radio took up the proposal in many countries and the response has already been extremely favourable and encouraging. The UNO and the Council of Europe have expressed warm encouragement to the Secretariat, and a number of non-governmental organisations active in the field of Human Rights have shown a lively interest in the idea. Discussions have been started with a view to getting down to details and working out the best way of organising the campaign. A preparatory working meeting will most probably be held during May.

INQUIRY IN BURUNDI

An abortive coup d'état against the King on October 18/19, 1965, was followed in Burundi by grave events threatening the principles of the Rule of Law. Requests for clarification and urgent approaches to the highest authorities in the country having failed to yield satisfactory results, while the situation, according to information reaching Geneva, was apparently deteriorating, the ICJ decided to send an observer to Burundi. For this mission it chose Mr. Philippe Graven, of Swiss nationality, a specialist in penal law and an expert on African affairs. For more than ten years, Mr. Graven had been attached to the Ethiopian Ministry of Justice as counsellor on matters relating to codification of laws. His mission was to assess the situation in Burundi, particularly as regards allegations concerning summary and over-hasty administration of justice; to follow the course of the political trials which had been announced; and to examine the possibility of providing technical assistance to Burundi in the legal fields, if appropriate. Mr. Graven was in Burundi from December 13 to 23, 1965; the negative results of his mission were made public in a Press release on January 8, 1966.

MISSIONS

The Secretary-General, Mr. Seán Mac Bride, undertook a series of visits to African countries from January 18 to February 22, 1966, visiting successively Tanzania, Uganda, Kenya, Malawi, Zambia, Ethiopia, Nigeria, Ghana and Senegal; in the course of his journey he had discussions with the leading personalities of Government and Judiciary in these countries.

APPOINTMENT

Mr. Justice Luis Negron-Fernandez, Chief Justice of the Supreme Court of Puerto-Rico and former Attorney-General, was recently elected a member of the International Commission of Jurists.

THAI CEREMONY

On the occasion of Human Rights Day, December 10, 1965, Thailand organised a ceremony at the office of the Commission; this consisted of the solemn presentation, in the name of the Thai Bar, of a replica of the Thai "Stone of Justice", offered to the Commission by Royal Decree of His Majesty the King in commemoration of the Bangkok Congress. The inscriptions on the "Stone of Justice", which date from 1292 and are among the earliest records in the Thai language, represent a sort of "Magna Carta" for the people of Thailand, laying down the rules of justice and the rights of the citizen. Mr. Luang Prakob Nitisar, an eminent member of the National Assembly and of the Thai Bar, was officially delegated to come to Geneva to present the "Stone of Justice" to the Commission. The ceremony took place in the presence of His Excellency Cheed Sreshthaputra, Ambassador of Thailand in Berne, representatives of the Diplomatic Corps, the Press, international organisations and a large attendance.

RHODESIA

The article on the threat to the legal profession in Rhodesia in *Bulletin* No. 24 provoked a lively reaction from lawyers practising in Rhodesia, and a number of letters were received stating the past and present readiness of advocates and attorneys there to act in any case, no matter how unpopular. In the words of one writer, "whenever approached by an African Nationalist, whether accused of a political or a non-political crime, my own firm has without hesitation undertaken his defence. On occasions this has been done without any payment at all... I know that this is the case with many other firms of lawyers in this country."

This reaction is in itself a sufficient response to the question posed in the article as to whether other lawyers would be courageous enough to accept the cases Mr. Baron was no longer able to undertake as a result of his detention. The International Commission of Jurists is greatly encouraged by the attitude thus manifested by members of the legal profession in the particularly delicate position in which they find themselves as a result of the present situation in Rhodesia.

INTERNATIONAL CO-OPERATION

U.N.O.

The Secretary-General attended the annual congress of the World Federation of United Nations Associations (WFUNA), held in Dar-es-Salaam (Tanzania) from January 18 to 25, 1966.

NEWS

With the Executive Secretary, he also attended the United Nations seminar on Human Rights in Developing Countries, held in Dakar (Senegal) from February 8 to 22, 1966.

GENEVA CONVENTIONS

The Secretary-General participated, on December 3 and 4, 1965, in the meeting organised in the Palais Provincial, Liège, by the Commission on International Medical Law and the Study Centre for International Medical Law on the application of the Geneva Conventions and their adaptation to the world of today.

LATIN AMERICA

The Institute of Hispanic Culture organised its "Ibero-American University Forum 1965" in Madrid from October 12 to 18; the attendance included students and professors from Spain and from about a dozen Latin American countries. The subject for discussion was "Racial Mingling and Racism in Latin America". Dr. H. Cuadra, a member of the legal staff who represented the ICJ at this Forum, spoke on the subject: "Racism and Human Rights".

TUNISIA

Maître Bahri Guiga, of the Tunis Bar, represented the ICJ at the fifteenth conference of the "Grotius Foundation for the Propagation of the Law of Nations", held in Tunis on December 30 and 31, 1965, under the high patronage of the Tunisian Minister of Justice. The work of this conference was devoted to drawing up a charter of the rights of peoples. The Secretary-General of the ICJ had also addressed a personal message to the participants, which Maître Bahri Guiga transmitted to them.

NATIONAL SECTIONS

AUSTRALIA

Following its General Meeting held in Sydney on August 27, 1965, and which was attended by the Secretary-General of the ICJ, the Australian Section published its two-yearly report on its activities, revealing a noteworthy development of the Section during the past two years. The number of members grew from 516 on January 31, 1963, to 670 on August 31, 1965. In order to enable all the members to participate actively in the work of the Section, bearing in mind the geography of the continent of Australia, local or regional sub-sections have been set up; there is now one in each of the states, in the Capital Territory and in the Territory of Papua and New Guinea. Within the sections, particularly the New South Wales Section, specialist sub-committees have

been established to study certain matters, such as administrative justice and the ratification of international conventions, and to propose appropriate solutions.

On the occasion of its General Meeting, the Australian Section also renewed the membership of its Council, which is composed of the following :

New South Wales — Professor Julius Stone; Senator Lionel Murphy, Q.C.; Messrs Edward St. John, Q.C.; P. B. Toose, C.B.E., Q.C.; J. J. Davoren, Q.C.; D. L. Mahoney, Q.C.; E. G. Whitlam, Q.C., M.P.; J. H. Wootten; Peter Grogan; and D. W. Allen.

Victoria — Professor Zelman Cowen; the Hon. Mr. Justice C. A. Sweeney; Messrs. M. J. Ashkanasy, Q.C.; J. F. Kearney, Q.C.; and W. G. Orr.

South Australia — The Hon. Mr. Justice D. S. Hogarth and the Hon. Mr. Justice C. H. Bright.

Western Australia — Messrs. H. V. Reilly and Francis Burt, Q.C.

Tasmania — The Hon. Mr. Justice G. H. Crawford; the Hon. Mr. W. E. Cox; Mr. J. B. Piggott, C.B.E.

Queensland — Mr. M. B. Hoare, C.M.G., Q.C.

Australian Capital Territory — Sir Kenneth Bailey, C.B.E.; Professor Geoffrey Sawer; and Mr. W. K. Nicholl.

Papua and New Guinea — The Hon. Mr. Justice J. P. Minogue.

The Section is under the patronage of the Rt. Hon. Sir Owen Dixon, O.M., G.C.M.G.; the President is Mr. Edward St. John, Q.C. Mr. Peter Grogan is the Secretary.

ITALY

The Italian Association of Jurists for the Defence of Liberty and Fundamental Human Rights — the National Section of the ICJ — was particularly active in 1965, as is shown by three important publications it has recently issued. The first is a report giving the results of the work of a study group set up by the Association to examine the question of acceptance by Italy of the optional clauses of the European Human Rights Convention respecting recognition of the individual's right of petition and of the compulsory jurisdiction of the European Court. The Association undertook a vigorous campaign aimed at inducing the Italian Government to ratify these clauses. The second booklet reproduces the text of a lecture given by Professor Lionello Levi Sandri, Vice-President of the Commission of the European Economic Community and member of the Managing Council of the Association on the subject of: "The Rule of Law in the European Community". The third publication contains the report and record of proceedings of a symposium organised by the Association in January 1965 on: "The Parliamentary Commissioner (Ombudsman), the Supervision of Public Administration and the Protection of the Citizen". This event attracted considerable attention and was widely reported on by the Press.

NEWS

MEXICO

The ICJ has learnt from the Co-ordinating Secretary of the Organising Committee for the new Mexican National Section, Mr. Sergio Dominguez Vargas, that the Committee met in Mexico City on the occasion of Human Rights Day, December 10, 1965, for the purpose, in particular, of drawing up the statutes of the Section, which will, in accordance with the usual procedure, be submitted to the Executive Committee of the ICJ at its next sitting.

The Organising Committee has already given proof of its dynamic enthusiasm by ensuring very wide publicity for the appeal made by the Secretary-General in favour of the World Campaign for Human Rights.

PERU

The Peruvian National Section held its General Assembly, in accordance with its statutes, in Lima on September 30, 1965, in order to approve the President's report on the activities of the Section and to elect the new Managing Council for the period 1965-1966. The new Council is composed as follows:

President: Dr. Alberto Rey de Castro;

Vice-Presidents: Dr. Estuardo Núñez Hague, and
Dr. Antonio Zárate Polo;

Secretary-General: Dr. Guillermo Velaochaga Miranda;

Treasurer: Dr. Ricardo Nugent;

Members: Dr. Emilio Rodríguez Larraín, Dr. Hernán Guerinoni Zanatta, Dr. Carlos Quiroz Rivas, Dr. Carlos Fernández Sessarego, Dr. Emilio Llosa Ricketts, Dr. Luis Bedoya Reyes, Dr. Alberto Wagner de Reyna, Dr. Luis Quine Arista and Dr. Jorge Mercado Jarrín.

UNITED KINGDOM

The British Section of the ICJ, "Justice", held its annual conference in London on November 27, 1965; the Secretary-General of the ICJ attended. The subject before the conference was: "Remand in Custody and Release on Bail". Some hundred speakers participated in the debate, which was all the more lively and fruitful because the conference was attended not only by members of "Justice" but also by persons representing the viewpoints of the different parties concerned with the subject — magistrates, police officers, probation officers, clerks of the peace, etc. Following this meeting, "Justice" decided to set up a special working group to pursue the possibilities which had come to light in the course of the discussions.

There can be nothing but gratification at the way in which this Section has expanded and at the ever more widely acknowledged importance attached to its work in official and private legal circles. Thus the "New Law Journal" — one of the most important British legal jour-

nals — now gives generous hospitality in its columns to "Justice" in order to make its activities and the results of its studies better known to its own readers.

INDIA

The Secretary-General attended the meeting of the Commission of Jurists of Mysore State in Bangalore on January 6 and 7, 1966. This Section had also made arrangements for him to give a lecture at the University.

CEYLON

The Secretary-General subsequently travelled to Colombo to participate in a Colloquium on the Rule of Law organised by the Ceylonese Section (January 6-16, 1966). As there has not been time for the report of this meeting to reach Geneva before going to press, a more detailed account of it will be given in the next *Bulletin*.

RECENT PUBLICATIONS OF THE INTERNATIONAL COMMISSION OF JURISTS

Journal of the International Commission of Jurists

Volume VI, No. 2 (Winter 1965): The Federal Constitutional Court of the Federal Republic of Germany; Comparative Law in Eastern Europe; The Rule of What Law? A Korean Conundrum; Southern Rhodesia and the Rule of Law; United Nations Draft International Convention on the Elimination of All Forms of Religious Intolerance; Digest of Judicial Decisions on Aspects of the Rule of Law; Books of Interest.

Bulletin of the International Commission of Jurists

Number 24 (December 1965): A World Campaign for Human Rights; Aspects of the Rule of Law: Eastern Europe, European Court of Human Rights, Ghana, Mexico, Southern Africa; I.C.J. News.

SPECIAL STUDIES

South African Incident: The Ganyile Case (June 1962): This Report records another unhappy episode in the history of the arbitrary methods employed by the Government of South Africa. In publishing this report the Commission seeks to remind its readers of the need for unceasing vigilance in the preservation and assertion of Human Rights.

Cuba and the Rule of Law (November 1962): Full documentation on Constitutional legislation and Criminal Law, as well as background information on important events in Cuban history, the land, the economy, and the people; Part Four includes testimonies by witnesses.

Spain and the Rule of Law (December 1962): Includes chapters on the ideological and historical foundations of the regime, the single-party system, the national syndicalist community, legislative power, powers of the Executive, the Judiciary and the Bar, defence of the regime, penal prosecution of political offences, together with eight appendices.

Report on the Events in Panama, January 9-12, 1964 (May 1964): A report by the Investigating Committee appointed by the International Commission of Jurists.

Regional Conference on Legal Education of the University of Singapore Faculty of Law: A report on the proceedings of the first regional conference, held in Singapore, August-September, 1962. (Published for the University of Singapore Faculty of Law).

Executive Action and the Rule of Law (June 1965): Report on the proceedings of the International Congress of Jurists, held in Rio de Janeiro, Brazil, in December 1962.

The Dynamic Aspects of the Rule of Law in the Modern Age (July 1965): Report on the proceedings of the South-East Asian and Pacific Conference of Jurists held in Bangkok, Thailand, in February 1965.

Racial Problems in the Public Service (October 1965): Report of the British Guiana Commission of Inquiry constituted by the International Commission of Jurists.

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