

THE NEW CZECHOSLOVAKIAN CONSTITUTIONAL CHARTER OF 1960

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After the example of North-Vietnam and Mongolia Czechoslovakia totally revised her Constitution in the middle of 1960. (New Constitutional Charter of 11th July, 1960.) It should be pointed out that the Constitutional Charter of 9th May, 1948, which was thereby annulled, came into being in a way which was not beyond question; that is, it must be called unconstitutional. The aim of the Constitutional Charter of 9th May, 1948 was to give legal form to the position of the historical development of the Constitution as it then stood. The Communists expressed this by the formula "The Peoples Democracy Having the Function of the Proletariats Dictatorship".

According to the Communist view Constitutional Laws and Rights are not an insurmountable barrier to the execution of Party and Government decisions which contradict Constitutional precepts. Since 1948 in Czechoslovakia proceedings were partly such that laws were passed which necessitated a change in the Constitution; but constitutional changes required first a majority vote. In many cases, however, this formality with regard to the Constitutional Charter was disregarded; laws were passed infringing on the Constitution, or decrees or other decisions were made by the Government which were unconstitutional. A number of examples are given. Seen from this angle there was no reason for the reform of the constitution, that is, there was no reason to try to adjust the formal constitution to the actual contradictory practice of the State executives.

On the other hand, it seems that the real reason for a revision of the Czechoslovakian Constitutional Charter can be inferred from the final decision reached by the 21st Party meeting of the K.P.S.U. which took place in the spring of 1959. There it was declared that within the Soviet orbit a state of development has been reached which was described as "Transition from Socialism to Communism". The distribution of goods follows the motto "Everyone according to his abilities and achievements", and the State — that means the mechanical apparatus of power in the Communist hands — dies out. The duties of the State are increasingly taken over by "Social Collectives"; however, the principle whereby all decisions are made under the immediate influence of the Communist Party or its dogmas remains untouched. At the demand of the U.S.S.R. the Satellite States take part in this development.

The new Czechoslovakian Constitutional Charter can be understood with the background of these ideological postulates. How it was prepared and passed is described, and how it differs from the Charter of 1948 explained. The Czech Communists formulated the Constitutional Charter of 1948 as "The Constitution of the Way towards Socialism", while the new Charter was called "Constitution of the Victory of Socialism". From this point of view the comparison of certain regulations in the new Constitution about the principles of the "Social Structure" as well as the "Rights and Duties of the Citizen" with the relative principles of the Soviet Russian Constitution of the 5th December, 1936 (so-called "Stalin Constitution") is of particular interest. It shows far-reaching actual and partly verbal conformity. The importance of this parallel becomes clearer when it is supplemented by a second comparison, namely the decrees on certain specific subjects of the Czechoslovakian Constitutions of 1948 and 1956. (Protection of property, fundamental rights of the citizen, nationality rights). This investigation is carried out by means of a series of specific examples — disappearance of the sentence "The soil belongs to he who farms it"; freedom of expression only "in conformance with the interests of the working people"; insertion in the Constitution of the expressions "Behavior to the detriment of society" "adversity to the Constitution"; legal expression of the character of the Party as "Vanguard of the Working Class"; demotion of the Slovak Territorial Autonomy, which had its peak in 1956; inequality of treatment of national minorities — no legal protection of national rights for the second largest group in the State (the Germans), though the Hungarians, Poles and Ukrainians were granted apparent rights of this kind.

From the Communist side it is stated among other things, that the necessity for reshaping constitutional law arises from the fact that the broad masses of the people consent in an increasing degree to the Communist reorganization of Society. With reference to the actual practice of the voting for the National Assembly on the 12th June, 1960, the attempt is made to test whether this is really the case. From eye-witness accounts, as well as from statements in the Czechoslovakian daily press, however, a picture is given which allows some doubt that the official result of the vote is really in accord with the frame of mind and feelings of the people.

Finally a question of the development of the Czech. Constitution is raised; has it reached the point which corresponds to the peak of the Stalinistic era in Russia in 1936, or does it anticipate a not too distant Soviet Russian Constitutional reform, which will be modelled after it?