

GOVERNMENT, LAW AND COURTS IN THE SOVIET UNION AND EASTERN EUROPE. General Editors: Vladimir Gsovski and Kazimierz Grzybowski. [1959, London: Stevens & Sons Ltd. £8 8s. In 2 Vols. xxxii + 2067 pp. inc. 64 pp. bibl. and 56 pp. index.]

The editors of this important and impressive work must be congratulated on the wise selection of contributors to whom the task of surveying and appraising the legal systems of the Soviet Union and those of the People's Democracies has been entrusted. The editors obviously intended to avoid the pitfall of having western lawyers and experts to comment on a vast field of materials which are beyond the reach and proper understanding of jurists trained and used to work exclusively in the western legal orbit. Many articles and comments of the latter type have appeared in the daily press and some even in legal periodicals written by individuals who hold themselves out as experts on Soviet law but who by the very tenor of their writing betray their inexperience, lack of understanding and knowledge of the subject-matter in question. The editors of this work were well aware of this danger and this is no doubt why they insisted on an exclusive authorship of experts native of the respective countries and well acquainted with the language, customs and inclinations of these nations. As a matter of fact, all the contributors are lawyers, graduates of their national universities who for many years practised law or held high office in their home countries, and who have therefore, unlike the western "visitor, and Pravda-reader experts," a deep knowledge of the subject and the necessary background to make authoritative comments and conclusions. Some, however, never practised under communist rule and have not a first-hand working experience of the presently prevailing system, as they had to leave their countries immediately upon the seizure of power

by the present regimes, or as they were abroad at that time, *e.g.* in the diplomatic service. There is, however, in the Free World a number of lawyers from the Soviet Union and the People's Democracies who had the advantage of practising law under the communist regime, some even for many years, and who left the Soviet Union during the last war from the territories then occupied by German armed forces, or who managed to escape from the satellite countries. The authors have obviously drawn upon the vast experience of these experts so that the distinction between the state of law and its actual operation has been duly noted.

Similarly the several authors must be congratulated on their work. The reader may not be aware of the many difficulties confronting anybody attempting an evaluation of the legal order existing in the Soviet Union and the People's Democracies. There is an acute shortage of information and legal material as a substantial part of important dealings and measures taken by the Soviet authorities are concealed from their own people and are covered by the veil of secrecy. Much data which in the Free World are regarded as suitable for general publication and freely circulated, are classified in the countries of the Soviet bloc as affecting state security and are never published. But even from the meagre information which by one way or another finds its way in a collection of publishable documents, only a very small portion of these documents are ever allowed to be shipped out of the country. Thus the task of surveying and evaluating the contemporary legal position is made extremely difficult as the accessible sources obviously cover only a relatively small part of the field. It is plain, therefore, that a thorough knowledge of the country, the system of government, the operation and the methods applied by the state machinery, and the nature and disposition of the ruling elite are strictly necessary in order to present a satisfactory survey of what is going on. It is under these difficult circumstances that the authors had to work.

The work itself is divided in seven parts. Part I deals with the origin and the salient features of the present regimes. It presents a concise but an exhaustive history of all the countries of the Soviet orbit from the time of the establishment of communist rule. The volume and accuracy of the information and the method of presentation are clearly superior to many treatises hereinbefore published. Part II presents a survey of the organs constituted for the administration of justice in these various countries. It deals with the courts, their organization and structure, with the institution of public prosecutors, and with the organization and the function of the legal profession. Part III attempts a survey of judicial procedure and technique, both civil and criminal. Part IV aims at an outline of the presently applicable criminal law. Part V deals with the presently applicable civil law. It points to the progressing changes introduced by the communist regimes in the civil law and its steadily growing divergence from the legal systems of the Free World. Part VI gives a survey of the labour legislation and reviews the rules applicable in the relations between the state, the employer and the subject, the employee. Part VII continues the examination with respect to subjects relevant to agriculture and discusses the legal position of landholding.

An examination of the legal order in the communist countries in Europe reveals that the political and legal structure of the Soviet Union is the all important model which all the other communist countries strive to emulate by adopting and applying the Soviet prototype to their own particular conditions. Thus a continuous process of assimilation and equalization is distinctly noticeable throughout the countries of the Soviet bloc. It is also a process of nivelization as practically all the People's Democracies at the time of the communist seizure of power enjoyed, and some as *e.g.* Czechoslovakia enjoy even now a substantially higher standard of living than that prevailing in the Soviet Union. This, of course, calls for periodic changes of the basic laws in all the satellite countries in accordance with the progressive comunization and nivelization of the entire way of life of these nations. With time, a still greater and greater similarity with, and dependence on the Soviet Union is to

be expected, culminating in practically uniform measures being enacted and enforced throughout the entire Soviet orbit with an allowance only for minor local geographic, economic and ethnic differences.

Although the language of the multitude of available statutes and governmental measures quoted and the analysis of their effects give a sufficiently clear idea of the underlying policies, the reader must none the less be reminded of the diametrically divergent meaning and interpretation of law in the Soviet system. It must first be noted that basically the Soviet Union and the People's Democracies always belong to the Civil Law system and that there does not exist anything resembling to the Common Law system prevailing in the Anglo-American sphere. But as far as statutes and subordinate legislation are concerned there is practically no difference between the Civil and the Common Law systems. In the Soviet Union and the People's Democracies, however, the statutes and subordinate legislation are not the only legal rules in operation but in addition to them a vast range of discretion is vested in the executive organs of the Communist Party which can make and as a matter of daily practice do make and enforce rules according to the political exigencies of the moment. As to the statutes and subordinate legislation themselves, the position is quite different from that prevailing in the Free World. Whereas in the countries of the Free World, statutes are equally and absolutely binding on everybody and all other subordinate legislation must keep within the word and spirit of the statutes, statutes and subordinate legislation in the communist countries are meant and understood largely as instructions or principles for the guidance of the respective state organs, so that substantial variations in application may readily be made in appropriate circumstances. All laws are interpreted so as to lead to the furtherance of the will of the "working class," which in the Soviet jargon means the furtherance of the objectives of the Communist Party, as the Party is the sole and exclusive speaker for the "working class."

Furthermore, the decisive role of the Communist Party and its top organ, the Central Committee in the Soviet Union and its counterparts in the satellites, in the whole life of the nations in the Soviet orbit has to be repeatedly stressed and emphasized. The all important of them all, the Central Committee of the All-Union Communist Party of Bolsheviks in the Soviet Union [CK VKP(b)], has traditionally been dominated by one man who makes himself and becomes the undisputed ruler of the entire Soviet orbit. He takes all the important decisions and no decision of any weight can be made without his express consent. The Soviet Union itself is ruled by the Communist Party through a descending structure of Party secretariats. The decisions of the Central Committee are communicated as orders by secret circulars through the office of the Secretary-General of the Party to the subordinate secretariats which are responsible for their execution in their respective areas. Decisions at the local level are made by the State, Province, and District Committees of the Party and are communicated in the same way to the subordinate units of the Party organization by the respective secretariats. State organs, like the government of the USSR, the governments of the several republics, and the Province and District Soviets as distinct from Party organs, are the executive organs of the Party, responsible for the minute execution of the Party's orders. Thus the Party in its pyramidal structure is the policy-making body whereas the state apparatus, being staffed and managed by party members is the executive branch of the Party's will. Under these circumstances, the judicial power is of a relatively minor importance as all important matters and disputes are settled directly by the Party and are immediately carried into effect by the Department of Interior through its branches of the uniformed and secret police which is the real source of the Party's power. Judges are again executive organs of the will of the Party for the settlement of disputes assigned to them by the Party, so that the Party or rather its Central Committee or its strong-man is at the same time the supreme law-maker, the supreme executive, and the supreme judge.

The entire political, law-making, executive and judicial structure of the People's Democracies follows broadly the Soviet model with the only difference or addition that the Central Committees of all the other communist countries are, with the present exception of Yugoslavia, dependent upon, and stand under orders from the Central Committee of the All-Union Communist Party of Bolsheviks in the Soviet Union.

There can be no doubt that this important work represents an immense contribution to the better understanding of the theory and practice of the communist regimes. It pools the vast knowledge and experience of many eminent experts and is unprecedented in its scope and its depth of analysis. The English reader has now the opportunity to draw upon these sources of information which hitherto were very difficult to obtain even with the knowledge of many languages as there seems to be no work in any other language in existence which would offer an equivalent treatment of the subject. It is also hoped that this work will contribute to the correction of a great many erroneous ideas still subsisting in the Free World with respect to the nature of the communist system. The work is a valuable source of information for anyone seeking to learn more about the countries of the Soviet orbit, and, what is important, it also gives the answer to the vital question so frequently asked nowadays whether there can be a true and durable peace between communism and the Free World.