

PROJECT OF A BILL ON A STATE OF EMERGENCY
IN THE GERMAN FEDERAL REPUBLIC

Project of a bill on a state of emergency (*Notstandsgesetz*) has for many years been one of the dominant political problems in the G.F.R. It is an essential political, constitutional and legal question. Whether or not the West German community retains its fundamental democratic achievements depends on its solution.

Regulations on a state of emergency as such would not be of particular importance in a class, bourgeois-democratic state as is the German Federal Republic. The matter consists in the extent of the extraordinary executive power and the possible limitations of the basic rights of the citizens. Regulations on the state of emergency can be and often have been misused. Germany's recent history, namely the fate of the Weimar Republic, has provided a classical example to the effect. Its fall and Hitler's taking over have been formally based on the well-known art. 48 of the 1919 constitution including regulations on a state of emergency.

Establishers of the West German constitution, aware of the apprehensions of the community, have omitted any paragraph of this type. It does not follow, however, that the G.F.R.'s constitution fails to provide the federal government with means necessary for establishing order and inner security as well as for anchoring the economical system of the country. The author quotes several regulations of this type. Constitutions of most of the West Germany countries include precepts sufficiently safeguarding the economic systems against multifarious unexpected political threats from inside. Nevertheless, from the very beginning, the German Federal Republic is an arena of struggle for introducing into the federal constitution regulations on a state of emergency. The author outlines the successive stages of these endeavours on the part of the government.

The entire problem is closely associated with remilitarization of the G.F.R. and has materialized after the elections for the *Bundestag* of the IIIrd term. Gerhard Schröder, the then minister for home affairs, proclaimed in 1960 a project of a bill supplementing the constitution by regulations on a state of emergency. This scheme has been resolutely criticized from more than one position because of its affording the government with far-reaching extraordinary prerogatives, its implications reaching even further than the renowned article 48 of the Weimar constitution. Finally, it has been rejected by the *Bundestag*.

Further attempts were undertaken by Adenauer's and later Erhard's government in 1961—1965. Hermann Höcherl, the then minister for home affairs, worked out a novel, more elaborate and detailed scheme. In spite of modifications which made allowance for some critical remarks made on the former plan, the essential aims and fundamentals of both projects have remained unchanged. They are intended to provide the government with exceptional power greatly limiting the basic rights and the democratic achievements of the citizens. The author discusses in detail the frames of both drafts. Besides, he demonstrates the efforts of the democratic and progressive centres in the G.F.R. undertaken in defence of the threatened democratic privileges as well as their unyielding struggle with the

CDU/CSU and FDP governmental coalition against extraordinary legislation. The irreconcilable attitude of West German trade unions influenced the Social-Democratic Party of Germany (SPD) and hindered the tendencies of its leaders to make a compromise with the governmental coalition in this case. It should be remembered that a bill on a state of emergency can only be established on grounds of a revision of the constitution requiring a $\frac{2}{3}$ majority at the *Bundestag*, only possible when including votes of social-democratic deputies. Finally, Höcherl's scheme has been rejected by the *Bundestag*. Legal committee of the parliament has worked on it for more than two years; in 1965 it issued its own modified version of this scheme — likewise renounced by the *Bundestag*. This is obviously a triumph of all progressive centres in the G.F.R. Nevertheless, they failed to prevent the voting of several exceptional by-laws which are acclaimed by the usual majority of the coalition deputies.

This fact and the ambiguous attitude of SPD, which does not reject *a limine* the introduction of resolutions on a state of emergency, urge to observe with utmost concentration the further events in this line in the German Federal Republic.

JERZY SUŁEK

ATTITUDE OF THE WEST GERMAN POLITICAL PARTIES TOWARDS THE ODER-NEISSE FRONTIER IN 1945—1949

Following political parties, namely *Christlich-Demokratische Union (CDU)*, *Sozialdemokratische Partei Deutschlands (SPD)*, *Freie Demokratische Partei (FDP)*, *Zentrumspartei* and *Deutsche Partei (DP)*, have played the chief role in the western occupations zones. Beside political propaganda spread by German immigrants from the eastern terrains and apart from activities of the German clergy, revisionistic endeavours of these parties have contributed in the post-war period to a major extent to the creation of grounds for the future revisionist programme of the official authorities pursued in respect to Poland. Present-day attitude of the West German political parties towards the frontier on the Oder and Lusatian Neisse can be traced back to the period coming immediately after the war; in fact, it is a continuance of the then political trend.

JÓZEF BURSZA

SOCIAL AND CULTURAL CATEGORIES OF THE POPULATION OF THE WESTERN TERRITORIES

Four categories of population live in the Western Territories: autochthons, settlers from central Poland, repatriates (mainly from USSR) and reemigrants from various countries. Having represented in the past various civilizational grades and diverse regional cultures, introduced nowadays into the new surroundings, the different population groups need to be considered both from the demo-