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FROM : Amembassy BANGKOK DATE: April 14, 1972

SUBJECT : NEC Relations with Judiciary and Press Relative to Former Parliamentarians' Legal Charges Against Coup Group.

REF : A. Bangkok 4204; B. Bangkok 3370; C. Bangkok A-134,4/12/72.

Pol 17-2 Thai

SUMMARY: Between March 9, when three ex-MP's were arrested after having filed suit charging the National Executive Council (NEC) coup group leadership with rebellion, and March 13, when the court announced that it would not accept the case because the court did not recognize the ex-MP's legal right to sue, the NEC leadership applied considerable political pressure to insure rejection of the case. When the Ministry of Economic Affairs' Daily Trade News published the story of the court case under an inflammatory and inaccurate headline it was closed down by the NEC. Both actions show the ruling group's extreme sensitivity and continued propensity to over-react to incidents or issues which threaten to involve open debate of the legitimacy of NEC rule. END SUMMARY

On March 9 three former members of parliament filed suit in the Criminal Court in Bangkok charging Field Marshal Thanom Kittikachorn and other members of the coup group with "rebellion in the Kingdom" for overthrowing the Constitution. The three former MP's are Uthai Pimchaichon (Democrat, Chon Buri), Boonkert Hiranyakham (Democrat, Chaiyaphum), and Anan Phakprapai (Independent, Phitsanulok). The three were arrested that afternoon and remain administratively detained by the Army (Bangkok 4204, para. 10). Under ordinary civil law they had a right, as does anyone, to present a case to a law court for consideration. They were arrested, however, under the summary powers assumed by the National Executive Council (NEC) after their takeover on November 17 last year.

GROUP 3 - Downgraded at 12-year intervals, not automatically declassified.

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POL:JSuggs (in draft) USIS:MF, Shroeder (in draft)

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The Judiciary

In addition to arresting the ex-MP's and calling a national alert (reported Ref. B), the NEC took other extraordinary measures in connection with this case. Representatives of the NEC questioned two clerks in the Department of Prosecution extensively and at least one of them was verbally accused of complicity for not immediately refusing to accept the case for consideration. He seems still to fear eventual reprisals for his actions.

Over the weekend, NEC Chairman Thanom Kittikachorn, NEC Deputy Chairman General Praphat Charusathien, and NEC member and former Minister of Justice, Luang Chamroon Netisart, summoned the magistrates who were to decide whether the court would accept the case and made clear how they wanted the case handled. This meeting may not have "forced" the court to reject the case but it certainly reinforced the judges in any earlier tendencies in this direction, and rather severely forestalled any alternative considerations. Additionally it may have been discussions at this time which persuaded the judges to note in their decision that not only were the three ex-MP's not directly injured by the coup group's action and hence ineligible to file suit, but also that there were numerous precedents establishing the responsibility of the public prosecutor to bring this sort of case to the courts.

This meeting between the NEC and the judges did not become public knowledge and has therefore not contributed to any public controversy, but it is widely known in key legal and judicial circles, and is considered by many as probably an unnecessary and certainly a serious interference with the autonomy of the judicial system in Thailand. While this may not be the precedent for any further diminution of judicial independence, it has nevertheless caused great indignation and aroused additional (but still latent) opposition to the NEC among the judiciary. The latter has a long record of resentment over Ministry of Justice controls, exercised principally through MOJ's control of the budget, and MOJ's influence over appointments and promotions of judges.

In this episode Lt. Colonel Narong Kittikachorn emerges as one of the judiciary's principal betes noires. (For his recent activities, see Bangkok 4885 and Bangkok A-134, April 12.) Not only is he reported as having been personally involved in the arrest of the three former MP's, but he also is believed by senior members of the judiciary to have recommended summary execution of the ex-MP's. This further rankles the judges, especially since they believe the NEC would not have a chance of getting a conviction should they attempt to try the three ex-MP's in a regular law court. While they reluctantly accept NEC summary actions as "legal", members of the judiciary are nonetheless offended at circumvention of due process.

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