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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 13-2 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 SUNNARY

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.

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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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The Press

When the ex-MP's were first arrested on March 9, the NEC embargoed the story pending the court's decision on accepting the case, but neglected to inform the Ministry of Economic Affairs' Daily Trade News of the ban. The Trade News printed the story late that same night. We do not know whether the Trade News had secondhand knowledge of the ban. They printed the story under a headline which translates, "Suit Filed to Execute Field Marshal Thanom for Rebellion in the Kingdom," which is not only inflammatory, but also factually misleading. The court, not the plaintiff, determines the sentence, and then only after conviction. While the ex-MP's suit charged rebellion, and the punishment for rebellion is execution, the suit itself made no mention whatever of death or any other proposed sentence.

The NEC ordered the Trade News to stop publication as of March 17 by invoking regulations which are used against privately-owned newspapers, rather than instituting Ministry of Economic Affairs in-house administrative action, and this may have been intended to make an example of the Trade News.

According to a CAS source, General Praphat is reported to have said that the decision to close the Trade News was made by subordinates in the Ministry of Interior and that he did not approve of the decision. Reportedly, Praphat also blocked a move to take similar action against the far more prestigious daily Thai Rath. However, Police General Prasert Ruchirawongse contradicted this information when he remarked in a short March 20 press conference that he had been present when the NEC Administrative Council made the decision to close the paper. Prasert was unequivocal in saying that the closure was permanent, yet on March 24 Air Chief Marshal Dawee Chullasapya announced in a press conference that the closure was "only temporary" pending reorganization and redirection of its editorial policy. It is due to reopen soon with a new editor. Allegedly this change of mind was influenced by a petition filed by Thammasat University students through the University Rector, Judge Sanya Thamasak.

We do not know just why the Trade News printed the story under such a headline, but the official explanation by the paper, which the NEC has accepted, is that the editor was simply careless and did not read the proof sheet carefully. The paper is staffed partially by officials of the Ministry of Economic Affairs and partially by professional newspapermen. This may have been a case of the newsmen slipping something past the officials.

It is traditional in Thailand, as elsewhere, for the headlines to be more sensational than the text of the articles. Also, the phrasing of the headline can give an editorial slant to an otherwise straight and factual news

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story. An additional element, which usually perishes in translation, is use of ambiguous phraseology in that: in this instance, while the statement of the headline is perfectly clear, the interpretation can depend on the reader's opinion of Thanom. Those who admire Thanom will criticize the ex-MP's for their effrontery; those who dislike Thanom will quietly applaud.

The Trade News had just celebrated its twenty-first anniversary the week before in honor of which it had expanded by four pages and begun to print some political and foreign news; this article, therefore, was not their maiden effort in the nonfinancial field and was in consonance with their new editorial policy of broadened coverage. While this consideration does not explain away the sensationalism of the covering headlines, it does lead us to believe that the editors did not conspire to take advantage of their not being informed by the NEC of the news embargo on the story.

CONCLUSION. No evidence has emerged so far as we know linking the suit by the three ex-MP's to Dr. Puey Ungphakon's allegorical letter to Field Marshal Thanom Kittikachorn or to the broader issue of student and intellectual dissatisfaction with NEC rule (see Ref. C). Nonetheless, NEC insiders have noted that the ex-MP's (especially Uthai) have close contacts in university circles, and that the line being taken by some of Puey's followers is closely similar to the reasoning behind the ex-MP's court case. This may have heightened the NEC's seeming over-reaction to the suit and to the Trade New's reporting of it, although it also seems to be characteristic of their inordinate sensitivity to criticism from any quarter. They no doubt fear that such criticism could snowball, and also that if a "cause" were allowed to appear it could conceivably find backing among discontent military officers (see Ref. A).

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