

Whether these tracts would make many converts in Dien Ban was difficult to ascertain. There were a few American military advisors stationed in Danang and serving as instructors to various elements in the Military Organization of the Province of Quang Nam. Americans as such were very infrequent visitors to Dien Ban. Communism when explicitly evoked generally was violently condemned. The restrictions of life in the district were probably much like those which had been suffered for the past 15 or 20 years. Some elements in the district had lived under local Viet Minh administration, at least at night, during the Indochina war, and while this experience had made some conversions and provided some cadres, on the whole the traditional elements, particularly the learned notabilities, were strongly anti-Communist. The younger generation, perhaps, was more open to this kind of Communist propaganda. In any case not all tracts could be picked up by the self-defense corps nor could the distribution be completely stopped. The security problem inevitably (and perhaps in a much more substantive way) was a political problem. The new district chief, with his civilian administrative background, saw it in this broader light and, in late February, sought to mobilize the most traditional elements, the learned notabilities in order to elicit a more total anti-Communist response from the local population, at the same time implying the re-establishment of local self-government. The latter had ancient roots in the district. It would be revived to supplement the constitutional, legal, and administrative apparatus already developed for the anti-Communist struggle by the Central Government in Saigon.

Mobilization of the Notabilities

PURPOSES

The new district chief's personal guard had the words *Sat Cong* tattooed on his arm and proudly shown. *Sat Cong* means 'Let us kill Communists,' all Communists, not just the Viet Cong. Anyone who willingly wears such a permanent avowal advertises his faith at the risk of death to himself should he fall into Communist hands. The Sino-Vietnamese word, *Sat*, is archaic, evoking the slogan--*Sat Dat* (Let us kill the Mongol General who sought to invade Vietnam), which patriotic Vietnamese remember as utterance of Marshall Tran-Hung-Dao successfully fulfilled in the late fifteenth century. Such a tattoo manifested, in the opinion of the new district chief, a fundamental anti-Communist faith just as the crucifix in his office manifested his own devout Catholicism and just as the altars to ancestors in the homes of villagers reflected their traditional beliefs. Already faith in the government of President Ngo Dinh Diem was

promoted by the huge portrait of the president mounted behind the district chief's desk, altars to him in the homes of notabilities, and the frequent signs painted on the poorest villagers homes proclaiming "Long live President Ngo."

The new district chief was an avowed missionary for an anti-Communist religion in every village. His major purpose was anti-Communist indoctrination, the establishment of automatic anti-Communist reflexes at the rice-roots level. Just as a good Vietnamese Buddhist worships regularly his ancestors and Buddha and just as a good Vietnamese Catholic goes regularly to Mass, seeking to practice in his daily life the moral precepts of traditional religions, so in Dien Ban did the new district chief seek to create what he hoped would be reflexive, habitual anti-Communist action at the village level. Beyond the apparatus and the activity of the Central Government, he sought to create a new chapter of village common law (*huong uoc*), devoted to the new menace of Communism and shaped to changing Communist tactics.

His proposals were set forth in a draft entitled "Customary Law for Security and the Fight against Communism" (See Appendix B). Each village was to establish its own village guard with the mandatory participation of all but the very young, pregnant women, and mothers of very young children, and the crippled and the aged (Article I). The villagers themselves were to penalize those who were negligent or disorderly in the performance of guard duty. Villagers were to offer rewards to those who provided valid information about Communist activity and especially to those who capture a Viet Cong agent. All villagers were to cooperate in the construction of a village enclosure, generally a thick bamboo fence, punishing those who pilfered or destroyed it (Article II). Each villager was to collaborate in the establishment of a village alert, and those who failed to contribute to the alert or neglected it were to perform from 1 to 3 days work which would increase the income of the village (Article III). In Article IV, families with brothers, sisters, or children who had left the village after 1956 in order to join the Communists were to have their houses moved to special areas of concentration in order to facilitate control of them. No villager was to have any relations with these families once they had been regrouped. Their village lands were to be distributed among the remaining villagers.

According to Article V, persons speaking in favor of Communism, that is making propaganda indirectly by means other than printed tracts or radio broadcasts, were to have their village lands expropriated for periods ranging from 3 to 6 years. Also, those who gave refuge to Communists organizations (Article VII) and those who served Communism

(Article VIII) were to have their houses taken down and regrouped in the area of concentration and their village lands confiscated for six years. Similar concentration was to be imposed upon Communist agents who had left the village recently and who returned to carry on activities (Article IX). These were the main proposals submitted by the new district chief to a meeting of representatives of the village notabilities of Dien Ban for transmission and possible ratification by their respective villages.

In addition, the draft prepared by the district chief proposed spontaneous local sanctions against those who work above ground for Communism, (Article VIII) but this article was voted down by the notabilities as were several more stringent penalties attached to the above mentioned items.

The entire draft was designed to go beyond the existing legal basis for anti-Communist action on the part of the Central Government under Law 10/59 (for the text of this law, see Appendix A). The provisions of that law imposed severe penalties for broadly worded crimes by Communists and was already the object of vicious attack in Communist propaganda. The new district chief, however, considered Law 10/59 to be inadequate in countering Communist activity since it reflected the rule of law and represented only the tradition of statutory enactment at the level of the Central Government of the Republic of Vietnam. Clearly the new district chief intended to expand, to make more total anti-Communist action, by mobilizing the archaic apparatus of village common law to supplement this statutory law already instituted by the Central Government and applied by its administrators in the provinces. The latter, in his opinion, was inadequate to ferret out Communist agents before they had committed offenses such as distributing tracts. In the name of extending democracy on the village level, he was taking steps to conjure up a new village customary law which, alongside the traditional customary rules for dealing with family disputes and village religious practices, could now adapt to the pressing threat of expanding Communist activity.

METHODS

The draft proposals, on the whole, emanated from the new district chief who claimed that they were his own ideas which he had already put into practice in his previous district. Before committing them to paper, however, he held consultations with three selected notabilities who had been close to the previous district chief and who came from three different villages of the district. The three counselors were respected

by other notabilities. One was the most aged notability in the district, a former teacher of Chinese characters who once had served as secretary at the province chief's office. A second was remembered as a former customs official until his dismissal by the French and as a journalist on the staff of an anti-French newspaper in Hue during the 1930's. The third had once served as a district chief in Khanh Hoa Province. The three conferred with the new district chief on Monday morning, February 27, over the wording of Articles I, II, and III. During the lunch and siesta period, the district chief had the entire draft typed with several copies for distribution to the "Great Meeting of Notabilities against Communism, District of Dien Ban" which opened at 3:30 p.m. Following the presentation of the draft and discussion a dinner and traditional Vietnamese theatre were to be offered.

A few days before, typed invitations for this meeting had been sent out to village chiefs who were instructed to select 1 or 2 representative notabilities from each of the 144 hamlets of the district. The village chief of Cam An distributed his invitations to known anti-Communists among the local notabilities. On the other hand at least one of the notabilities was among those who had sent protests over the policies of the previous district chief directly to the government in Saigon. Between 150 and 200 notabilities came to the district headquarters on Monday afternoon, some hobbling on canes and many carrying black umbrellas to protect themselves from the hot sun during the long walk directly from their villages or from the bus station located in the center of Vinh Dien.

The program began with the usual worn recording of the national anthem and then a brief but effective expository speech by the new district chief in which he explained the purposes and methods of the meeting. In a masterfully engaging manner he, the young Western-dressed agent of President Ngo Dinh Diem (whose dress in the large picture behind the district chief was also Western) sought communication and confidence from this traditionally dressed Vietnamese rural gathering. "You must agree with me," he began, "that our first need at the present time is to destroy Communism," whereupon all the notabilities agreed.

The way to administer best is to follow principles put forth by our moralists, Confucius, Mencius. Every period has its own aspect . . . The words may change, the times change too . . . But the basic desires of the population remain the same. They will always ask for security of life, pleasure to work, and they will insist that the rights of every person be respected by the government with just appreciation of the fundamental worth of the human person who respects the rights of the community. (All agree!)

Every day the Communists increase and change their propaganda and their practices with new programs and methods. Even so must we change ours in order to fight them more effectively.

In my opinion the best program, the perpetual method to fight Communism, is the customary village law. It is not enough that every individual fight Communism and that the government fight Communism. It is necessary that the whole people fight Communism by means of the customary village law. In our customary law we find many answers to the problems of burials, marriages, periods of mourning, the principles of cults, the regulation of society, health, and welfare. But our customary law lacks a part dealing with Communism which did not exist when the ancient rules were drawn up.

I am submitting to you a draft and I ask you to submit it to the whole population of your villages because that is a democratic way to check their opinion and to respect their rights to express freely their opinions. Our objective of fighting Communism is always sought in this democratic way . . . The present national law 10/59 covers only Communist activities which are very apparent, and no other law answers the needs of this fight which is so pressing. We must therefore set up a popular customary law at the level of all the villages in order to meet this need . . . At present we lack sufficient means to punish Communist activity which does not come under the rule of existing law . . . I ask for your vote on this question. Do we begin immediately our fight against Communism?

"Yes" was the immediate response of the gathering of notabilities to this last rhetorical question, whereupon the district chief skillfully transformed the meeting into a directed discussion which in turn became a lively and intense criticism of certain more stringent proposals contained in the original draft.

The discussion began with light touches. Chivalrously the all male and all elderly representatives granted exemption from guard duty to women over 45 (while male exemptions remained at 60 and above) because, in the opinion of one notability "women become older sooner than men." No one, however, raised the question of whether women ever become as wise as men! Merrily the elderly males decided that the exemption for pregnancy should begin after 3 months out of proposals ranging from 1 to 6 months. One penalty which was added was a provision for the guilty party to carry around the village a poster proclaiming his guilt.

The representative notabilities were then encouraged to fill in the details of penalties against disorder and neglect of guard duty with 1 day of required labor for the first offense, 2 for the second, and 3 for the third, whereupon the district chief would intervene and establish further punishment with fines. Rewards were to be paid for out of a village fund which the district chief (from the chair) suggested might be established by the payment of one piaster from each elector. In the case of large rewards for the capture of bone fide Viet Cong, the district and province chiefs would add substantially to the village funds for such purposes, and the notabilities suggested that the district chief would add substantially to the village funds for such purposes, and the notabilities suggested that the district chief establish the high amounts (beyond 3,000 piasters) appropriate for each case. Indeed on one item the notabilities made more explicit the penalties for Communist activity,

adding the provisions already stipulated under law 10/59 to the proposed penalties against persons who speak in favor of Communism (Article V).

But the tone of the meeting was, on the whole, one of apprehension over certain extreme provisions in the district chief's original draft. Tension mounted in the room about an hour after the meeting began and remained high until the district chief ended the meeting at 6:30 p.m. In the original draft, under Article IV dealing with families who have brothers, sisters, or children who have left the village after 1956 in order to join the Communists, there was a provision that the children in such families were not to be allowed to attend the village schools.

Doubt was raised by one strong-faced notability dressed in blue when he rose to warn that "it is very difficult to have everybody contribute to the fight against Communism, especially the aged." Immediately he made a direct attack on the provision to prevent children of such families from attending the public schools. This provision, he declared, would violate precepts of Confucius which he quoted in Chinese! There was much tumult in the room.

The district chief immediately tried to suggest that Vietnam now had a free, democratic, and new regime in which not all of Confucius proverbs would apply. But the current of opposition had already spread too extensively among the notabilities. Summing up the spirit of this opposition, an influential and shrewd notability known more as the Sino-Vietnamese doctor with his headquarters at the main crossroads in the village of Vinh Dien than as a *lettre*, addressed the gathering:

It is not democratic to forbid the frequentation of the public schools by the children of these families, and under the new regime of the Republic of Vietnam we must have justice and charity in harmony with our own moral tradition which stems from the teachings of Confucius and Mencius. The President himself always recommends virtue, so we must allow all the children to go to school in order to give them the new ideas of freedom and of the fight against Communism. If not they will remain illiterate and imitate their parents.

This intervention was followed by that of a middle-aged representative who, in contrast to the rest of the representatives, wore Western dress and who supported the district chief on forbidding the children of such families to go to school. But by this time the murmurs in the gathering indicated a warm response to the Sino-Vietnamese doctor's opposition and, in the ensuing vote, all but a handful raised their hands to strike out the provision preventing the children from attending the public schools.

Similar provisions with regard to the children of those who give refuge to the Communists (Article VI) and those who work above ground for Communism (Article VIII) were suppressed after discussion in which one notability opined that "the government wishes to educate much more than to exact penalties." Another provision under Article VI that "all the people are to sever relations with (these families) for one year after they have been freed by the government" was attacked and suppressed by the gathering because, in the view of one notability:

If the government freed them, the village has no reason to keep them away. It is enough to have their houses in the area of concentration.

The additional penalties under Article VII, expropriation of the village land for 3 additional years and excommunication from relations with villagers for 1 additional year were likewise stricken out. Article VIII, which appeared to have been hastily drawn up, clearly contradicted the rule of law with the provision that "all people can give them the penalties they wish." In the discussion, it was pointed out that under this proposal "people can kill them and the government loses information from them. We already have Law 10/59." The gathering voted this provision down, and a similar provision under Article IX (Communist agents who have left the village recently and who return to carry on activities). Again in this article provisions prohibiting children from such families from attending the public schools and prohibiting the villagers from having any relations with these families were stricken out.

Thus the meeting was transformed from one of simple ratification of the original draft to a tense discussion and serious reduction of penalties largely in a humanitarian direction. The notabilities balked at certain provisions which might penalize innocent people and justify lawlessness at the village level. They thus sought to impose limits to this extension of anti-Communist activity, and they did so with sincere and courageous exercise of a democratic process which the district chief himself had encouraged.

The latter closed the meeting with further encouragement for such procedures by reminding the notabilities again (he had already suggested this in the opening speech quoted above) that, even in its now modified form, this was only a draft proposal which each village was free to accept, further modify, or even reject in subsequent meetings at the village level. Some notabilities already were making preparations for such meetings within the next few days. Once these meetings had acted it could then be said that the villages of Dien Ban had autonomously enacted a village common law (*huong-uoc*) for the new conditions of the

anti-Communist struggle. Furthermore the district chief announced to the gathering that, with the approval of the province chief, he would soon establish advisory councils of notabilities for each village, a proposal implying the resurrection of a traditional representative institution of Vietnam.

ECONOMIC PROBLEMS

While security was the major preoccupation of administration in Dien Ban, the anti-Communist struggle was not only political but economic in its dimensions. The immediate problems posed by the recent crop failures, difficulties posed by certain previous efforts at economic development, and present steps toward further economic development were all pressing tasks for the new district chief of Dien Ban.

RECENT CROP FAILURES

In the spring of 1960, unseasonable dryness had reduced the rice crop. Then during the autumn of 1960 the weather turned unusually cool and wet. Local floods and insects added to the damage to crops which this second season brought. In January, a shortage of rice developed in this populous but not highly productive rice-growing region. Action was taken on the provincial level. For the entire province, the Central Government made available extra rice from Saigon for distribution. Fifty kilograms of rice per family were made available to each of 935 poor families in Quang Nam who were to be allowed to pay for it after the next harvest. At the same time the district chief asked the two deputies of the National Assembly elected from his district for help. The deputy from the constituency in which Hoi An is located responded with five hundred kilograms of rice for distribution to Dien Ban peasants in January. Neither deputy had visited the villages in his constituency, and this was the first time the new district chief had met one of the deputies. The second deputy replied by letter from Hue that he had nothing to add.

In addition, the crop failures had increased unemployment and local floods necessitated road repair in the province. Here again, the Vietnamese government had set aside a fund of 2,141,000 piasters for a public works program to reduce unemployment in Quang Nam. The program provided for wages at higher than the customary rate, because these wages included a measure of charity assistance (*hung-cong dat-chan*). In Dien Ban especially, it made available a sum of 330,000 piasters for repair of the road to the dam of Lien Tri as well as 120,000 piasters

to strengthen the dam of De Vong. The district chief use these funds to give work to unemployed who were designated by each village, and paid 40 piasters a day rather than the authorized 47 piaster rate² in order to provide more jobs. On February 28, the district chief personally supervised the road repair with efficiency, demonstrating the proper mixture of sand and cement and returning one hour after his first inspection to find considerable progress in the work.

In at least 3 of the 4 villages which the district chief visited during the last week of February, there were serious budgetary problems due primarily to a decline in local tax collection because of the recent crop failures. In the Village of Vinh Hoa, for example, 1 of the 4 hamlet chiefs who normally assist the village chief had to be dropped from the 1961 budget because of the carry-over of the deficit which developed in late 1960.

In addition, however, there was evidence that the previous district chief had imposed many special expenses. The village chief of Thanh Trung gave this as the reason why he had had no pay for his own work in the village for many months. Similar reports of nonpayment of village officials were noted in the Village of Cam An. Beyond these immediate reasons there was also, of course, the problem of instituting effective budgetary practices on the village level, a process of administration, education and democratization in which the district chief played a constant and demanding role.

ECONOMIC DEVELOPMENT

Under the previous district chief many projects for economic development had been undertaken in Dien Ban. The dam of De Vong provided a bridge for a second road between Danang and Hoi An and kept out salt water from the inlet, thus making possible irrigation and extended cultivation of rice for at least one of the several villages bordering that body of water.

Most conspicuous, however, were the 28 village resettlement projects (i.e. the remodeling and rebuilding of old villages). Typically these were small new villages with model houses of three standards, built usually of brick. These had developed rapidly during the last two years but work on many of them had been left unfinished for several months. Villagers in at least one of these new settlements were charged 100 piasters each as a special tax, and work on the project was required of them without remuneration.

²In Dien Ban, wages vary from 30 to 40 piasters a day for unskilled labor.

The new district chief had not made decisions in late February in regard to completion of the unfinished projects. He was, however, seeking to initiate at least one new project in the Village of Vinh Hoa with funds he hoped to secure from the Agricultural Credit Office in Saigon. Authorization of this project would require the cooperation of the province chief. The new district chief had already made several requests without success. A map of the new settlement had already been prepared. Once an agreement between the Agricultural Credit Service, the district chief, and the village chief could be reached, there would be plans for developing irrigation, a pumping system, and a textile factory. The money, according to the new district chief, would help the peasants to build their own houses.

At the fishing village of Cam An, the district chief discussed with the aging village chief there the possibility of borrowing 400,000 piasters, through the Fisheries Service at the province level, to motorize twenty fishing junks, thus making for more efficient transport to and from distant fishing waters and also contributing to security in the event of hostile Viet Cong penetration by sea. At the same time the district chief discussed the possible introduction of nylon fishing nets in place of the traditional ramie nets, again with the assistance of the Fisheries Service at the province level.

At a meeting of the "Association of Agricultural People" of Dien Ban on March 2, the prospective implementation of technical assistance in agriculture under the direction of experts from Taiwan was discussed. Dien Ban had been chosen for an experiment in developing irrigation by pump and increasing rice production. The district chief pointed out that previously the irrigation plant by pumps and canals had been rented from a private individual for such pump irrigation as existed in the district. He would now seek a loan of 600,000 piasters from the Agricultural Credit Office in Saigon, thus saving 68,000 piasters a year, the difference between the previous cost of renting (120,000 piasters) and the interest on the proposed loan (42,000 piasters). The Chinese experts, according to the original plan, were to spend four months in Dien Ban and to concentrate their experiment in one village. The district chief, with the approval of the audience, promised to urge the experts to extend their activities over a longer period of time to a much larger portion of the district. Thus both at the individual village and at the all-district level, the new district chief constantly sought to raise hopes of further economic development. In private he confessed his dreams of rural electrification and modern public water supplies in the villages which at present lack electricity and rely largely on the rivers or on a few village wells for their water.

STAFF PROBLEMS

Any visitor to the district headquarters offices could see for himself the enormous amount of paper work required at the district level. Each day long lines of district inhabitants awaited their turn to verify or have replaced the all important identity card required of all 93,777 electors of the district. Beyond this job were the many other activities and communications at the district level.

By late February, the chief of Information for Dien Ban had been moved to another district, but a replacement was expected shortly. In addition, however, three secretaries had been moved to the Province of Pleiku. Thus the over-all regular staff of Dien Ban had been reduced to ten (excluding one assistant paid out of village budgets). Consequently, though Dien Ban was by far the most populous of the 12 districts of Quang Nam, it ranked 7th in size of regular district staff, followed only by the 4 newly designated districts in the thinly populated mountainous area.

As a temporary measure, the new district chief was interviewing possible local recruits, but he was clearly distraught over the recent reductions in size of his regular staff. It is within the power of the province chief to move staff about among the districts in his province. In this case, however, he would have to request three additional secretaries for his province unless he was prepared to reduce the staff of other districts. As a consequence of this problem, the new district chief visited the province chief in Hoi An before coming out to his own district headquarters early on the morning of March 1 and registered a complaint over the loss of the three secretaries, asking for replacements as quickly as possible. The province chief made no direct reply, but in a meeting between the new district chief and the deputy province chief in charge of personnel administration on the following morning, the latter promised: "I shall give you three secretaries as replacements and, if you wish, I shall move all the present secretaries to other districts and provide new replacements."

Whether the deputy province chief could commit his superior to such action was not clear, but the implication that the previous district chief's staff might better be entirely replaced suggested the problem of the confidence which a new district chief may need from his staff. He had already given evidence of possible lack of confidence on the morning of February 28, when he asked a delegation of woodcutters to provide him with confidential information to help him evaluate the performance of his subordinates. The woodcutters promised to give him a report in 1 or 2 weeks. Clearly the size and quality of the staff not only indicated

the relative prestige of a district chief in the eyes of his superiors, but was an important element in the accomplishment of the broad and complex tasks of a new district chief seeking the confidence of the inhabitants of his district.

4

The District Chief and Democracy

SOME GENERAL OBSERVATIONS

It is the theme of this study that the district chief, more than any other official of Vietnamese administration appointed by the Central Government, has direct contact with a significant but approachable segment of the population of the country. As a symbol of government authority and policy, he is judged by the local population, and while his own security of tenure depends upon the confidence he earns from his superiors, the confidence he inspires from the population of his district is the ultimate test of his effectiveness. As a trained and experienced administrator, the district chief can serve as teacher of modern administrative techniques and as propagandist for new policies to the local officials and population under him.

The new district chief of Dien Ban was not a military officer as so many of the recent appointments on the district and provincial levels in the Republic of Vietnam. He had a modest formal education, having achieved a French primary school certificate and having reached the stage of candidacy for the first baccalaureate but nonetheless capable

of teaching Vietnamese, French, and sciences in a good private school in Hue after fleeing North Vietnam. More important was the length and character of his administrative experience. Before 1954, he had served as assistant district chief of Hiep Son in Tonkin. Then, from 1957 to 1958, he served as the administrative representative (equivalent to district chief) for a new relatively unpopulated mountainous district, Huong Dien in Thua Thien). Finally, as has already been suggested, he made a good record as district chief for the District of Quang Dien in Thua Thien, between 1958 and 1960. The career of this relatively young man (aged 38) thus reflected extensive in-service training and experience on the district level, and thus his case might serve as something of a model, especially since the man gave the impression of being dedicated, intelligent, honest, and sensitive both in his devotion to the anti-Communist struggle and to the needs and desires of the local population.

In general, it has been demonstrated that the period 1945 through 1960 of Vietnamese administrative history has been one of repeated upheaval, and the period 1956 to 1960 had been marked by a decline in traditional village level representation with the new ordinances giving the province chiefs the power to appoint and remove village officers in place of the traditional elections and the active role of councils of notabilities. In practice the decision to remove village officers was more likely to be made on initiative from the district level. The relative continuity of the administrative experience of the new district chief for Dien Ban, however, could serve as a wise countervailing factor. Thus it may be suggested that no activity of the new district chief of Dien Ban was more interesting nor, in the long run, more constructive than his initiative (coordinated at least in some cases with general government policy) to introduce (or reintroduce) representative institutions of control at the village level.

PETITIONS FROM NOTABILITIES

In the District of Dien Ban, some critical opinion was expressed in regard to village resettlement projects undertaken by the the previous district chief. According to one learned notability, the previous district chief had built brick factories and sold bricks to the villagers who were engaged in building the new settlements. The location of some of the new settlements was questioned. One unfinished new village between Hoi An and Vinh Dien was known to be located in land which was of poor quality for rice growing. The establishment of new settlement in some cases challenged traditional patterns of housing and cultivation. The

new dam at Cam An was destroying fishing and coconut crops in the hitherto salt water inlet. The advantages of the new settlements and projects had not been understood by some of the population, and there was some irritation over the extra taxes and free labor accompanying the new projects and some questioning of the advisability of certain undertakings by traditional elements of the population whose influence over local affairs had been reduced over the previous few years.

By late 1959, this criticism took the traditional form of petitions from certain notabilities to representatives and officials of the government. One such petition, according to one of its ten signatories, complained that some of the new settlements were "not useful" and were "disturbing the people very much." Initially such petitions were sent to the deputy who did not reply. A subsequent petition was sent with one copy addressed to the chief of the province of Quang Nam, one to the delegate at Hue, one to the ministry of the Interior in Saigon, and one to the presidency. A copy was addressed as a letter to a newspaper in Saigon but it was not published. Instead the petition was returned to the province chief, who, in turn, informed the district chief.

Among the critics of the previous district chief, it was believed that their petitions contributed to his removal which took the form of resignation in October of 1960. Since a new province chief had taken office in Quang Nam in July, they believed that he, as an honest man, had made the decision. The latter, however, claimed that the removal was initiated by his predecessor.

The new district chief, as has been noted before, came to Dien Ban on the recommendation of the delegate at Hue with a good record in a smaller district. He and the previous district chief were cousins, and the latter not only stayed on in the district headquarters for one month after the arrival of the new district chief but also continued to pay frequent visits to district headquarters in his new automobile. He did so on the afternoon of February 28. He had become an affluent business man in Danang.

The new district chief admitted that his predecessor had made some "blunders," but he tended to sympathize with his fate by referring to the strains placed upon all district chiefs in their relations with their superiors and by referring specifically to the reports sent by the province chief and also by security officials directly to Saigon. But, as was indicated above, work had stopped on the uncompleted village resettlement projects undertaken by the previous district chief, and the new district chief had not yet decided whether to complete them.

THE DISTRICT CHIEF AND THE LOCAL POPULATION

GENERAL ADVICE AND ORIENTATION

The new district chief from the start concentrated upon establishing confidence among the population of his district. His efforts suggested that, once he had familiarized himself with the situation, he tacitly admitted the need for reforms, removal of officials perhaps too closely identified with the "blunders" of his predecessor and the institution of new formal organs for the expression of criticism as well as the implementation of policy on the local level.

On his arrival, he visited all 30 villages of his district and many of the 144 hamlets as well. In his initial contacts, he delivered the message that peasants must develop agriculture and practice economy, indicating what he meant by imparting practical advice on better techniques of agriculture and admonishing peasants to go to work in work clothes rather than finery and to get to work early in the morning. He continued to make visits to village headquarters, presumably at least once a month, though during the last week in February he visited only four.

REMOVAL OF VILLAGE OFFICIALS

The new district chief successfully recommended to the province chief the removal of 17 village officers out of the 142 in his district. Eleven of these were village chiefs (i.e. chiefs of more than one-third of the villages in the district). He did so on grounds of corruption or incompetence but at the same time tacitly implied the question of confidence. He intended to remove perhaps fifteen other village officials in the future, claiming that the process takes time and requires skill. In the case of the removal of the finance officer of the Village of Cam An, the village council suggested a successor whom the new district chief refused to recommend to the province chief because, according to his records, the man had once been a Communist and hence was ineligible under the law.

ADMINISTRATIVE AND BUDGETARY ACTIVITIES

The new district chief sought to symbolize justice in his administrative acts and to promote more regular budgetary procedures at the village level. Thus he was conscientious in dealing with specific problems raised at the village level. In the Village of Thanh Trung, he discovered that a villager had planted tobacco plants on land where a new road was about to be made. On the spot he determined a generous payment to the planter for confiscation. In the Village of Vinh Hoa, 20 young men of the village,

trained as self-defense guards, (out of a total of 36) had asked permission to leave the village to go to work on the railroad in a neighboring district. He encouraged the village chief to stress the economic risks in the young men's proposal (though both were concerned primarily over the weakening of security which would ensue). Both agreed, however, to allow a few of the twenty to go for a brief period, trusting they would find out for themselves that they could earn more money by returning to the village.

In every village in the district, the new district chief sought to exercise personal control over the local budget and encouraged more professional local administrative practice. In visits to village offices, he checked records and made recommendations on new procedures and new forms of taxation. Furthermore, he held periodic meetings with all village councilors at the district headquarters for purposes of training in the keeping of records. This program was part of a course disseminated by the National Institute of Administration in Saigon. In the meeting of March 2, the village councilors were instructed by the district secretary for military and self-defense affairs on techniques and procedures of office management. Among the questions asked by village councilors was this one: "Is it necessary to keep records when the Viet Cong can destroy them?"

VILLAGE LEVEL "TOWN MEETINGS"

More interesting, however, was the new district chief's message of January 6 to all village chiefs instructing them to hold meetings at least once a month for purposes of control of the village budget. These meetings were to be open to all villagers, thus suggesting the traditional New England town meeting. Such a meeting was held in the Village of Vinh Phuoc on March 1. Some fifty villagers attended, a smaller number than at the previous meeting held on February 25. The district chief and his political and judicial officer presided from chairs, while the local village chief stood by at one side and produced upon demand such records of local fiscal affairs as he could. The district chief urged those who attended to give their opinion freely but to behave in an orderly fashion (especially since they were hosts to professors from Saigon and from Massachusetts). Rough words ("I'll break anyone's arms and legs!") were expressed in support of the village chief's autonomy on budgetary matters, but the district chief skillfully exercised his power of control, claiming to have his own means to get information about village budgets. He then raised a question in regard to the expenditure of rents from village land and the number of registered voters who were

not exempted from paying taxes. He made recommendations to use the funds to pay the village council and to post a list of those who were exempt from taxation on the wall inside the village headquarters. He criticized the removal of funds from one chapter of the local budget to another, warning the village chief that claims could be made against him for such irregularities. The latter replied that the village finances had suffered during the last year because the previous district chief had required many special expenses. While the role of the villagers in this "town meeting" was largely that of spectators to the control exercised by the district chief over the village chief, some spontaneous questions were put from the floor. In most cases, the questions indicated dissatisfaction over high taxes charged by the village chief. In one case the question of ownership of land which had recently developed by accretion along the Thu Bon river bank was raised. Two enterprising villagers were already cultivating this rich rice land, but the village as a whole sought to subsume the new land into the category of public or village land. One of the cultivators argued that his private holdings had been wrongfully reduced and thus he felt entitled to prescription of the new land as compensation. This judicial issue, however, became too complicated for the district chief when the cultivator produced original deeds made out in Chinese characters as evidence. Since it was nearly 1:00 p.m., the district chief terminated the meeting and by implication left the legal issue for solution at the local level by more lettered notabilities!

THE PROBLEM OF CONFIDENCE AND THE PROSPECTS FOR LOCAL REPRESENTATION

In the "town meeting" in his inspections of the villages, and in the *ad hoc* meeting of district notabilities, it was apparent that the new district chief was already gaining popular confidence. He already was personally acquainted with some 20 out of the 150 to 200 notabilities who came to the meeting; and one of them, a critic of the previous district chief, claimed that the population liked the new district chief because the latter seemed to like the people. It would be too strong to say that he had established full confidence. The population probably remained reserved and mildly skeptical though clearly pleased with changes that already taken place in Dien Ban and especially with the prospects of further reform of a more institutional character.

Clearly, there was interest in the possible revival of local representative institutions. Such reforms were implied and modestly commenced with Presidential Circular Number 5-NV (Ministry of the Interior), December 7, 1960. Under this legal text, a representative of the

local Republican Youth organizations was to be added to each village council. It was to be noted that the principle of election by the local youth group stood in contrast to the appointment and removal of village officers by the province chief under the hitherto prevailing formal arrangements set up by the Republic of Vietnam. In pursuit of this new circular, the youth organizations in the villages of Dien Ban had, by late February, already elected from their ranks one representative for each village council. This could be interpreted as the first step on the part of the Central Government in the direction of a return to the elective village councils, a Vietnamese tradition which had been abandoned in 1956. These meetings, according to the new district chief, were attended by an average of twenty cadres of the youth movement and in most cases there were lively contests.

The *ad hoc* meeting of representatives of the notabilities was itself an experiment in the revival of representative institutions with manifest capacity to influence policy. At the end of this meeting, the new district chief promised that he would suggest to the province chief that advisory councils of notabilities be established (in the light of Vietnamese administrative traditions he should perhaps have said "re-established") for each village in order to guide the relatively young and inexperienced members of the village councils. He expected these councils to be established after the presidential elections in April, and he assured the notabilities that these councils would be given powers, have immunity, and that their opinions would be respected. Thus the new district chief on Dien Ban was seeking to restore an ancient Vietnamese representative tradition and perhaps to rejuvenate and broaden it, thus seeking to build a free Vietnam on a foundation "strong as the stone of the Thai mountain."

5 | Conclusion

THE IMPLICATIONS OF THE HISTORY OF DIEN BAN

The District of Dien Ban is located in the largest and most populous province of the Republic of Vietnam. Situated on the coastal plain but not far from the mountains which border Laos, it is traversed by important north-south communications, but its internal communications are limited. It has a very dense population which is predominantly agricultural. The economy operates at a subsistence level with necessary importation of rice alongside limited exports. While an extreme case for Vietnam, the district is perhaps more typical of other more populous Asian countries. The situation begs for economic development.

Unlike the more southerly portion of Vietnam, this area has deep historical traditions. Once the center of the Kingdom of Champa, it has been Vietnamese since the fifteenth century. The District of Dien Ban dates back to that century, and the Chinese verse upon which its name is based ("*build* the nation strong as the table stone of the Thai mountain") may serve as a symbol of the importance of the district level in the consolidation of a Vietnamese state. For centuries this district and

province were staffed by mandarins appointed by the Vietnamese emperor while, at the village level, councils of notabilities played a dominant role in village affairs including the formulation and application of customary village law. Elective village councils served alongside these councils with limited administrative functions.

The development of foreign trade through the port of Faifo (Hoi An today) symbolized Western penetration which, by the late nineteenth century, resulted in a French administration superimposed on the traditional Vietnamese. With this development the citadel of Quang Nam (which forms now one of the two hamlets of Vinh Dien and serves as the district seat of Dien Ban) housed a traditional Vietnamese provincial administration while the dominant French provincial authority was established in Faifo. Unlike the French colony of Cochin China, Vietnamese central and local authority and traditions continued, though in weakened form since they were subject to French directive and French cultural influence.

Since 1945, however, the continuity of this administrative tradition has been broken by revolutionary upheavals. Temporary Viet Minh control produced a new pattern of elective councils which in practice came under Communist control. The re-establishment of national authority led to the consolidation of provincial authority in Vietnamese hands at Hoi An, but the councils of notabilities at the village level disappeared. Since 1954, villages have been regrouped into larger entities and village officials have been appointed by the province chief on the recommendation of the district chief. By 1961 it could be suggested that, in a spirit both of consolidation and reform, village institutions might benefit by the partial revival of councils of notabilities and by the application of the elective principle to village councils. In such reforms and in other activity to stimulate communication between villagers and the play a constructive and crucial role, not only in ancient Dien Ban but elsewhere in Central Vietnam and, perhaps with modifications, in the south as well.

SUGGESTED ADMINISTRATIVE REFORMS

The legal basis of the position of district chief in the Republic of Vietnam is ambiguous. In practice much depends upon the relative size of the province and the strength of local administrative traditions. In his notes for a prospective study of a district in Vinh Long Province, Professor Joseph J. Zasloff remarked that at the district level "a great deal of paper work is handled without the policy decisions that one finds at the province level nor the disputes to settle or the people to deal with in such

numbers at the village level." In Dien Ban the authors observed much paper work but also many policy initiatives emanating from the district chief, some of potential significance for other districts of Vietnam such as the revival of village councils of notabilities, and many smaller ones dealing with possible economic development and with day-to-day village problems. The confidence and approval of the province chief could be assumed in most of these activities. But what stood out in the role of the district chief of Dien Ban was the scope and intimacy of his contact with villages and villagers as well as with representatives of notabilities and of other groups on the district level. Hence the ambiguous legal basis by no means limits the potential role of the district chief in the Republic of Vietnam but rather makes possible diverse adaptations to diverse regions and traditions plus potential experimentation in the direction of reform.

A distinction may therefore be made between the formal, subordinate, and relatively impotent position of the district chief and the practical dynamic possibilities in this position. Appointed by the President of the Republic on the nomination and/or approval of the delegate and the province chief, the district chief depends upon the province chief for directives from the Central Government, allocations from provincial and national budgets, staffing at the district level, and the appointment and removal of village officials. In practice, the knowledge which a district chief has of his district can play a major role in the decisions of the province chief applying to his district.

Such knowledge is gained in the supervisory role which the district chief exercises over the villages. This role amounts to close control and intervention in regard to village budgets, a wide variety of local administrative and personnel decisions which village officials refer to the district chief, and to proposals for economic development which the district chief may successfully recommend to higher authority for action. This discrepancy between the limited formal powers of the district chief and the wide practical authority which he may exercise suggest the advisability of the following reforms: (1) the creation of a district budget with some autonomy, (2) steps to encourage the recruitment of better district chiefs, (3) the provision of more adequate staff at the district level, and (4) the improvement of village level administration.

A DISTRICT LEVEL BUDGET

Theoretically, the district is only an intermediary level between the province and the villages. Hence it has no autonomous budget and its financial support comes from the provincial budget and from assessments

prorated among the villages of the district. The former may lead to excessive dependence on the province chief while the latter may lead to dissatisfaction with *ad hoc* assessments of village budgets by the district chief.

In fact, it may be contended that there are effective budgetary activities at the district level involving the tapping and controlling of all village budgets. Since many villages have very few resources and are too poor to bear the expenses of new development programs, the richer villages may help them by giving a certain percentage of their budget to a fund of compensation (*Quy bo-tro*) which is now at the disposal of the province chief only.

But it may be suggested that an autonomous budget for the district chief would be an appropriate reform for reducing high assessments of villagers by district chiefs and the concomitant local grievances.¹ If a portion of the tax on village lands and other resources which now goes solely to the provincial and national budgets were made available to the district, this move might reduce the excessive demands made on a district chief in his tasks of controlling the village budgets in his district and this also might promote greater village autonomy, an objective which the new district chief of Dien Ban is already encouraging.

RECRUITMENT OF DISTRICT CHIEFS

Much depends upon the training and ability of a district chief, and the observations made in Dien Ban strongly support the appointment to important districts of dedicated and intelligent men already experienced in district level administration. The cultivation of career administrators on the district level is a practice which, in the opinion of the authors, should be encouraged. Increased in-service training at the district level of carefully selected graduates from the National Institute of Administration may also serve as a possible source for recruitment of better district chiefs.

THE NEED FOR STAFF AT THE DISTRICT LEVEL

At the present time the staffing of the district office of Dien Ban is inadequate while the demands made upon the district chief are excessive. It is proposed that staffing at the district level be increased, at least in populous districts of large provinces. Although a district budget would reduce the demands made on a district chief, it would at the same time

¹Do van Ro, "Let us try to suggest a means to help the village budget become self-sufficient," *Hanh-Chanh Khao-Luan* (Administrative Studies and Comments), (Saigon: Ministry of the Interior, 1958), Vol. II, p. 82.

make possible more adequate staffing which, in any case, could be usefully employed in Dien Ban.

In the increased staffing at the district level, it is proposed that young civil servants (under thirty-five) be rotated for at least one year from Saigon to a district for training in the field. This reform could provide a source for future district chiefs as well as greater understanding and communication between the capital and the rice-roots of Vietnam.

THE STRENGTHENING OF VILLAGE ADMINISTRATION

President Ngo Dinh Diem has recently stated that:

... Vietnam has been independent now for only six years. Consequently the political infrastructure in the villages needs to be strengthened at the same time as the development of the country under our republican regime demands many trained administrators at the lowest level in the villages and also the organization of the youth which is the living force of the nation.²

The authors are in wholehearted agreement with the observation made by the president. In their opinion there is a lack of administrative competence at the village level. The simplest budgetary and administrative techniques are not sufficiently understood or adequately practiced. There are problems in recruiting able officials and, in turn, there is, in some cases, insufficient confidence in the existing village officials on the part of the villagers.

The holding of "town meetings" for the review of the village budget in the presence of the district chief is a promising initiative which entails both education from above and growing understanding and confidence from below. The re-establishment of councils of notabilities as advisory bodies on the village level which has been promised for Dien Ban reflects the application of Vietnamese administrative tradition to this problem. An active role on the part of these bodies plus the possible periodic convocation of representatives of the notabilities on the district level could do away with the impulse of critical notabilities to petition the Central Government on questions of a purely local nature and strengthen confidence between influential elements of the local population and administrators at the district level.

The re-establishment of the elective principle for village councilors is a twentieth-century reform which might serve as the long-range goal in local reform. The recent directive providing for election of a representative of organized youth to village councils had introduced a new post for which there was serious competition and selectivity in the villages of

²Press Conference of President Ngo Dinh Diem, Saigon, April 7, 1961, *Journal d'Extreme-Orient* (special edition), April 8, 1961.

Dien Ban. In time this principle might be extended. With high quality district chiefs having adequate staff and budget, autonomy could grow on the village level. This growth however must be coordinated with the development of more competent administration. In the short run, in-service training of graduates of the National Institute of Administration assigned to the district level but expected to go out regularly to the villages to serve as technical advisers on local administration would be a feasible first step.

In the opinion of the American coauthor, it might be desirable at some future point to initiate a voluntary Vietnamese "Peace Corps" of dedicated and able young administrators from Saigon willing to live behind the bamboo fences of the villages for extended periods of time in the interest of consolidating and renovating local administration and developing more perfect communication between the most developed and the least developed sectors of the nation.

It is recognized that present conditions of the anti-Communist struggle impose serious problems in the peaceful and progressive development of local administration. But it is submitted that the latter is a fundamental aspect of the struggle. The courage and determination to extend this struggle to areas where administration is weakest requires the heroic qualities of the warrior mobilized for the delicate tasks of the statesman at the rice-roots level. These qualities exist among the younger generation of Vietnamese. May they be asked to volunteer in the task of building a free Vietnam "strong as the table stone of the Thai mountain"?

APPENDIX A

LAW NUMBER 10/59 OF MAY 6, 1959—Punishing acts of sabotage, offenses against the security of the nation, the life and property of the population, and establishing Exceptional Military Tribunals.

The National Assembly has discussed and voted.

The President of the Republic promulgates the Law number 10/59 of May 6, 1959, punishing acts of sabotage, offenses against the security of the nation, the life and property of the population, and establishing Exceptional Military Tribunals.

PART ONE

The crimes of sabotage against national security, life and property of the population

ARTICLE 1. Shall be punished by death penalty with total or partial confiscation of their property, and, in the case of military personnel, forfeiture of all rights pertaining to military status, those who commit or intend to commit the following crimes having the aim of sabotaging or damaging national security, or damaging life and property of the population:

1. Voluntary killing, poisoning or kidnapping
2. Destroying or rendering useless totally or in part by means of explosives, fire burnings or any other means:
 - a) Houses or habitations with or without occupants, churches, pagodas, temples, storehouses, plants, workshops, farms and any other appurtenances belonging to private persons;
 - b) Public houses, public buildings, public services, public plants, warehouses, and generally any structure of any category belonging to the government, and any other property, movable or immovable, belonging to the government or controlled by it, or submitted to the regime of exceptional concession or national management.
 - c) Any type of craft going in the air, on earth, on water and any type of vehicle;
 - d) Mines, with their engines and equipment;
 - e) Arms and munition, military equipment and material, posts, directorates, services, storehouses, plants and any structures concerned with national defense or police;
 - g)¹ Crops and other agricultural products, animals and equipment for agriculture, forests of any kind;
 - h) Means of telecommunications, post-office, broadcasting services, systems of production and distribution of electricity and water, houses or buildings and equipment dealing with the exploitation of such systems;
 - i) Dams, barriers, means of communication, railways, airports, seaports, bridges and other constructions pertaining to bridges or ways mentioned above;
- k)² Big and small rivers which are passable for junks and rafts, and canals.

ARTICLE 2. Shall be sentenced to penal servitude for life, with total or partial confiscation of property, and, in the case of military personnel, forfeiture of all rights pertaining to military status, those who, with the aim of sabotage or damage to national security, life or property of private persons, commit or intend to commit the following crimes:

1. Plundering with arms, or plundering by two or more people;
2. Holding up traffic on road or on water by means of terrorizing or threatening with arms or any other means;
3. Threatening directly or indirectly for purposes of killing, burning houses, crops or kidnapping;
4. Disturbing the holding of the markets or impeding it;
5. Destroying or acting for sabotage not mentioned in the above articles.

ARTICLE 3. Shall be sentenced to the penalties provided in Article 1 or 2 cited above, those who hold membership in an organization or have a contract in order to help prepare or perpetrate the crimes specified in these two articles.

ARTICLE 4. The main guilty parties, accomplices or instigators under the jurisdiction of the Exceptional Military Tribunals, as specified in Part Two of the present law could not gain extenuating circumstances.

¹The letter / does not exist in the Vietnamese alphabet.

ARTICLE 5. Shall be exempted from the penalties or shall gain extenuating circumstances for the crimes under the jurisdiction of the Exceptional Military Tribunals, those who give first to the government or to the military, administrative or judicial authorities information which helps in the capture of the guilty parties or their accomplices, before these crimes were committed or were intended to be committed, and before or after proceedings against them were taken.

Yet, the guilty parties exempted may be sentenced to protective custody or deportation for a period of time fixed by the tribunal.

PART TWO

Organization of the Exceptional Military Tribunals

ARTICLE 6. Are established three Exceptional Military Tribunals with seats in Saigon, Ban Me Thuot and Hue.

The territorial competency of the Exceptional Military Tribunal of Saigon includes the provinces of South Vietnam.³ The territorial competency of the Exceptional Military Tribunal of Ban Me Thuot includes the provinces of the Central Vietnam Highlands. The territorial competency of the Exceptional Military Tribunal of Hue includes the provinces of the Central Vietnam Lowlands.

As the needs arise, other exceptional military tribunals may be established by decree. And the designation of territorial competency of the new and old tribunals may be also fixed by decree. Any subsequent modification to these territorial competencies may be established by decree.

The Exceptional Military Tribunal shall have offices in the headquarters of Courts of Appeals, Tribunals of the first instance, or Justices of the Peace with extensive competency, if they do not have their own headquarters. They shall judge in these offices or, if necessary, in any place when they move out of them.

ARTICLE 7. The composition of an Exceptional Military Tribunal is:

—An officer of the rank of Commandant or above, and graduated from a faculty of law: Presiding Judge.

—The prefect, mayor or province chief of the territory where the tribunal holds court, or their representative: Assistant judge.

—An officer of the rank of commandant or above: Assistant judge.

The Presiding judge or the assistant-judges shall be appointed by administrative orders of the secretary of state for National Defense, or the secretary of state, deputy-chief for National Defense.

ARTICLE 8. An officer of the rank of commandant or above shall have the role of government commissioner, and one or several officers of the rank of commandant, the role of deputy government-commissioners.

These officers shall be appointed every six months by administrative orders of the secretary of state for National Defense or the secretary of state, deputy-chief for National Defense. In case of shortage of commandants, captains or lieutenants could be chosen if there is no objection thereto. When the need arises, immediate appointment of officers for replacement may be made according to the above procedures.

ARTICLE 9. The clerk's office shall be headed by a senior clerk, with the assistance of some clerks, secretaries and typists. These civil servants shall be appointed by administrative order of the secretary of state for National Defense or the secretary of state, deputy-chief for National Defense.

ARTICLE 10. All this personnel must take oath before the tribunal of cassation, and prior to their entry into service. The oath shall be written.

ARTICLE 11. Are under the competence of the Exceptional Military Tribunals:

1) Crimes defined in the Articles 1, 2 and 3 of the present law, the guilty party may be a private person or a military man.

2) Crimes of espionage and treason, as defined by ordinance No. 47 of August 21, 1956.

3) Crimes of interrupting and sabotaging the economy and finances of the nation, defined by ordinance No. 61 of October 3, 1955.

4) Crimes defined by the penal law under the competence of the Exceptional Military Tribunals.

³South Vietnam, in Vietnamese local organization, refers to former Cochín China which now consists of the southwestern region and the eastern region of the Republic of Vietnam.

ARTICLE 12. When a case is under the competence of the Exceptional Military Tribunals, the secretary of state for National Defense or the secretary of state, deputy-chief for National Defense issues an ordinance exposing the causes for which the guilty parties are to be judged directly without opening examining procedures.

ARTICLE 13. The government commissioner reads the accusation, declares the competence of the Tribunal, and gives all details pertaining to the crime.

ARTICLE 14. The government commissioner to the Exceptional Military Tribunal, in his investigation of crimes under the competence of the latter, has power to summon all agents of the public force.

ARTICLE 15. The Exceptional Military Tribunal holds its meeting for judgment within three days after it has received the ordinance of the secretary of state for National Defense or the secretary of state, deputy-chief for National Defense, as specified in Article 12. The direct convocation before the tribunal, issued by the government commissioner, shall be notified to the accused 24 hours prior to the session.

ARTICLE 16. The accused has the right to ask the help of a lawyer for his defense. If he has no lawyer, the government commissioner or the presiding-judge must call a lawyer for the defense of the accused.

ARTICLE 17. The Exceptional Military Tribunal judges in the last instance, and the judgment cannot be appealed to the Court of Cassation.

ARTICLE 18. The judgment pronounced by the Exceptional Military Tribunal shall be executed according to the procedures fixed by articles 93 to 98 of the Military Penal Law.

ARTICLE 19. In case of the death penalty, the judgment is executable only after the request of grace is refused.

ARTICLE 20. If necessary, a decree shall establish procedures of execution of the present law.

ARTICLE 21. All dispositions contrary to the present law are abrogated. The present law shall be published in the Official Journal of the Republic of Vietnam.

Signed: NGO DINH DIEM
Saigon, May 6, 1959

APPENDIX B

DRAFT OF A CUSTOMARY LAW FOR SECURITY AND THE FIGHT AGAINST COMMUNISM

ARTICLE I. —Village guard.

Shall be exempted: the older persons over 60 years of age, wounded soldiers, and cripples.

Must perform this work: young persons, male and female of 18 years of age and over.

Duties: Women shall work at day only (except when they are sick or pregnant, when children are born and when the latter are very young).

—Men shall work day and night, according to the needs of the village.

Penalties:

A. Against those who cause disorder, who come late to guard duty, and are sleeping on guard: from 1 to 3 days of obligatory work.

B. Against those who refuse to guard: from 3 to 5 days of obligatory work, with possibility to pay a fine of 30 piasters for 1 day of work, if the village agrees.

Rewards: For those who give true information leading to results: 1,000 piasters. For those who capture a Viet Cong: 3,000 piasters.

ARTICLE II. Village enclosures

All the people must contribute to the building of the village enclosures and give bamboo for this purpose, according to the needs.

Penalties against those who destroy the enclosures:

- Rebuild the part destroyed with their own bamboo.
- One to three days of compulsory work for those who live in the village, or bring the guilty parties to the district chief if they do not live in the village.
- If they destroy voluntarily on behalf of Communist activity, they will be punished according to Article 7 of the present customary law.

When the enclosures are (naturally) destroyed, all the villagers must rebuild them again. Every one or every inter-family group have to take care of a section, in order to plant bamboos and brambles, which will last for a long time.

ARTICLE III. Alert when Communists come to the village

All the people must contribute to the alert.

Rewards: 3,000 piasters for those who capture Communist.

If someone is killed or wounded by the Viet Cong, his wife and children get an allowance from the village (*To be discussed profoundly*).¹

Penalties: Against those who neglect the alert or do not contribute to it, according to each case: From 1 to 3 days of obligatory work, or they must organize some work which will increase in the village budget the amount of money used for rewards.

ARTICLE IV. Families who have brothers, sisters or children who left the village and joined the Communists.

Penalties: In order to avoid any relationship with the Viet Cong, such families must move their houses to an area of concentration fixed by the village for the purpose of their control. Nobody is to have relationship with these families.

-Expropriation of their own village land (definitively), and if they are married, of their wife's village land for three years.

-The children of the guilty parties shall not be allowed to go to village school, if they have young children.

ARTICLE V. Persons who speak in favor of Communism. (indirect propaganda.)

Expropriation of their own village land for 3 years for the first time, and for 6 years for the second time.

ARTICLE VI. Persons who give refuge to Communist organizations.

-Must be captured and taken before the government representative.

-Shall have to take down their houses and to rebuild them in the area of concentration.

-Shall be expropriated from their village land for six years.

-Their children shall not be allowed to go to village school.

-All villagers shall not be allowed to have any relationship with them for one year after they have been freed by the government (ostracism).

ARTICLE VII. Persons who serve Communism.

Same penalties as above (ARTICLE VI.)

With expropriation from their village land for 3 additional years (total 6 years), and ostracism for 1 additional year (total 2 years).

ARTICLE VIII. Persons who work above ground for Communism.

-Against the guilty parties: The villagers may give them any form of penalty they like, immediately after their capture.

-Against their families: As specified in Article VI, against those who give refuge to Communists.

ARTICLE IX. Communist agents leaving the village recently and returning to carry on activities.

-Against the guilty parties: As specified in Article VIII, i.e. the villagers may give them any form of penalty they like, immediately after their capture.

-Against their families: As in Article VIII, against the wife and the children, or against the parents if they are single.

For the agents who do not live in the village: the villagers may give them any form of penalty they like, immediately after their capture.

¹Editorial note: The district chief indicated in his draft that he wanted to encourage the assembled notabilities to discuss this paragraph in particular.