

18. UPHOLD THE AIM FOR FULL DEMOCRACY OF THE HEROES OF 14 OCTOBER

As the committee to organize the 1973 meeting of Thammasat people in the United Kingdom (England) wants an article or message (*kham khwan*) from me for the memorial volume which will be published, I am happy to respond to this request with the message: "Uphold the aim for full democracy of the heroes of 14 October". I have composed the following essay as a brief explanation of this message.

I

The fourteenth of October 1973 is an important day in the history of the Thai nation—the day of the first stage of victory of Thai youth. The leadership came from university and school students of many educational institutions. They received support and cooperation from many million Thai people of all ethnic groups and all classes who love the nation. Together they combined as a movement to demand a fully democratic constitution for the Thai people. The clique controlling the power of the state ordered that section of the military and police which agreed to be their tool, to use modern weapons to suppress this movement whose members had only empty hands, or sometimes only sticks, to protect themselves. But the movement was not frightened. They remained firm in their readiness to sacrifice their lives and give up their personal happiness for the nation and people which they love and respect in the highest degree. Large numbers of the heroes were killed or injured or disappeared. Those who remained alive and received no bodily injury were badly exhausted both physically and mentally. As a result of the sacrifice of all the heroes in the righteous struggle, the first stage of victory was achieved. That is, the government of Field Marshal Thanom Kittikachon as prime minister and Field Marshal Praphat Charusathian as deputy prime minister had to resign, including their positions as supreme commander and deputy supreme commander of the armed forces. Then there

was a royal command to appoint Nai Sanya Thammasak as prime minister. He publicly confirmed that he would arrange for a democratic constitution and elections within six months.

I would like to join with the Thai people who love the nation to offer homage and praise to all these heroes. The Buddha preached a sermon which in one part conveys the important meaning that virtuous people (*sathuchon*) should conduct themselves with gratitude towards those who have done good deeds to them. Thais who are Christian or Muslim also live by a code of righteousness which is the same as the Buddhist one. Hence it is fitting that all we many Thais who love the nation show in our bodies, our words, and our hearts grateful acknowledgement of the good deeds of the heroes; and we should do good works in homage to the dead (*bamphen kuson thak-sinanuprathan*), including joining together to build a monument as a memorial for all the heroes.

The Buddha also said that good deeds should be both acknowledged and repaid. Hence, upholding the aim for full democracy of the heroes of 14 October so that they are safeguarded and developed further is an even more important obligation which virtuous people who love the nation should undertake.

II

Virtuous people who love the nation and elevate the nation above personal benefit should be able to judge the aim for full democracy of the heroes of 14 October from the vision and standpoint of the mass of the people. The heroes do not include people of only one particular birthplace or class status. Rather, they include those with birthplace, economic status, and political status of different types. They include the poor, factory workers, casual workers, farmers, minor government officials, people who earn enough to get by, small capitalists, and patriotic capitalists who raise the nation above personal benefit. They are from all Thai ethnic groups (*national minorities*) who have Thai nationality. Thus the aim of all these heroes is for a constitution of full democracy in politics and economy, and for a vision based on Buddhist doctrine to serve as the guiding principle for achieving prosperity for all classes and all ethnic groups who love the nation.

As I have stated in many essays and speeches, the history of humanity from the primeval age onwards demonstrates that the economy is the important foundation of human society. The political system is only the super-structure which must be consistent with the economic needs of the mass of people in society. If the constitution which is the origin (*mae bot*) of law is in accord with economic needs, then a social crisis will not arise, and the

country will progress peacefully in an evolutionary way (*evolution*). If the constitution does not accord with the economic needs of society, a crisis must arise according to the natural law of conflict between two things which are in opposition to one another. If virtuous people who love the nation study thoroughly, they can see that the reason why the heroes sacrificed their lives and gave up their personal happiness to demand a constitution of full democracy is because the mass of the Thai people has undergone extreme hardship. A political system with no constitution—or a constitution in name only—conflicts with the economic needs of the mass of the people. The heroes thus sacrificed their lives and personal happiness in the wish for the Thai nation to have a political system with a fully democratic constitution which accords with the economic needs of the people, so that every ethnic group will join together in the unity of the country.

Virtuous people who love the country should be heartbroken to see that even before the smell of the blood of the heroes had completely disappeared, already people from some parties were trying to grab the first stage of the heroes' victory for the benefit of their party alone. For instance, as a model for drafting a new constitution, they introduced a constitution which their group had made, instead of beginning from the aim for full democracy of the heroes from all classes and ethnic groups which have Thai nationality. This creates a situation where those who want to uphold this aim of the heroes must find a way to fight either gently or with violence, depending on the method of the lead organization of each class and each ethnic group. Those groups which have already used violent methods could mobilize the mass of the people by claiming that this situation clearly shows that the method of drafting the constitution will serve the benefit of the privileged class alone, and hence the mass cannot rely on a constitutional system which is not fully democratic to solve the difficulties of the people as a whole. Thus, for the peace and happiness of the country, I appeal to the government and those involved in drafting this new constitution, to refrain from a drafting method which is biased towards a constitution for the benefit of the privileged class, and to establish a vision in accord with the aim for full democracy of the heroes of 14 October.

III

The majority of the Thai people, who are poor, needy, and grievously oppressed by reactionary dictatorial power, have learnt to question whether they can really rely on anyone to solve their problems. Hence they rely on themselves, under the leadership of the Student Centre, to fight for their democratic rights. This is in keeping with the Buddhist saying, *attahi attano*

nāthō, which translates as “what you can rely on is yourself”. This dhamma principle is the same as the Christian teaching “God helps those who help themselves”. Islam has a similar thought among the sayings of Mohammed.

To uphold, safeguard, and develop further the first stage of victory of the heroes, the people should not put their hope and trust in any one single individual or any one single group. They should rely on the power of the people themselves which is the true power. The centre has strengths both in terms of quality and quantity to serve as the vanguard of the people. They must fight for much longer yet in order to prevent the reactionary dictatorship which has been defeated in name only and whose framework of power still remains. They must fight against the remnants of various anti-democratic forces even though they are not the direct enemy—the dictatorship, which has lost power in name only.

The people and the centre which is their vanguard must hold on tightly to their victory. Everyone must have the discipline which comes from consciousness about their aims. They must take special care to prevent the enemies of democracy luring them away to the other side. They must base their vision firmly on a vision of full democracy, which will be the guiding principle to progress towards full democracy for the mass of the people. Anyone who holds a vision of semi-democracy will work towards semi-democracy only. Anyone who has a vision left over from the slavery era will work towards a government which resembles slavery; they will support the revival of dictatorship which governs people like slaves, as has happened in history.

I have described in many articles and speeches how in the past before the democratic system of the West and other modern versions, man had many social systems—the primitive democratic community, the slave system, and feudalism.

History shows that although a social system collapses, whether by force through the establishment of a new system or whether by law, in practice the vision born in the old system does not completely die. Rather, it gets passed down to some groups of the new generation even though they are born after the legal demise of the old system. In modern democratic countries and socialist countries, the new generations are born under the new society. But the corpse of the old vision, especially the slavery vision, persists and penetrates into the mind of some groups of the new generation for a long time. They strive to revive the old system which governs the people as slaves. This accords with the law that things which are dead or dying still leave behind a corpse. They struggle to stay alive or to bring what is dead in name back to life again.

In Thailand, the system of slavery was ended legally by the royal decree of 1906. King Rama V also abolished several customs which followed from the

slave system. Yet the corpse of the vision created under the slave system still remained. It was not entrenched in everyone of the old order. Many members of the royal family and Thai aristocrats of the old order truly progressed according to the king's wish. They shed the corpse of the old vision, either wholly or in part. But among some groups from the old order, the slavery vision was deeply entrenched. They passed on the old vision as a legacy to the minds of some groups in the new generation. See the example in France. Some one hundred years after the abolition of absolutism in law, some groups of the new generation conducted themselves as "*ultra royaliste*", as "more royalist than the king". (I dealt with this in the book about the royal family members and inside the Regency Council, printed in 1972). In Thailand we can see that some groups of the new generation which have the slavery vision approve of certain dictators who rule the people like slaves. These people never consider that such dictators have reduced the power which the king had under the democratic system. They do not reflect that such dictators wield more power than the king under absolutism. They support dictators who rule the people like slaves. Sooner rather than later, they help to revive slave-ruling dictatorship, as happened in Thai history over the past twenty-six years.

To help students and patriots study how to preserve and develop the aim for full democracy of the heroes of 14 October, let me propose that you all study the mistakes of the People's Party and other groups in history which were unable to uphold their first stage of victory and develop to full democracy. You may take it as a lesson not to make the same mistakes again. At the same time, you should study the methods by which other groups and organizations were able to uphold and secure their first stage of victory, and were able to develop and progress to completion, so that the correct course can be applied according to the conditions of time and place in Thailand.

1. The People's Party made many mistakes which had one clear result—disunity inside the party. The problem to be studied is why the People's Party was disunited. This disunity arose because of differing attitudes to self-sacrifice; because of selfishness which arose after the first stage of victory; and because of differences in social vision among various individuals and groups which had either a small or large hangover from the old mentality. The members were all in agreement only on the vision of bringing down absolutism, and they all dedicated their lives to that. When they had the first stage of victory, they split up according to how backward or advanced was the vision of each person and group. One camp with a static vision was satisfied when absolutism had been felled. A progressive camp wanted to develop the country further towards full democracy. A backward faction

wanted to rule the country by dictatorship, which might appear superficially different to slavery, but if analysed clearly, was really a slavery system, even more backward than feudalism.

2. Disunity inside this party or other parties is a common occurrence. There is no party or group in this world, either in the past or present, whether conservative, moderate, socialist, or communist, which has no internal conflict between its members. We hear of parties where internal conflict caused sections to split off and form new parties; parties where some members were expelled; and parties which had state power, such as the Soviet Communist Party and the Chinese Communist Party, where certain members were purged for betraying the ideology of the party by reviving an old direction. So if we hear that inside the Student Centre there is conflict over vision, or over the way to uphold and develop the victory, we should not be discouraged that this has come about, because it is something common according to the natural law of conflict between an old vision and a new.

The problem is whether the party or the movement's centre can overcome the conflict completely, or reduce it somehow, and keep acting according to its ideals rather than making the mistakes which led the People's Party to dissolve. It would be worth studying the methods of various parties which experienced internal conflicts but were able to solve them, either by keeping the party intact, or if necessary by preserving that section which held tightly to the party's ideals to ensure the party or centre survived until its aims were fully achieved.

The means that will help the party or centre to survive, despite the natural law of internal conflict, are: holding firm to the vision of full democracy as the guiding principle to achieve this righteous aim; undertaking constant self-scrutiny to correct mistakes; not resorting to unwarranted self-justification; and helping friends to do the same.

3. It is a reality that one military group in the People's Party used military power to make themselves big in the government and to rule the people by dictatorship. But truly there were many other military members of the People's Party who were loyal to the party's democratic ideals. For instance Phraya Phahon Phonphayusena, whether during the time he was commander in chief of the army or when he was prime minister, never did anything against democracy. Nor did he cling onto position. When it was time for him to leave according to the constitution, he resigned calmly. Many other army officers and People's Party members were loyal to the democratic ideal. It was only a small group of soldiers who, when they had power, joined forces to pervert democracy into dictatorship. Many civilian members of the

People's Party who had a selfish outlook hoped to make a windfall from dictatorial power and so turned to support it.

Hence the problem was not that those who were soldiers were pro-dictatorship while those who were civilian were pro-democracy. The problem was that the residue of the slavery vision was embedded in certain people, whether military or civilian, and this residue tended to make them want and support the dictatorial system which rules people as slaves.

In truth, since 1913 the Conscription Act has laid down clearly that all Thai males must do military service. When someone reaches seventeen, he must register as a conscript and has a chance of being called up for regular military service. The wish of King Rama VI was that Thai males should be soldiers of the Thai people. In the later period under dictatorship, military training made regular soldiers a tool of dictatorship. The intention of senior officers in the People's Party was to make the Thai army like the Swiss army, where males become soldiers to look after their locality as a people's army. The party took first steps in this direction by setting the highest rank in normal times as colonel. There was only one general who was the commander of the royal bodyguard. The military was organized by monthon and province, not by divisions, brigades, armies as in the absolutist period. At the start of the People's Party time, some people referred to the Thai army as the provincial army. If the pro-dictatorship military officers had not objected, the plan to organize Thai males as a people's army would have succeeded, and would be a power on the side of the people for upholding and developing full democracy.

The French revolutionary movement of 1789 could not make use of the old royalist army, apart from some soldiers who sided with the people. Hence the movement armed the French people to fight against the enemies of the people inside the country, and against foreign countries which raised reactionary armies to invade France and destroy democracy.

Subsequent revolutionary movements in many countries were able to uphold and develop their victory by organizing the people into a people's army. They welcomed soldiers from the old order who put the benefit of the people above their private benefit by volunteering to join the people's army.

In many movements which fought dictatorial power in Thailand, commissioned officers, NCOs, and enlisted men who were pro-democracy joined up on the people's side.

Hence, the problem is not that the revolutionary movement denies the importance of soldiers, but that soldiers should be soldiers of the people, who come from the people, who are trained to work for the people, and who refuse to be a tool of the dictatorial power which rules soldiers as slaves.

The histories of some countries show examples where conscript soldiers understood that the revolutionary movement acted for the benefit of their

own distressed fathers and mothers. For instance, soldier sons of peasants knew that the movement would bring benefit to their peasant parents; soldier sons of poor people and labourers, or of petty businessmen, or of petty bureaucrats, knew the movement would bring benefit to their parents. Such an army refuses to be a tool of the privileged group which oppresses their parents. This army turns to be a force of the true people's movement of the nation (not a movement to preserve power, to expand power, or to expand the power of other nations).

4. The People's Party invited old aristocrats (*khun nang*) to help form the government headed by Phraya Manopakon. On 1 April 1933, Phraya Manopakon received a royal decree, as printed in the government gazette, to prorogue the Assembly and revoke several clauses of the constitution of 10 December 1932. An Anti-Communist Act was introduced to punish anyone with socialist thinking of various types, even if not communist.

Many people of good will at that time criticized me for not having learned a lesson from Sun Yat Sen who, after the revolution of 1911 had won a first stage of victory, entrusted power to Yuan Shi Kai, an aristocrat of the old Chinese order, as head of state. This enabled Yuan Shi Kai to overturn the first stage of victory of the revolution. He proceeded in a very backward way and set himself up as the emperor of China (temporarily until his death). I admit I alone made the mistake of proposing to the People's Party to invite Phraya Manopakon to head the government. Other members of the People's Party were not as familiar with Phraya Manopakon as I was. I had worked together with him in the law-drafting department and several times on the examination board for law students. In conversation he showed he was pro-democracy. And his conduct as chief judge of the appeal court showed he dared to make judgements without fear of absolutist power. Hence many law students of that time appreciated him. I saw him as a different type from Yuan Shi Kai who betrayed the Kwangsu Chinese emperor who had a desire to grant a constitution for China. I made the mistake of not analysing deeply that Phraya Manopakon still retained some of the thinking of the old order. But I ask for fairness for Phraya Manopakon. He could not have opposed the democratic constitution on his own. He was supported by some elements inside the People's Party whose vision still had the residue of the old order, and by other old aristocrats who had been invited to join the government.

My mistake should be a lesson to the students and new generation of today not to repeat. You must study the true make-up of people who you ally with and put your trust in, so that the first stage won by the heroes can be developed further. Some people may appear democratic for a while. But when the time comes to develop the democratic victory to another stage,

they may act according to their old vision and inherited way of thinking. This may wreck the foundations for preserving the victory won at the first stage.

5. Colonel Phraya Phahon, who was prime minister after Phraya Manopakon, conducted public affairs totally according to the democratic system. And when it came to the point that he had to quit according to the constitution, he resigned, and was succeeded by Colonel Luang Phibunsongkhram.

When Colonel Luang Phibun was first prime minister, he conducted public affairs according to the democratic system. There was just one thing over which he departed from the earlier ideals of the People's Party. In normal times the highest military rank was only colonel, but Phibun was appointed by the regents to the rank of major-general.

Not long after, some people whose vision was inherited from the age of slavery encouraged Luang Phibun to govern the country by a nazi or fascist dictatorship, and to rule the people as slaves. Rumours were passed around that some people who went to pay their respects to Luang Phibun saw miraculous rays of light emanating from his body. This rumour became widespread. The truth was like this. One evening there was a drama performance at Suan Kulap Palace on the occasion of Luang Phibun's birthday. I and many promoter friends were also invited. Some still alive today may remember that Luang Wichitwathakan was the presenter of the drama and acted himself in some scenes. One scene depicted the dance of the chickens (Luang Phibun was born in the year of the cock). This dance signified that people with merit are born in the year of the cock, which is the tutelary spirit of the Thai nation. In another scene, Luang Wichit acted as a crippled old man. When he saw Luang Phibun and recognized a man of merit, he made a deep obeisance and his deformity disappeared. Luang Phibun turned to me with a look of embarrassment, then turned back to acknowledge Luang Wichit's obeisance. I saw that at that time Luang Phibun did not think of being a dictator. But later he was supported several times by people of the old vision, including a group known as the "four pillars" (*chatusadom*) who were intent on praising him beyond reason. Although he had been a democrat, Luang Phibun was gradually led astray into a new direction.

6. After peace was concluded in the war with French Indochina, some people supported Luang Phibun for a higher rank. Luang Phibun spoke with me and many other people that he should probably have the rank of major-general only. But the Regency Council, which then consisted of Phraongchao Athit and Chaophraya Phichaiyen, promoted Luang Phibun from

major-general to field marshal on the signature of King Ananda Mahidol. They requested Luang Adundetcharat to countersign the royal command. Luang Phibun did not know about this matter in advance. But when he learnt from the announcement in the government gazette, he was not willing to accept the rank of field marshal, and for several months refused to go to receive the field marshal's baton from the Regency Council. Later Phraongchao Athit brought the baton to present to Field Marshal Phibun at government house in Suan Kulap Palace.

Later the Regency Council appointed Field Marshal Phibun as supreme commander of the armed forces. This created an even bigger opportunity for Field Marshal Phibun to govern the country as a dictator, and to take the country into the Second World War.

We can observe that if the Regency Council had refused to appoint Luang Phibun as field marshal and supreme commander of the armed forces, how could he acquire that rank and position? In the case of legislation, the Regency Council can refuse to fix their signatures to a bill, even when a royal command has been received. The problem lay with the Regency Council. Did they place the benefit of the nation above their deference to Luang Phibun?

After Field Marshal Phibun's actions had created losses for the country both internally and externally, the MPs of both type 1 and type 2, including People's Party members whose ideal was to preserve democracy, made plans to remove Field Marshal Phibun from the prime ministership by correct legal procedure. As regent, I acted according to the requirements of the MPs. Later I announced the royal order removing Field Marshal Phibun from the post of supreme commander of the armed forces, abolishing this post, and creating a post of commander in chief (*mae thap yai*), a post authorized in military law. Phraya Phahon was appointed to this post to command the armed forces according to democratic principles (I have given details in the book referred to above).

IV

The next events should be a lesson on how reactionary dictatorial power can be brought back to life.

On 9 May 1946, King Ananda Mahidol with the endorsement of the Assembly granted the constitution of full political democracy. The people elected members of the Senate by indirect election and members of the Assembly by direct election. In effect, the king granted sovereignty to his people, working through their elected representatives, in the place of the semi-democracy in which type-2 MPs and senators had been chosen by

appointment. Opponents of democracy were not happy with this full political democracy. When they could not fight it by constitutional methods, they instigated a coup.

While King Bhumibol Adulyadej was still in his minority, the parliament passed a resolution to appoint two regents, Kromkhun Chainatnarenton and Phraya Manawaratsewi. Both took an oath before the parliament to preserve the constitution and act according to it. On 8 November 1947, a small handful of military men, acting against the democratic intention of the majority of soldiers who are sons of workers and peasants, made a coup and overthrew the system of full constitutional democracy which King Ananda Mahidol had granted with the endorsement of the Assembly. The coup group announced it would use the temporary constitution of 9 November 1947 known as the under-the-water-jar constitution. Kromkhun Chainat was the only person to sign on behalf of the king even though he himself did not agree. Phraya Manawaratsewi did not sign.

This under-the-water-jar constitution had one person to countersign the royal command, namely Field Marshal Phibun, in the post of "commander of the Thai armed forces". This post enabled Phibun, who had been removed from the post of supreme commander of the armed forces earlier during the Second World War, to return with increased power.

What lovers of a democratic nation could not anticipate was that the Supreme Council of State (*khana aphirathamontri*), which according to the under-the-water-jar constitution carried out the duty of the regents, would appoint Nai Khuang Aphaiwong, head of the Democrat Party, as prime minister; that Khuang would form a cabinet composed of old aristocrats and several Democrat Party members; and that this government would propose many old aristocrats of high rank for appointment to the Senate by the regents acting on behalf of the king. (The name of the Senate was changed [from *phruthisapha*] to *wuthisapha*.) The names of these senators can be seen from the list appointed on 18 November 1947. This removed the rights of the mass of Thai people to elect senators under the 1946 constitution.

Removing rights from the mass of the people was not enough to satisfy the Democrat government. Under the under-the-water-jar constitution, the government used the Senate as a provisional parliament to amend the law for elections to the Assembly. The provisions of the 1947 provisional constitution of the kingdom of Thailand (under-the-water-jar) as amended were as follows.

For elections in the first instance, the provisions of the electoral law of 1932, as amended (third edition) in 1936 shall be in force, with additional amendment of the age for electoral candidates under clause 16(1) of the

electoral law of 1932 as amended (third edition) in 1936, to be not less than thirty-five years, with the exclusions in clause 17(1) of the act.

After the first election, if any seat falls vacant for any reason besides the expiry of the parliament's term or a dissolution, and a new election is held, the provisions of the above paragraph shall be in force.

Signed on behalf of the royal command
Khuang Aphaiwong
Prime Minister

Students of constitutional law should explain to young people which countries in the world have a democratic constitution which limits the minimum age of MPs or members of the lower house to thirty-five years. They will find every country in the world sets the minimum age of electoral candidates for the lower house no less than twenty-five years; and for the Senate slightly higher at thirty to forty years. For instance in the United States, the Senate is thirty years, while the lower house is twenty-five years.

Once the Democrat government had its Assembly consisting of MPs of high age along with its Senate comprised mostly of aristocrats of the older generation, they drafted the constitution of 1949 claiming it was the most democratic. How could it be the most democratic when it was drafted by senators who were not elected by the people either directly or indirectly, and by MPs aged over thirty-five years? The 1949 constitution showed more kindness to the younger generation than the under-the-water-jar charter by amending the minimum age for MPs from thirty-five to thirty years. But this was not a lot of kindness, as this minimum age was equal to the minimum for the American Senate which was intended to be a body of more advanced age.

Let me inform young people that in the provisional constitution of Siam of 27 June 1932, the first-ever charter granted by King Prajadhipok, clause 11 fixed the minimum age for electoral candidates at twenty years, the same as the voting qualification. Later during the drafting of the electoral law for the constitution of 10 December 1932, the king commanded Phraya Phahon, head of the People's Party, and myself to attend in audience about the draft constitution and electoral law at Chitlada Palace. The king was of the opinion that Thai males had to serve in the army, and hence fixing the electoral qualification at twenty years would not be convenient. A large number of Thai males serving in the army would have to take leave to vote, and this would waste many days and months of service time. Hence it would be appropriate to raise the age to twenty-three years, so that army conscripts would have already been discharged into the reserves or into the monkhood for one year. Phraya Phahon and I endorsed the king's suggestion and drafted the

electoral qualification as not less than twenty-three years. This electoral law was used until superseded by the electoral law of the Democrat Party.

I have another observation. Those who advertise themselves as admirers of King Prajadhipok and who rage against the People's Party over the king's abdication, why do they not respect the king's own wishes to grant such democratic rights?

We can see that Field Marshal Phibun and his group were able to return with increased power through the help of people whose vision was left over from the old order that opposed democracy.

Field Marshal Phibun allowed the Democrat government to remain in power for only a few months. Then a handful of military men requested Nai Khuang to resign from the prime ministership. The regents appointed Field Marshal Phibun as prime minister and installed a government in place of Khuang's. The senators who had been appointed, and the MPs who had been elected by the law which removed the rights of people aged below thirty-five, were still in place. They immediately expressed their confidence in Field Marshal Phibun as the executive.

Later, on 23 March 1949, this same Senate and Assembly passed a new constitution, in which were hidden several provisions which should be noted here. Clause 181 included:

Senators appointed according to the constitution of the kingdom of Thailand (provisional) shall remain senators under this constitution, and their term shall be counted from the day of the royal command with their appointment.

Students of constitutional law can see with little difficulty that the 1949 constitution transferred senators appointed under the provisional under-the-water-jar constitution to be senators under the 1949 constitution. This was mutual back-scratching between the coup group and the old order.

On 29 November 1951, nine officers of the army, navy, and airforce announced over Thailand radio that they had set themselves up as the "Provisional National Executive Group". Later they asked the king to bring back the constitution of 10 December 1932. King Bhumibol Adulyadej granted the wish after having the Assembly make suitable amendments.

After Nai Chalio Pathumrot, Nai Chit Singhaseni, and Nai But Paththamasarin were executed for the regicide of Rama VIII, Field Marshal Phibun had many new facts which showed the innocence of these accused. While I was living in China, he sent a representative to inform me that he would bring

about justice by having the regicide case reviewed according to the practice in some advanced countries, and that he would conduct the government of the country according to the methods of full democracy. But whether Field Marshal Phibun truly acted this way or not is another problem.

Those with the vision of the slavery era at first maligned Field Marshal Phibun for not respecting the king. This made some of the new generation of the time have wrong ideas. They then supported Field Marshal Sarit to overthrow Phibun by coup, and helped broadcast that Sarit was the saviour of the throne.

At first, Field Marshal Sarit set up Nai Pote Sarasin and then General Thanom Kittikhachon as prime minister to rule the country under an amended constitution of 10 December 1932. But before long, Field Marshal Sarit's true substance was revealed. He was advised by Luang Wichitwathakan to make another coup on 20 October 1958, to abrogate constitutional government completely, and to rule the country by what was called the "Revolutionary Party" which had more power than the king under the absolute monarchy. It could arrest and shoot people without court proceedings. Even though this group proclaimed martial law which provided for circuit courts (*san sanam*), they did not bother with them. Their group arrested some people and shot them against the wall of Wat Mahathat, the *wat* where Luang Wichitwathakan had entered the monkhood and studied for a theological qualification (*parian*). The incident made the monks and worshippers very dismayed. It did not accord with the propaganda by those of the slave mentality that Sarit and his people were great respecters of Buddhism of which the king is the defender of the faith.

The constitution granted by royal command on 28 January 1959 reduced royal power in many ways. For instance, clause 17 allowed government to execute any person without court proceedings. This abolished the royal power to grant a pardon, which had been a custom from the time of King Ramkhamhaeng, and was a tenet of modern constitutions including that of the military dictator, Mussolini. In truth, if the punishment under the old law was considered too little, the law should have been amended and the penalties increased. And if the process of criminal justice was too slow, the law should have been amended to speed things up. But Field Marshal Sarit and his group of the slavery vision, although they claimed to respect the king, reduced the power which the king once had under the democratic system and in accordance with the royal tradition of the ten ways of the king (*thotsaphitratchatham*).

In 1963, Field Marshal Sarit passed away, and Field Marshal Thanom Kittikhachon received royal appointment as prime minister. The Thanom government had to concede to the request from Thai patriots to look into the government accounts. It was revealed that Field Marshal Sarit had

embezzled over two thousand million baht to nurture his harem. When dishonesty was revealed on this scale, some members of the royal family, who were not tightly locked into an anti-democratic point of view, came to understand that Field Marshal Sarit had not been loyal to the throne. But a number of young people who had the residue of the slavery system proclaimed an excuse for Sarit: "Although Field Marshal Sarit swindled many thousand million baht of the nation's money, the fact that he preserved the throne has the highest value". Wise people should see that this excuse for Field Marshal Sarit put out by the old reactionary group, both old and new, is lese-majesty. The Thai people are the protectors of the throne, and it is disrespectful to the king to say that the throne exists because of a field marshal who took the nation's money to pander to his own pleasure and to have almost a hundred Thai women as his courtesans.

Field Marshal Thanom Kittikhachon became prime minister in place of Field Marshal Sarit, with Field Marshal Praphat Charusathian as deputy prime minister. They governed according to the constitution which removed several powers from the king for several years until the promulgation of the constitution of June 1968 which took ten years to draft. This is a world record. No country has taken this much time to draft a constitution or required such a large expenditure of the nation's funds. Even the constitution of the dictator Mussolini took only a few months to draft. The constitution of 1968 was used for only around three years. In November 1971, Field Marshal Thanom and group made a coup, cancelled the constitution, and ruled the country by their own system of dictatorship. Around one year later, the constitution of 15 December 1972 was promulgated and remains in force up to the time of writing.

From this evidence, it can be seen that the slavery vision is a danger to the Thai nation and people. Sooner or later it provides the support for dictators to return with increased power and again govern the people as slaves. The dictator changes from person to person, but the dictatorship remains.

V

Many students and representatives of journalists have written to ask whether I have any suggestion about the drafting of the new constitution. Let me reply with just the few following points for those interested to study.

As I have already said, let the new constitution be in line with the aim for full democracy of the heroes of 14 October, so that it may last a long time,

and so that the mass of the people can concentrate on making a living, for the sake of economic prosperity and peace, instead of spending their time fighting to change a constitution which does not accord with this aim.

This aforesaid aim is in line with King Prajadhipok's wish, which was the important point-of-origin (*mae bot*) for the fundamental change from absolute royal power to constitutional democracy. Nobody should show disrespect for this important point-of-origin which changed the basis of the system.

In studying law, it is not enough just to study the provisions clause by clause. The interpretation of law must take into account the intention of the law as well. The intention appears in the preamble.

Some people have listened to misleading rumours from the enemies of the People's Party that King Prajadhipok simply put his signature on the constitution of 10 December 1932 which the government of that time proposed, as if he was only a royal signet stamped on the constitution and other legislation. In truth, the preamble of the constitution records that he "reviewed meticulously every process". That is, he sent a message to the government summoning Phraya Manopakon, Phraya Phahon, and myself to attend in audience to hear his opinions and proposals about the constitution, especially the preamble which states the major intention of the constitution. The People's Party asked the king himself to make a draft so that it would accord with the king's desire. The king accepted this responsibility. When the king's original draft was complete, he had Phra Sanprasoet (Nakha-prathip) bring it to see if I had any opinions. I asked Phra Sanprasoet to convey my reply that I agreed with the royal proposal on all points. The constitution drafting committee agreed that the preamble was in line with the intention of the people and the royal desire, and was also very elegantly expressed. The Assembly considered the preamble and approved it by unanimous resolution.

The royal wish for the Thai people to have full democratic freedom is apparent in the preamble as follows:

By royal command, the constitution of the kingdom of Siam bestows on the king's people full sovereignty from this day forward.

This constitution had a provisional section with MPs of type 2 as half of the total number. The king devised this as a necessity during the changeover from the absolute monarchy to constitutional democracy, because in any major change of the political system which alters the foundations of politics or of politics and economy, it is necessary to have a provisional section. But when the term of the provisional section was over, there would remain only MPs of one type, that is the type elected by the people, in accordance with

the king's wish for the people to enjoy full sovereignty. The king had no wish to resume the power to appoint any members of parliament at all.

It should be explained also that when war arose in Europe, and the Thai government of the time was preparing to mobilize the army reserves and special reserves into the regular forces to deal with the situation that might arise in Indochina, this meant that those Thai males would not easily be able to exercise their electoral rights on an equal basis with those not mobilized. As there was no knowing how long the danger of war would continue, the government of the time proposed to the Assembly to extend the provisional section from ten to twenty years. The meeting of the Assembly proceeded according to the rules on constitutional amendment in every detail. Not only type-2 members alone took the resolution to extend the provisional section, but type-1 members who had been elected directly by the people also voted unanimously in favour of the resolution. Then when the provisional section had been in force for fourteen years, there was no longer any necessity to keep it up to the full twenty years. The preamble of the constitution of 9 May 1946 runs as follows:

Then Nai Pridi Banomyong who at that time held the office of regent, remarked to Nai Khuang Aphaiwong, prime minister, that the constitution of the kingdom of Thailand granted by the king to the Thai people was now in its fourteenth year; government under the democratic system in accordance with constitutional democracy had brought progress to the country in many respects; the people had come to know the benefit of this system of government truly well; yet the political situation has changed considerably; the time had come when the provisional section of the constitution should be abolished, and the constitution of the kingdom of Thailand should be amended. The prime minister thus discussed the issue with type-2 MPs and with the promoters of the constitution. When agreement had been reached, the government of Nai Khuang Aphaiwong's party proposed a resolution to the Assembly on 19 July 1946 to appoint a special sub-committee to research and study how the constitution of the kingdom of Thailand should be amended to bring it into line with the political situation of the country and to make the government yet more fully democratic.

Nai Prakop Hutasing, chairman of the drafting committee of the new constitution [i.e. the 1974 constitution], has stated in interview to some newspapers that they would select good things from Thai constitutions in the past to consider for the new draft.

To help the constitution drafting committee, the government, and the legislative assembly which will consider the draft constitution at the final

stage, to receive opinions broadly from university and school students inside Thailand and studying overseas, and from the mass of the people who will come under this new constitution; and to remove misunderstandings arising from propaganda which appeared in some newspapers which are the voice of certain parties, that the constitution which they are drafting will be the most democratic; I think university and school students and the mass of the people should set up groups to study every constitution which Thailand has had, to consider in great detail whether any version is or is not truly the most democratic, and then to report to the drafting committee, the government, and the legislative assembly.

To this end, these various study groups must have copies of every Thai constitution. That being so, the government must print a book collecting together all the constitutions to serve as a tool for the drafting committee, the ministers, and the legislative assembly in their process of deliberation. I thus propose the government should print this book for these study groups also, for sale at a moderate price, even printed on proof paper. Also it should be printed quickly in order to be timely. The printing cost should not be very much when compared with the meeting allowances and expenses of drafting so many constitutions already.

In the past, some people have misappropriated the royal command for personal benefit, sometimes without understanding and sometimes by feigning not to understand. This came about because some constitutions were written in a way that made people misunderstand, especially about countersigning the royal command. In the new constitution, please have it written clearly in what cases the king has power to initiate something himself, or on the advice and approval of whoever and whatever. This has already been done in legislation which clearly states "with the approval of parliament". In the drafting of royal decrees and royal commands to make various appointments, it should be written clearly in the constitution that this can be done by the king himself or with the approval of whoever or whatever organization. For example, suppose that the king is to appoint senators as in the 1949 constitution which some people claim was the most democratic. Let it be written that "the king shall appoint the senators as proposed by the chairman of the Privy Council or by the Privy Council". It should not be written "the king shall appoint" and then "the chairman of the Privy Council shall countersign the royal command" because this makes the mass of the people misunderstand that the king first chooses people according to the royal disposition and then has the chairman of the Privy Council countersign the royal signature. The mass of the people know that the privy councillors themselves choose the people they think should be senators and propose them to the king for signature. In the same way, if

senators are appointed as in the 1968 constitution whereby the government countersigns the royal command, then write clearly in the constitution that the senators are proposed by the government for the king to appoint. For instance, during the time the under-the-water-jar and 1949 constitutions were in force, there were some senators who falsely claimed that they accepted the position of senator because they could not go against a royal command, even though they themselves knew well in their own hearts that the Privy Council or government had proposed their own people to the king for royal signature.

The constitution of 9 May 1946 respected the wish of King Prajadhipok to give his people "full sovereignty". This is the point-of-origin of constitutional democracy. Thus it laid down that the members of both the Senate and Assembly would be elected by the people, because if senators are people the government or Privy Council proposes to the king for appointment, it goes against the royal wish to infringe the full sovereignty of the Thai people. Such appointment is no different at all to the system of type-2 members which had already been revoked. It is even worse because type-2 members were only provisional and when the provisional term was over, there remained only the members elected by the people. As the system of appointive senators probably lasts for as long as a constitution is used, this system is "semi-democracy", not "full democracy".

In Japan and almost all European countries which have monarchs as head of state and parliaments consisting of Senate and Assembly, senators are elected by the people by direct election or by two-stage election in which the people elect an electoral college and then this organization elects the senators. The exception is the British "*House of Lords*" which can be incorrectly translated into Thai as "assembly of nobles (*khun nang*)", giving the wrong idea that the old Thai nobles should be appointed as senators. But "*Lord*" in Britain is a feudal lord (*chao sakdina*) who has inherited from his ancestors one of the large or small landed estates which were combined under the United Kingdom. They are not nobles who are government officials with high rank in the Thai fashion. The British House of Lords is comparable to the assembly of a federation of feudal lords whose territories were united under the British monarchy in old times. In the period from then until the present, there are some members of the British House of Lords who were granted by the monarch the title of lord in name only and who do not hold power over any territory.

The kingdom of Denmark has a single chamber called the "*Folketing*" whose members are elected by the people.

The kingdom of Sweden has a single chamber called the "*Riksdag*" whose members are elected by the people.

The kingdom of Norway has a parliament, the "*Storting*", with two chambers, the "*Lagting*" and the "*Odelsting*" which are elected by the people directly and indirectly.

The kingdom of the Netherlands (Holland) has two chambers, with members of the upper chamber elected by the provincial councils, and the lower chamber directly elected by the people.

The kingdom of Belgium has two chambers. The Senate includes members elected by the people and also the king's sons, who are members by virtue of their position but who in practice do not exercise this right. The House of Representatives has members elected by the people.

Some newly independent black kingdoms in Africa have constitutions giving the monarch power of appointing the members of the upper chamber.

Concerning the appointment of senators under the 1949 constitution by the chairman of the Privy Council countersigning the royal command, we should consider what is the general principle of constitutional law, and what has been the result in practice, in order to make things clear in concrete terms for university and school students and the mass of the people also.

a. In what monarchical countries around the world does the constitution have provisions as in the 1949 constitution?

b. Thai students in Britain should know full well that the British Privy Council has over three hundred members, and the chairman does not have the power to countersign the royal command to appoint members of the upper house. Yet in Thailand by the 1949 constitution, the Privy Council had no more than nine members including the chairman.

c. Although it was written in the 1949 constitution that the king appointed the Privy Council yet the president of the parliament countersigned the royal command. Students interested in constitutional law should know what countersigning the royal command means.

d. In practice, the chairman cannot countersign for the appointment of senators on his own, but he must consult the Privy Council of no more than nine persons.

e. In practice, we must consider the real situation of who the privy councillors are. As far as I can recall, at present there is Krommun Phit-thayalap as the chairman, Chaophraya Sithammathibet, Phraya Manawatsewi, Phraya Srisena, General Luang Suranarong, and Nai Sanya Thammasak (if I have made any omission or mistake, please let the reader complete the list).

I am trying to recall those who used to be privy councillors who have passed away or resigned to take up other positions. I can think of General

Luang Senanarong (father of Lieutenant General Sawaeng Senanarong), Phraya Borirakwetchakan, and General Luang Kampanatsaenyakon (formerly minister in the cabinets of Field Marshal Phibun and Field Marshal Sarit). It seems Luang Chamrunnitsat was once a privy councillor but resigned to take up the post of minister of justice. If I'm wrong please excuse me.

Students and the mass of the people should use their discrimination to see what was the real effect in practice of the method of appointing senators under the 1949 constitution.

During the drafting of the constitution of 10 December [1932] there was a problem over whether it should be written into the constitution that the king had the duty to uphold the constitution. The king had Phraya Phahon and myself attend in audience at Chitlada Palace. The king said that the constitutions of many countries with presidents as heads of state laid down that the head of state had the duty to uphold and protect the constitution, and must take an oath to that effect before assuming office. The king said that such a provision was not necessary for Siam as the king's grant [of the constitution] was already equivalent to a vow. Besides, by royal custom the king made vows during the coronation ceremony. I asked whether, now that the system of government had been changed to a constitutional monarchy, he would like to add something to the royal vows in the coronation ceremony of future kings. He said there already was a passage in the preamble which enjoined members of the royal family to join together with the common people to protect and abide by the constitution. Those who would be kings in future would be drawn from the royal family and so would have the duty to uphold the constitution.

Then the king commanded a page to bring a special issue of the Royal Gazette for 1925 for me to read a passage of the royal [coronation] oath as follows:

Then the king speaks in Thai words from the Pali as follows:

"Oh Brahmins. Now that I have assumed the full responsibility of government, I shall reign in righteousness for the good weal of the populace. I extend my royal authority over you and your goods and your chattels, and as your sovereign do hereby provide for your righteous protection, defence, and keeping. Trust me and live at ease."

The high priest (*phraratchakhru*) is the first to accept the royal command as follows:

"I do receive the first command of Your Majesty."

"It is done . . ."

"I make the vow to set the royal heart to maintain the ten ways of the

king, the imperial observance of moral precepts, and other matters in accord with royal wish.” [Part of this translation is adapted from *The Coronation of His Majesty Prajadhipok of Siam B.E. 2468*, pp. 15, 17.]

King Prajadhipok explained that the royal wish at the end [of the above passage] was already clear, that is, future kings must protect the constitution.

Later this coronation ceremony was conducted again in the reign of the present king.

The final passage of the royal preamble to the constitution of 10 December 1932 runs:

Let all the royal family members, all government officials both military and civilian, and all the people in the kingdom be united and harmonious in protecting and abiding by the constitution of the kingdom of Siam so it may last together with the territory of Siam in eternity, according to the royal wish in every way.

Phraya Phahon asked how the king would uphold the constitution. King Prajadhipok said that if the government proposed anything against the constitution, the king would return it without affixing the royal signature. Phraya Phahon continued that the People’s Party was worried that military officers who had been dismissed from the reserves would think of overthrowing the government and presenting a new constitution of their own for the royal signature; what would the king do? The king said he would consider that group in rebellion (*khobot*), and in his status as commander in chief he would hold that group were enemies of the crown in defiance of the royal command. If they forced him to affix his signature, he would abdicate and let them find another king to affix the royal signature.

Later in 1933, a number of officers of the military reserve under the leadership of Phraongchao Boworadej raised troops from some provincial centres and came to menace Bangkok in order to overthrow the government. King Prajadhipok gave royal permission for the government to call this group a “rebellion”, and did not lend the royal name to this rebel group in any way. This was the royal graciousness to uphold the constitution which the king had granted. The king was ready to use his power as commander in chief if the government troops were unable to suppress the rebellion.

The case of regents differs from that of the king who takes the aforementioned vow in the coronation ceremony. Hence regents have to swear an oath to the parliament before assuming office as follows:

to protect and abide by the constitution of the kingdom of Siam (Thai).

In other essays, I have talked about the occasion, at the time I was regent, when I opposed the government for acting against the constitution, and refused to declare war against Britain and America. I would not put my name to the declaration and hence it was not valid.

The constitution of 9 May 1946 did not arise from a coup, but was written in accordance with the constitution of 10 December 1932, as already noted. At that time King Ananda Mahidol was a minor. The regents appointed by the parliament in accordance with the constitution of 1946 swore an oath to the parliament "to protect and abide by the constitution of the kingdom of Thailand". Hence if Kromkhun Chainat had acted according to his oath, he would not have agreed to sign on behalf of the king on the under-the-water-jar constitution, and would have carried out his duty as commander in chief in place of the king who was in his minority. Then there might have been no under-the-water-jar constitution, which was the point-of-origin for Thailand subsequently having so many constitutions that people cannot remember how many. The system could have been upheld under which the Thai people had full democracy in accordance with the wish of King Prajadhipok.

The temporary constitution of 27 June 1932, which was drafted by the People's Party itself, and presented to the king to grant to the Thai people for the first time, laid down only that the "*kasat*" was the supreme head of state, and had no clause giving the king power as commander in chief.

One day during the drafting of the constitution of 10 December 1932, Phraya Phahon and I were summoned by the king to attend in audience at Chitlada Palace. The king said that the word *kasat* was incorrect because it meant only a warrior. To be correct it had to be written as "*phramahakasat*", that is the great warrior who holds the weapons to protect the country. This was the royal custom from old times. Phraya Phahon and I agreed with the king and suggested that not only should it be written that the head of state is the king (*phramahakasat*), but also that he should be commander in chief with power over all the military. The king said this was correct since the presidents of various countries were commanders in chief over the whole military; this was a matter which went together with the royal power to protect the country and to uphold the constitution, because the king had the power to command the military forces in action, and to order the military to act in ways that they should act, and to refrain from actions that they should refrain from.

Subsequent constitutions laid down the power of the king as the supreme head of state and as the commander in chief.

Even though the reactionary dictators reduced the power of the king in the constitution on many points, that group still agreed to the provision that

the king was the head of state and held the position of commander in chief, which are powers passed down from the constitution of 1932.

Some people interpret the word “supreme” (*sung sut*) as meaning the highest. But in Thai “*chom*” means the topmost (*yot ying*), hence *chom thap* (commander in chief) means the topmost over the supreme commander (*phu banchakan thahan sung sut*), a position which is not in the constitution, but was established by royal decree and is subordinate to the commander in chief (*chom thap*).

During the Second World War when I was regent, there was conflict between the powers of the commander in chief and the supreme commander. As I have written in the book referred to above, acting on behalf of the king in his status as commander in chief, I gave orders to the supreme commander to take certain actions and to refrain from actions which should be refrained from. For instance the fact that he wanted to raise troops to suppress patriots brought about the dismissal of Field Marshal Phibun from the office of prime minister. I personally requested Nai Khuang, the prime minister, to go and negotiate with Field Marshal Phibun at Lopburi. But Phibun did not accept, and was preparing to raise troops from Lopburi. I saw that unless there was a royal command issued to make things clear, Field Marshal Phibun might bring forces to slaughter people. Thus for documentary evidence, I signed on behalf of the king on a royal command dismissing Field Marshal Phibun from the post of supreme commander, rescinding that post, establishing the post of commander in chief (*mae thap yai*) in accordance with the act on military affairs, and appointing General Phraya Phahon to hold this post. Phibun had considerable forces under his command, but when he saw the royal command he did not dare disobey.

There are comparable examples from countries with kings as heads of state where the king can order the whole military, as follows.

In 1936, the Japanese Young Military group mutinied, seized certain areas of Tokyo, and used weapons to kill politicians and innocent people. The military command could not restrain this Young Military Group. Emperor Hirohito used his power to order the Military Group which gave rise to this evil to lay down their arms and surrender to their superiors. He had them punished as an example. Peace returned for the Japanese people. Nobody complained that the emperor contravened the constitution.

In 1945 the Allies dropped atomic bombs on Hiroshima and Nagasaki. People were killed, injured, and devastated. Emperor Hirohito saw that fighting on against the Allies would bring no chance of victory but would only cause the death of more of the emperor’s people. He agreed with some politicians that they should surrender to the Allies in order to find a way to revive the Japanese nation at a future opportunity. A violently minded

military group used force to seize power over some parts of the military headquarters, and opposed the emperor issuing a royal command to his people over the radio. Emperor Hirohito used his royal power decisively to order the suppression of this violently minded military group. The Japanese radio was able to broadcast the royal command according to the emperor's wish. Although Japan was submitted to the Allies, before long Japan developed economically, bringing prosperity to workers, farmers, and all classes of Japan. If the emperor had not agreed to use the royal power decisively against the violently minded Japanese soldiers, the Japanese nation would have been devastated, and it would have been difficult to revive the country. The history of Japan hence praises the emperor rather than condemning him for contravening the constitution. This was because the emperor considered the Japanese nation over and above the emperor.

In Europe there is the example of King Victor Emmanuel III of Italy. Under the fascist constitution of the dictator Mussolini, the king was head of state in name only. But when in 1943 he saw that Mussolini was bringing ruin to the Italian nation, he used his power as head of state decisively to order people loyal to himself to arrest Mussolini, and he issued a royal command dismissing Mussolini from various positions including prime minister in order to rescue Italy from the fascist system. When the Second World War was over, he abdicated in favour of the crown prince, Umberto.

History and current events in several countries have examples of the head of state becoming like the statue of a guardian spirit adorning a shrine or spirit house, so that others can have dictatorial power.

In the eleventh century in Japan, some people displayed such great reverence for the emperor that they worshipped him as a guardian spirit descended from the god of the sun. The emperor ceased to exercise his power and duty in the kingdom, but devoted himself to religious ceremonies, and affixed the royal seal in accordance with whatever the dictator of the "shogun" system wanted. The shoguns took over the power of governing the realm, consolidated a dictatorial system, and passed this inheritance down to their descendants for eight hundred years. Japan fell behind the Western countries in this period. Around the mid nineteenth century, patriotic Japanese who desired progress and prosperity for their nation, overthrew the dictatorship of the shogun and revived the royal power which the emperor should have in accordance with a democratic constitutional system. Later when the Meiji emperor passed away, the residual slavery vision of the shogun system reduced the power of the emperor in practice to the point where Japan was defeated in the Second World War. At present, the emperor has the power and duties which he

should have under a democratic constitution. This has made Japan have more economic progress and prosperity than many Western countries.

In Bhutan before 1907, the head of state was venerated as a "righteous king" (*thammaracha*) whose duties consisted only of religious ceremonies. The royal seal, the power to govern the realm, effectively fell into the hands of dictators who held the position of "god-king" (*thepracha*). In drafting the 1959 constitution, which was the model for that of 1972, perhaps someone advised Field Marshal Sarit to include some residual traces from the Hindu kingdoms around the Himalayan region, so that he acted in the same style. Although the Thai dictators did not call themselves "god-kings", in their behaviour they were comparable with the "god-kings" of Bhutan before 1907.

In Nepal before 1951, the head of state was elevated as the "great royal king" (*maharacha-thi-racha*) but only had power to stamp the royal seal on certain national documents. The real administrative power rested with another "great king", the prime minister. The post was inherited in the "Rana" family. It should be noted that Thai dictators from Field Marshal Sarit onwards were not Sarit's descendants, but they belonged to the same family of dictators and passed on the dictatorial power by inheritance. We all know also that if Field Marshal Thanom had quit normally, the dictatorial power would have been inherited by Field Marshal Praphat and Colonel Narong, the son of Field Marshal Thanom.

The drafters, the government, and the legislative assembly which will take the resolution over the new draft constitution must jointly take responsibility to ensure that the new constitution does not open a route for people to assume dictatorial power following the examples from the histories of many countries and from the Thai past, by doing away with the power which the king should have in a constitutional democracy. The transfer by King Prajadhipok of power from the absolute monarchy to a monarchy under a democratic constitution is a point-of-origin which is sacred. No person has the right to show disrespect for this sacred point-of-origin.

The mass of the people surely want constitutional judges who maintain what is fair and just (*tham*). The major problem in appointing constitutional judges is what method to use to have judges who are fair and just in interpreting the constitution. The 1946 constitution gave parliament the power to appoint constitutional judges because the senators and MPs were elected by the people. But under the 1949 constitution, senators were appointed. Wise people should use their discrimination to consider who the judges appointed under this constitution were, and whether the interpretations of those appointed by political office had any bias in favour

of the government. May I propose that all the high court judges should form a convention of constitutional judges which is not under the influence of the government. The mass of the people would have a good assurance about interpreting the constitution, and preventing the government from any infringement of the constitution.

APPENDIX

1. Many Thai students overseas have asked me whether the appointment of senators by the chairman of the Privy Council countersigning the royal signature in accordance with the 1949 constitution had any effect in practice. I explain that the provisional section of that constitution transferred the senators from the under-the-water-jar constitution to be senators under the 1949 constitution also. But there was a provision that half of the senators had to be changed every three years by drawing lots. Those who lost their seats could be reappointed. Hence, on 17 November 1950, fifty senators who drew lots lost their seats, and on 18 November 1950, another fifty received royal appointment in their place with the chairman of the Privy Council countersigning the royal signature in accordance with the 1949 constitution. Broken down by title and by rank they were as follows:

a. By title: Momchao, 6; Momratchawong with the title of Mom (prior to Phraya), 1; Phraya, 14; Phra, 11; Luang, 5; no title, 8.

b. Broken down by military rank and non-military: those with military rank from major up to general, 21; no military rank, 29.

2. The names of senators appointed by the chairman of the Privy Council countersigning the royal signature on 18 November 1950 were: 1. Lieutenant-General Phraya Aphaisongkhram; 2. Lieutenant-Colonel Luang Chai-asawarak; 3. Major-General Mom Sanitwongseni; 4. Phraya Borirakwetchakan; 5. Phraya Acharatsongsiri; 6. General Mangkon Phromyothi; 7. Phraya Sara-akkaphongthammaphilat; 8. Khunying Lekha Aphaiwong; 9. Phraya Suriyanuwongprawat; 10. Major-General Phraya Intharawichit; 11. Nai Banchong Sicharun; 12. Phra Nitinaiprasan; 13. Luang Prakopnitisarn; 14. Phra Aphakantraphatphisan; 15. Luang Chalanutson; 16. Commodore Momchao Phonpricha Kamalat; 17. Colonel Phra Ramnarong; 18. Phraya Krittaratsongsawat; 19. Momchao Saritdet Chayangkun; 20. Momchao Chatchawit Kasemsan; 21. Phraya Anuman-rachathon; 22. Phra Phetcharakiri; 23. Momchao Disanuwat Ditsakun; 24. Phraya Methathibodi; 25. Major-General Phraya Phichaisongkhram; 26. Phra Chaipanya; 27. Momchao Upalisan Chumphon; 28. Major-General Momchao Pridithepphong Thewakun; 29. Major-General Phra Udom-

yoathathiyut; 30. Commodore Luang Samruat Withisamut; 31. Lieutenant-Colonel Thanphuying La-iat Phibunsongkhram; 32. Nai Charin Krisanaphakdi; 33. Lieutenant-General Phraya Srisoraratphakdi; 34. Phra Manuphanwimonsat; 35. Major-General Ronnasanwisawakam; 36. Commodore Phraya Saraphaiphiphat; 37. Lieutenant-Colonel Phra Asasongkhram; 38. Major Luang Sorasitthayanukan; 39. Phraya Satchaphirom; 40. Nai Chulin Lamsam; 41. Captain Luang Chamnikolakan; 42. Rear-Admiral Lek Sumit; 43. Phra Chuangkasetilpakan; 44. Phraya Prakitkonlasat; 45. Major-General Banyat Thephasadin na Ayutthaya; 46. Major-General Nom Ketnuti; 47. Phra Sukhumwinitchai; 48. Rear-Admiral Thawan Thamrongnawasawat; 49. Phraya Borihannititham; 50. Nai Chun Watchakhup.

3. I gave those students further opinions as follows.

At present the numbers of people related to the royal family with titles from Momchao upwards has fallen. Hence people lower down the rank order, that is Momratchawong, have a good opportunity.

At present, the number of people with titles has fallen considerably from before, because since 1932, nobody has received a title. As for the old holders, many people have surrendered them. Later there was an act to revoke titles except for those people who wished to preserve their own old title.

The 1949 constitution prepared to revive titles. Clause 12 ran: "the king has the power to establish titles and to grant royal decorations". On this matter it must be understood that the government could countersign the royal command and hence it was the government who would propose names to the king for appointment. However, this constitution was in force for only three years and then abrogated. The government did not ask the king to establish any new titles in time. However, there were some people and parties who appealed to Field Marshal Sarit to revive titles. This has continued to the present. Thus, if the constitution currently being newly drafted follows in the path of the 1949 constitution, we can expect to see a new generation of people with titles in numbers according to the government's needs, in the same way as the royal decorations which can be seen everywhere.

The 1949 constitution took over the senators from the under-the-water-jar constitution to become the first batch of senators under that charter. There is a problem that if the constitution being newly drafted follows in the footsteps of the 1949 constitution, will the members of the current legislative council become wholly or in part the first batch of senators under the new constitution?