

## BOOK NOTE

### THE RULE OF LAW IN A FREE SOCIETY.

By The International Commission of Jurists;  
Prepared by Norman Marsh, Geneva, 1959.  
Pp. XI; 340.

On January 5, 1959 lawyers and jurists of different nations and representing different legal systems of the world met at New Delhi, India to undertake the prodigious task of defining and describing within the context of modern constitutional and legal practice the concept of the rule of law so familiar to lawyers and jurists yet viewed by them in different and uncertain terms.

The International Commission of Jurists regards the "Rule of Law as a living concept permeating several branches of the law and having great practical importance in the life of every human being."

The Commission has taken the term *Rule of Law* as being convenient to summarize a combination of certain fundamental ideals concerning the purpose of organized society and of practical experience in terms of legal institutions, procedures and traditions by which these ideals may be given effect. Inasmuch as the purpose of organized society is to provide for the welfare of its members and to uphold the dignity of the human personality, the function of the *Rule of Law* is to see to it that such rights as may proceed from such purpose are not trampled upon by the tyrannical boot of the State or any individual.

The work was divided between four committees. The conclusions laid down by these committees showed what the commission believed the different departments of the government should be and do under the *Rule of Law*.

The first committee dealt with the Legislative and the Rule of Law. This committee concluded that the functions of the legislature in a free society is to create and maintain the conditions which will uphold the dignity of man as an individual. This dignity requires that the legislature should not only recognize his civil and political rights but also establish the social, economic, educational and cultural conditions which are necessary to the full development of his personality. It was also deemed necessary that certain fundamental restrictions be imposed upon the legislature.

The second committee concerned itself with the Executive and the Rule of Law. There are instances wherein the legislature finds it necessary to delegate certain powers to the executive and at times also the executive acts in excess of its powers; the committee has laid down the limits and procedure in case of delegation of power and in cases of excessive exercise of executive power to make such excessive action subject to judicial review.

The third committee touched on the Criminal Process and the Rule of Law. It has set down the different rights of the accused, with regards to arrest, accusation, detention pending trial, the right to counsel, the right to trial and legal remedies including appeal.

The fourth committee laid down principles concerning the necessity of the existence of an independent judiciary and the rights, duties and obligations of the lawyer.

This is first of all an indication of the stage of civilization which this age of ours has attained; the stage where men not only know the law but understand it and by so doing realize that the only real freedom is inside the law. Having realized this, the next natural and logical step is to do something about it. This report therefore is but the culmination of the inevitable.

This book contains the complete reports of the proceedings and several commentaries on the subject and on the organization itself.