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CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

26 October 1981

MEMORANDUM FOR: The Director of Central Intelligence

FROM : John H. Stein
Deputy Director for Operations

SUBJECT : [redacted] Report

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John H. Stein

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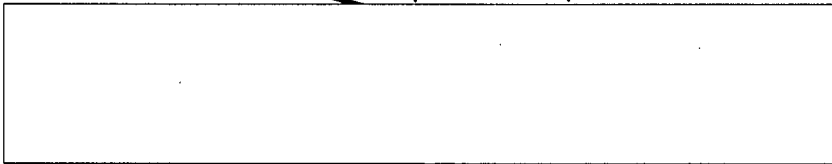
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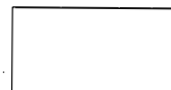
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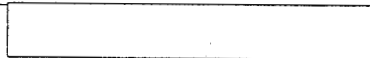
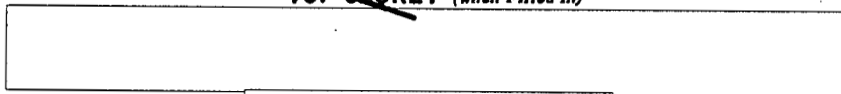
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Intelligence Information Special Report

COUNTRY Poland

FIRDB-312/03230-81

DATE OF INFO. September 1981

DATE 26 October 1981

SUBJECT

Special Judicial Procedures in Criminal and Misdemeanor Cases During Martial Law

SOURCE Documentary

Summary:

This report is a translation of a SECRET Polish document entitled "Decree, Dated . . . , on Special Proceedings in Criminal and Misdemeanor Cases During a State of Martial Law." The Council of State document is a standby decree sanctioning special rules of judicial procedure, i.e., summary, simplified, and accelerated proceedings, for the handling of criminal and misdemeanor cases during a period of martial law.

End of Summary

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SECRET

D E C R E E

On Special Proceedings in Criminal and Misdemeanor
Cases During a State of Martial Law

Dated

With a view to providing stronger safeguards for the basic interests of the State and its citizens and in order to enhance the efficiency of proceedings in criminal and misdemeanor cases during a state of martial law, the Council of State resolves as follows:

Section I

SUMMARY PROCEEDINGS

Article 1

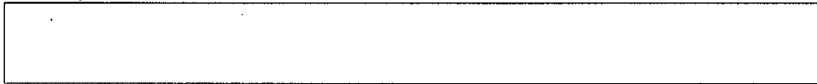
1. During a state of martial law summary proceedings are to be instituted before general and military courts in cases involving crimes specified in the following statutory provisions:

- 1) articles 122 and 123, article 124 paragraphs 1 and 2, articles 126 and 127, article 128 paragraph 1, articles 130-134, article 135 paragraphs 1 and 2, article 136 paragraph 1, article 137 paragraph 1, article 138 paragraph 1, article 139 paragraph 1, article 140 paragraph 1, articles 142-144, article 148 paragraph 1, article 155 paragraph 1, article 157, article 158 paragraphs 2 and 3, article 159, article 165 paragraph 2, article 200 paragraph 1, articles 201 and 202, articles 208-211, article 212 paragraph 2, article 215 paragraph 2, article 217 paragraph 2, article 218 paragraph 1, article 220, article 221 paragraph 4, article 223 paragraph 3, article 227, articles 233-235, articles 239 and 240,

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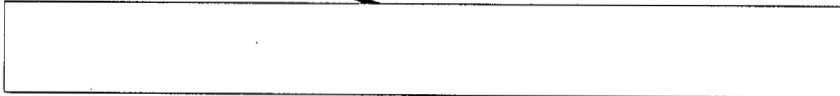
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- article 241 paragraphs 1, 3 and 4, article 244, article 246 paragraphs 1 and 2, article 252 paragraph 1, article 253, article 254 paragraph 1, article 256 paragraph 2, article 257 paragraph 1, article 260 paragraphs 1 and 2, article 261, article 262 paragraph 2, article 264 paragraph 2, articles 270-272, article 273 paragraphs 1 and 2, article 274 paragraph 2, article 275, article 276, article 278 paragraphs 1-3, articles 279-283, articles 286 and 287, article 288 paragraph 1, article 303 paragraphs 2-4, articles 304-307, article 309 paragraph 1, articles 310-314, and article 329 and 330 of the Penal Code;
- 2) articles 1 and 2 of the Law on the Defense of the Peace of 29 December 1950 (Dziennik Ustaw [Legal Gazette] No 58, entry 521);
 - 3) article 22 of the Law on the Organization of National Statistical Records of 15 February 1962 (Dziennik Ustaw No 10, entry 47 with subsequent amendments);
 - 4) article 47 paragraph 1, article 51 paragraph 1, and article 54 paragraph 1 and crimes committed under terms mentioned in article 83 paragraph 2 as specified in article 74 paragraph 2, article 75 paragraph 2, and article 76 paragraph 2 of the law of 26 October 1971. Act on Criminal Penalties for Fiscal Offenses (Dziennik Ustaw No 28, entry 260 with subsequent amendments);
 - 5) article 46 paragraphs 1-6, article 47 paragraph 1, and article 48 paragraphs 1-4 of the Decree on Martial Law of . . . (Dziennik Ustaw No . . . , entry . . .), insofar as, in view of the nature and magnitude of an act which violates or jeopardizes interests bearing on national security or national defense during a state of martial law or in view of other unusual circumstances surrounding the commission of a crime, the degree of public danger resulting from such an act is especially high.

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2. Summary proceedings are to apply solely to crimes committed during a state of martial law at a place located in an area where martial law has been declared in conformity with the provisions of the resolution of the Council of State on the introduction of this state.
3. Summary proceedings are to apply solely to crimes which are subject to such proceedings, with the exception of any and all other crimes with which the accused may have been charged and for which he was prosecuted under other rules of procedure.

Article 2

A public prosecutor or court is to refrain from the prosecution of a case in accordance with the rules of summary proceedings if, in view of the nature and magnitude of an act which violates or jeopardizes interests bearing on national security or national defense during a state of martial law or in view of other unusual circumstances surrounding the commission of a crime, the degree of public danger resulting from such an act is not especially high.

Article 3

Summary proceedings may not be instituted against persons who at the time of the commission of a crime were under 17 years of age, against pregnant women or against persons who at the moment when such an action took place, for reasons of mental retardation, mental illness, or other mental dysfunction, were not able to comprehend its significance or control their actions or were able to do so only to a very limited extent.

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Article 4

1. For crimes which are subject to summary proceedings, a court may impose, regardless of the nature or limits of the statutory sanctions envisioned for a given crime, the following basic penalties: the death penalty, a 25-year term of imprisonment, or a term of imprisonment for a period of not less than 3 years, unless special provisions are made to establish a higher minimum statutory sanction.
2. A court may impose the death penalty or a 25-year term of imprisonment only in those cases where the maximum statutory sanction for a given crime is not less than an 8-year term of imprisonment.
3. In summary proceedings a court may in unusual, especially warranted cases recognized by law show special lenience in the enforcement of penalties. The provisions of article 57 paragraphs 2 and 4 of the Penal Code do not apply.
4. For a crime which is subject to summary proceedings a court may rule that an additional penalty is to be imposed in the form of disfranchisement, and a court may also rule that special procedures are to be followed for informing the public of its verdict, just as it may also rule for the total or partial confiscation of property.

Article 5

Unless otherwise provided for by this decree the provisions contained in the Criminal Procedure Code and in other statutes on criminal procedure are to be enforced in summary proceedings.

Article 6

1. A decision to prosecute a case in accordance with the rules of summary proceeding will be issued by a public prosecutor concurrently with a decision on the initiation of preliminary proceedings.

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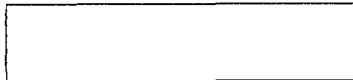
2. A decision made by a public prosecutor to prosecute a case in accordance with the rules of summary proceeding may be appealed.
3. A public prosecutor may rescind a previously issued decision to prosecute a case in accordance with the rules of summary proceeding at any time prior to the filing of a writ of indictment with a court of law.
4. Before a case goes to trial a court will convene for the purpose of passing an ex officio judgement on the legal grounds for hearing a case in accordance with the rules of summary proceeding as set forth in the writ of indictment. The provisions contained in article 299 paragraph 1, item 3 of the Criminal Procedure Code are to be enforced accordingly.
5. In the event that a decision to prosecute a case in accordance with the rules of summary proceeding is rescinded by a public prosecutor or in the event that a court of law makes changes in the rules of summary proceeding as set forth in the writ of indictment, criminal proceedings in the case at issue are to be conducted thereafter in accordance with the rules of ordinary proceeding.

Article 7

1. Preliminary proceedings in criminal cases subject to summary proceedings should be completed within 30 days of the date on which they were initiated.
2. The time limit specified in article 259 of the Criminal Procedure Code is to be reduced to 10 days; the time limits specified in article 269 paragraph 3, article 277 paragraph 1, article 284 paragraph 2, and article 410 are to be reduced to 3 days; and the time limit specified in article 277 section 2 is to be reduced to 1 day.

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Article 8

1. Temporary detention is sanctioned in criminal cases subject to summary proceedings.
2. An appeal lodged against a decision issued by a public prosecutor to enforce a temporary detention order should be reviewed within 48 hours of the date on which the appeal was filed.
3. In the event that a decision to prosecute a case in accordance with the rules of summary proceeding is rescinded or in the event that changes are made in the rules of summary proceeding as set forth in the writ of indictment, a new decision will be issued after examining the legal grounds for upholding the enforcement of a temporary detention order.

Article 9

1. The president of a court is to bring a case to trial within 7 days after receiving a writ of indictment or within 7 days after the correction of deficiencies in said indictment.
2. In the event that the accused is incapacitated by a severe illness, a case may not be brought to trial until the accused has recovered sufficiently so as to be able to appear in court.
3. The time limits specified in article 302 paragraph 1 and in article 305 paragraph 1 of the Criminal Procedure Code are to be reduced to 3 days.
4. If there are reasonable grounds to fear that a material or expert witness may evade an obligation to appear in court, the president of the court may order that a material or expert witness be served with a subpoena.

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Article 10

Criminal cases subject to summary proceedings are to be adjudicated by a provincial court (district military court or court martial) at a trial hearing presided over by three judges.

Article 11

1. Civil rules of evidence are inadmissible.
2. The provisions contained in article 363 of the Criminal Procedure Code are not applicable.
3. Accessory plaintiffs and public defenders may not take part in summary proceedings.
4. The provisions contained in article 345 paragraph 2 clause 2, article 350, and article 358 paragraph 2 of the Criminal Procedure Code are not applicable. The time limit specified in article 347 paragraph 2 of the Criminal Procedure Code is to be reduced to 7 days.

Article 12

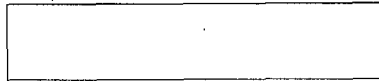
1. A court is to impose the death penalty for a crime that is subject to summary proceedings only insofar as the court hands down a unanimous ruling both with regard to guilt and also with regard to the imposition of the death penalty.
2. A court may hand down a verdict in which it waives the enforcement of summary proceedings.
3. In the event that the enforcement of summary proceedings is waived, a case is to be prosecuted thereafter in accordance with the rules of ordinary proceeding.

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Article 13

1. Immediately after a verdict has been signed, the president of the court is to order its public promulgation.
2. In all instances the legal grounds for a given verdict are to be set forth in writing within 7 days of the date of its promulgation.
3. Rulings handed down by a court may not be appealed.

Article 14

In the event that a court hands down a verdict in which the accused is sentenced to death, the court is to submit all records bearing on the case in question to the First President of the Supreme Court within 3 days of the date on which the legal grounds for said verdict were set forth in writing. The provisions contained in article 500 of the Criminal Procedure Code are to be enforced accordingly. All records bearing on the case in question should be submitted to the Council of State within 14 days of the date on which said records were submitted to the First President of the Supreme Court.

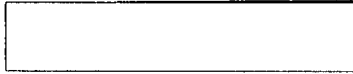
Article 15

1. The Supreme Court, with five judges presiding, will review all appeals filed against a ruling handed down by the trial court in accordance with the rules of summary proceeding.
2. The Supreme Court, with five judges presiding, is to rule on questions of whether or not to order a retrial of cases culminating in the handing down of a legally valid ruling in accordance with the rules of summary proceeding.
3. In the event that a retrial is ordered or a verdict is rescinded by the Supreme Court during the course of the appeal process, the trial court will hear the case in question in accordance with the rules of ordinary proceeding.

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Section II

SIMPLIFIED PROCEEDINGS IN CRIMINAL CASES

Article 16

The following cases will also be tried in accordance with the rules of simplified proceeding, to which reference is made in section 43 of the Criminal Procedure Code:

- 1) crimes punishable by a term of imprisonment of up to 3 years or by a term of imprisonment of up to 3 years plus a fine;
- 2) crimes specified in the provisions contained in article 156 paragraph 1, article 199 paragraph 1, article 203 paragraph 1, article 204 paragraph 2, article 215 paragraph 1, article 221 paragraphs 1 and 3, and articles 224 and 225 of the Penal Code even if the value of the object of the crime at issue or the damage inflicted or intended exceeds 5,000 zlotys.

Article 17

1. In a complicated case the organ conducting preliminary proceedings may waive prosecution of the case in accordance with the rules of simplified proceeding.
2. Before a case goes to trial a court may convene and refuse to hear a case in accordance with the rules of simplified proceeding as set forth in the writ of indictment. The provisions contained in article 299 paragraph 1 item 3 of the Criminal Procedure Code are to be enforced accordingly.

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Section III

ACCELERATED PROCEEDINGS IN CRIMINAL CASES

Article 18

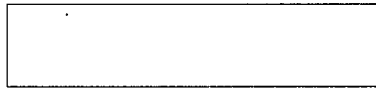
Accelerated proceedings, to which reference is made in section 45 of the Criminal Procedure Code, are sanctioned in criminal cases specified in the following statutory provisions:

- 1) article 158 paragraph 1, article 171 paragraph 1, article 167 paragraph 1, article 171 paragraph 1, article 195, article 197 paragraph 1, article 198, article 212 paragraph 1, article 214 paragraphs 1 and 2, article 236, article 237, article 256 paragraph 1, article 274 paragraph 1, article 284, and article 285 of the Criminal Code;
- 2) articles 3-5, article 6 paragraph 1, and article 8 of the Law on the Control of the Unlicensed Distillation of Alcoholic Beverages of 22 April 1959 (Dziennik Ustaw No 27, entry 169);
- 3) article 25 paragraphs 1 and 2 of the Law on the Fight Against Alcoholism of 10 December 1959 (Dziennik Ustaw No 69, entry 434 with subsequent amendments);
- 4) article 29 paragraph 1 of the Law on Arms, Ammunition, and Explosives of 31 January 1961 (Dziennik Ustaw No 6, entry 43);
- 5) article 91 paragraph 1 item 3 of the law of 31 May 1962. Aviation Law (Dziennik Ustaw No 32, entry 153);
- 6) articles 222 and 223, article 224 paragraph 1, articles 227 and 230, article 231 paragraph 2 item 1, and article 232 of the Law on Universal Military Service in Defense of the PPR of 21 November 1967 (Dziennik Ustaw No 18, 1979, entry 111);

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- 7) article 118 paragraph 1 of the law of 26 October 1971. Act on Criminal Penalties for Fiscal Offenses (Dziennik Ustaw No 28, entry 260 with subsequent amendments);
- 8) articles 54 and 55 of the Law on the Census and Identity Cards of 10 April 1974 (Dziennik Ustaw No 14, entry 85);
- 9) article 123 of the law of 24 October 1974. Water Rights Law (Dziennik Ustaw No 38, entry 230 with subsequent amendments);
- 10) article 41 and article 42 paragraph 2 of the Law on Firefighting Services of 12 June 1975 (Dziennik Ustaw No 20, entry 106)--even where such cases do not involve instances of hooliganism.

Article 19

In accordance with the rules of accelerated proceeding a court may impose a prison sentence of up to 2 years, and, in addition to a prison sentence, it may impose a fine of up to 100,000 zlotys.

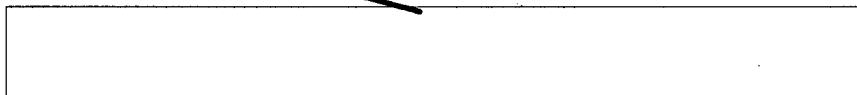
Article 20

1. If in the course of a litigation it proves to be necessary to conduct preliminary proceedings with respect to the alleged crime or if the court foresees the possibility of imposing a prison sentence in excess of 2 years or, in addition to a prison sentence, a fine in excess of 100,000 zlotys, the court will remand the case to the public prosecutor; the court is to review the legal grounds for the enforcement of a temporary detention order or other preventive measures.
2. In the event that the case is remanded to the public prosecutor, the criminal disposition of the case is to be prosecuted thereafter in accordance with the rules of simplified proceeding, with the exception of those instances stipulated in article 420 of the Criminal Procedure Code. The provisions contained in article 17 of this decree are to be applied accordingly.

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Section IV

ACCELERATED PROCEEDINGS IN MISDEMEANOR CASES

Article 21

Accelerated proceedings, to which reference is made in part VI of the Code of Procedure in Misdemeanor Cases, are to be instituted before collegiums for the review of misdemeanor cases attached to local governmental organs and maritime bureaus in cases involving the misdemeanors specified in the following statutory provisions:

- 1) articles 49 and 50, article 52 paragraph 1, article 56 paragraph 1, article 57 paragraph 1, article 61 paragraph 2, article 63 paragraph 1, articles 64 and 65, article 66 paragraph 1, article 67 paragraph 1, article 69, article 76, articles 90 and 103, article 127 paragraph 1, article 143 paragraph 1, article 146 paragraph 1, and article 147 of the Misdemeanors Code;
- 2) article 57 of the executive order of the President of the Republic dated 27 October 1932. Law on Associations (Dziennik Ustaw No 94, entry 808 with subsequent amendments);
- 3) article 80 items 1 and 2 of the Law on Fisheries of 7 March 1932 (Dziennik Ustaw No 35, entry 387 with subsequent amendments);
- 4) article 9 of the Law on Military Graves and Cemeteries of 28 March 1933 (Dziennik Ustaw No 39, entry 311 with subsequent amendments);
- 5) article 12 paragraph 1 of the Decree on Fairs and Markets of 2 August 1951 (Dziennik Ustaw No 41, entry 312);

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- 6) article 8 paragraph 1 of the Decree on Critical National Defense Zones of 6 September 1951 (Dziennik Ustaw No 46, entry 341);
- 7) article 15 paragraph 1 items 1 and 3-5 of the Law on Shipping and Timber Rafting in Inland Waterways of 7 March 1950 (Dziennik Ustaw, 1952, No 26, entry 182 with subsequent amendments);
- 8) article 7 paragraph 1 and article 8 of the Decree on Mandatory Services in the Fight Against Natural Disasters of 23 April 1953 (Dziennik Ustaw No 23, entry 93 with subsequent amendments);
- 9) article 31 paragraph 1 of the Decree on the Security of National Borders of 23 March 1956 (Dziennik Ustaw No 9, entry 51 with subsequent amendments);
- 10) article 6 paragraph 2 of the Law on the Control of Unlicensed Distillation of Alcoholic Beverages of 22 April 1959 (Dziennik Ustaw No 27, entry 169);
- 11) article 27 paragraphs 1 and 2 of the Law on Arms, Ammunition, and Explosives of 31 January 1961 (Dziennik Ustaw No 6, entry 43);
- 12) articles 30-32 and article 34 of the Law on Road Transport and Domestic Freight Forwarding of 27 November 1961 (Dziennik Ustaw No 53, entry 297);
- 13) article 52 items 1 and 3 and article 54 of the law of 1 December 1961. Maritime Code (Dziennik Ustaw No 58, entry 318 with subsequent amendments);
- 14) article 92 paragraphs 1 and 2 of the law of 31 May 1962. Aviation Law (Dziennik Ustaw No 32, entry 153);

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- 15) article 22 paragraph 1 of the Law on Foreign Nationals of 29 March 1963 (Dziennik Ustaw No 15, entry 77);
- 16) article 42 item 2 of the Law on Fisheries of 21 May 1963 (Dziennik Ustaw No 22, entry 115 with subsequent amendments);
- 17) article 25 paragraph 1 of the Law on Passports of 17 June 1959 (Dziennik Ustaw, 1967, No 17, entry 81 with subsequent amendments);
- 18) article 24, paragraph 1, items 1 and 2 of the Law on Permits for Public Artistic, Entertainment, and Athletic Events dated 9 April 1968 (Dziennik Ustaw No 12, entry 64);
- 19) article 56 of the Law on the Census and Personal Identity Cards of 10 April 1974 (Dziennik Ustaw No 14, entry 85);
- 20) article XII paragraph 2 of the law of 26 June 1974. Enabling Regulations for the Labor Code (Dziennik Ustaw No 24, entry 142 with subsequent amendments);
- 21) articles 48 and 50 of the Law on the Billeting of the Armed Forces of 20 May 1976 (Dziennik Ustaw No 19, entry 121);
- 22) article 217 paragraph 1, article 218 paragraph 1, and article 220 of the Law on Universal Military Service in Defense of the PPR of 21 November 1967 (Dziennik Ustaw, 1979, No 18, entry 111);
- 23) article 50 of the Decree on Martial Law, dated . . . (Dziennik Ustaw No . . . , entry . . .).

Article 22

In misdemeanor cases punishable by detention, searches may be conducted in accordance with the provisions of the Code of Procedure in Misdemeanor Cases.

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Section V

CONCLUDING PROVISIONS

Article 23

1. Concurrently with the date on which martial law is repealed, outstanding cases that are being prosecuted in accordance with the rules of summary proceeding are to be remanded for disposition under the rules of ordinary proceeding, and the execution of a legally valid death sentence is to be stayed with the case in question being simultaneously remanded for disposition under the rules of ordinary proceeding.
2. Criminal cases stipulated in article 18 that are outstanding as of the date on which martial law is repealed and being prosecuted in accordance with the rules of summary proceeding are to be remanded as of said date for disposition under the rules of ordinary proceeding.
3. Criminal cases stipulated in article 16 that are outstanding as of the date on which martial law is repealed and being prosecuted in accordance with the rules of simplified proceeding are to be remanded as of said date for disposition under the rules of ordinary proceeding.

Article 24

Misdemeanor cases stipulated in article 21 that are outstanding as of the date on which martial law is repealed and being prosecuted in accordance with the rules of accelerated proceeding are to be remanded as of said date for disposition under the rules of ordinary proceeding.

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Article 25

This decree goes into force on the date of its promulgation.

SECRETARY OF THE
COUNCIL OF STATE

CHAIRMAN OF THE
COUNCIL OF STATE

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