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EORGI IVANOV

Notes
f a People's Judge

FOREIGN LANGUAGES PUBLISHING HOUSE

1950

CHAPTER ONE

A short time ago I saw Doriana Slepyan's play *The Judge* in a Moscow theatre. Without going into an appraisal of its purely literary merits or the quality of the staging and the acting—people more competent than I will be found to do this—I should like to make a few comments concerning the contents and the main character of the play.

I am a People's Judge. Hence, to a certain degree, it is a play about myself and my comrades. This, I believe, gives me the right to put the question: is the Soviet judge in real life like the one portrayed on the stage?

Ours is a huge country; there are many judges in it, and somewhere Doriana Slepyan may have seen just such a judge. I even grant that the play is based on actual facts. But does this necessarily mean that it is a true expression of life? To what extent is what we see in the play *typical?*

There is no need to doubt the author's good intentions. Her affection for the leading character,

People's Judge Elena Svetlova, is quite obvious. When Elena Svetlova says that she is interested not only in the past of the person standing before her but in his future as well, this is a very apt definition of the educational role of the Soviet court. I also like the remark made by another character in the play who says: "A judge must be impartial but he must not be impassive." I feel this expresses the closeness of our courts to life, their vital concern for success in socialist construction and for the destiny of the people who come into contact with them.

Finally, I like the idea of showing that the Soviet judge is not a formalist, not a callous official, but a human being who ponders on and suffers keenly the possibility of a mistake on his part. But the execution of this idea, notwithstanding the diverse melodramatic twists employed, stands far below its conception. Actually, in life things are much simpler and more interesting.

I am by no means an authority on questions of art. On the other hand, I am not so naive as to deny the playwright his right of literary invention. I realize that the stage has its own laws, that it demands certain conventionalities, the concentration of events and actions—if only for the reason that often the events of several years must be compressed into a play lasting three hours. Nevertheless, I as a spectator require that a play be fundamentally

realistic, that the events described in it be characteristic of the cross-section of life it presents to me. Can this be said of *The Judge*?

The plot of the play, in brief, is the following: The People's Court of which Elena Svetlova is the presiding judge declines the petition for reinstatement in her job filed by Irina Zhukova, who violated labour discipline. After the trial a talk with the plaintiff sets Elena Svetlova to doubting whether the decision handed down was a just one. However, a few days later Irina Zhukova again comes before the court, this time charged with having set fire to the factory. The judge is dreadfully upset by the situation that has arisen: on the one hand there is her steadily growing conviction that Irina Zhukova is incapable of such a crime, and on the other hand is the damaging evidence against her. The problem is unexpectedly resolved when the person really guilty of starting the fire confesses. No sooner does this happen than there is another collision: intriguers accuse Elena Svetlova of having a personal interest in the case, and she is thereupon suspended.

After a while, however, everything is cleared up and the play ends happily. Irina Zhukova and Elena Svetlova are fully rehabilitated. The engineer who assumed responsibility for the fire is also acquitted; it turns out that he had had no malicious intent and could not have foreseen the dire conse-

quences of putting a new dye into production. Vice is defeated and virtue triumphs. And, as is the tradition in the finale of a melodrama, a double wedding is clearly in the offing.

To be sure, I have nothing against melodrama. Even a plot like that, I feel, could serve as the framework for a sound play. But there are some things that call forth weighty objections on my part.

In my opinion, the play incorrectly depicts the position of the People's Judge. Elena Svetlova is opposed, with varying success, by an "evil force" in the person of a high-ranking law official. For some reason this callous official, who has arrived to instruct the young judge, rummages about unceremoniously in her files, in other words, makes an unauthorized search. He casts doubts upon the judge's right to address a meeting of activists at her own initiative. Without investigating the matter or even checking up, he suspends Elena Svetlova on the basis of a statement made by an interested person. And (this I especially stress) after the curtain goes down for the last time we still know nothing about the punishment which every person in the audience heartily hopes the official receives.

In real life nothing of the sort is possible. An honest judge devoted to the interests of the people and imbued with a consciousness of his own worth

would never stand for such treatment—nor could such a situation arise. Our judges are independent in the full sense of the word; they obey only the law. That is what the Soviet Constitution declares. And that is really the situation.

Elena Svetlova is alone in her fight. We do not see her comrades on the stage. The impression is created that they do not take the slightest interest in her. But that is not true!

Soviet judges, it goes without saying, do not have any corporative or caste spirit that would move them to come out in defence of a colleague regardless of his innocence or guilt. But we, like all Soviet men and women, live and work in a collective, we are aware of our responsibility to the collective and feel its support. The situation created by the playwright, wherein the other judges either display complete indifference to their comrade's lot or else consciously stand aloof and even shy away from meeting her, is not real, is not true to life.

The production presents a manifestly incorrect conception of the relationships between the People's Court and Party bodies. In Doriana Slepyan's play the question of nol-prossing a case, of committing or not committing to trial persons who are under judicial examination, is for some reason considered by the district committee of the Party. On what grounds? Actually, these questions are always decid-

ed by the court and the court only, without any pressure whatsoever from anybody.

Many other important details in the play likewise contradict life. For instance, after the hearing on Irina Zhukova's petition, Elena Svetlova visits her at the factory and has a sharp talk with her, practically a quarrel. Nevertheless, soon after she tries the case in which Irina Zhukova is accused of arson. In my opinion, no judge would ever do that. Without waiting to be challenged by the defendant he would refuse to try the case and would turn it over to a different judicial precinct. Why give anyone reason to doubt that the Soviet court is unbiased?

Finally, my last remark. Weak nerves occupy too much of a place in the play. The defendant is a hysterical woman. The elderly lawyer is also a high-strung woman. The heroine, too, very frequently loses control over herself—and that is very bad indeed. A judge must possess tact and self-restraint, should be able to maintain the dignity of his office under all circumstances. A person with an unbalanced nervous system such as Elena Svetlova's should simply, in my opinion, not be on the bench.

The People's Judge in real life bears only a remote resemblance to the one I saw on the stage. The Soviet court still awaits its literary portraitist.

CHAPTER TWO

In our Kiev District of Moscow there are eleven judicial precincts. There are ten judges working side by side with me. But not one of them inherited the profession from his father, as is so common among British and American judges. All are the sons and daughters of factory workers, peasants or office employees.

I would like to say a few words about our People's Judges. People's Judge Anna Shtatova comes from a long line of miners. Her childhood, before the Great October Socialist Revolution, was anything but happy. Her parents were unable to give her or the other children an education, and she had to work as a farm hand. The Revolution opened wide all roads to Anna Shtatova: a peat digger, she was sent to study at a college preparatory school for workers. Then she entered and graduated from the Soviet Law Department of Moscow University, and since 1934 has been engaged in the judiciary.

Anna Shtatova's story is that of an upright member of Soviet society and has much in common with the biographies of hundreds of men and women working in the Soviet courts.

People's Judge Mikhail Ivanovich Gerasimov comes from a worker's family. His father is a fitter and his mother a weaver. Gerasimov himself was

a worker, at an optical plant. He served in the army during the Great Patriotic War. After demobilization he entered the Moscow Law School and on graduating became a People's Judge.

Fyodor Setunov, electric welder in the building trade, was elected People's Assessor in 1946. Work in the courts captured his interest and after preparatory studies he entered law school. In 1948 he was elected People's Judge.

As for myself, both my parents are doctors. I had little time to think about choosing a vocation: the Great Patriotic War was going on, and straight from high school I went to the front together with my father. At first I was a private, then a junior lieutenant in command of a rifle company. I was wounded three times and each time I returned to the fighting line. The fourth time I lost my arm and was demobilized. When I recuperated I went to work as a military training instructor in the school from which I graduated in 1941.

It was at the front that I first attended a court in session. Sitting on the ground with other soldiers I watched a military tribunal try a deserter. Those were tense times. The accused acknowledged his guilt, it was a clear case, and there seemed to be no reason for any extensive examination of him. I remember how impressed I was by the patience and thoroughness with which the judges went into the circumstances of the crime, examining every

detail bearing on the character and motives of the criminal. Their every question was so directed as to make the deserter realize the full measure of his guilt before his country, to render clear to all present the justice of the sentence they were going to pass.

To me this case was justice personified; it made an indelible impression on me. And when after demobilization, while teaching in the school, I was elected People's Assessor I crossed the threshold of the Kiev District People's Court eager to learn, anxious to discharge with credit the honourable duty entrusted to me.

It is difficult for me to say whether I was successful in the performance of my duties. At any rate, People's Judge Iraida Nikolayevna Vasilyeva saw my interest in the cases we tried and guessed the secret ambition which was growing stronger within me from day to day. She suggested that I enter law school and helped me do so.

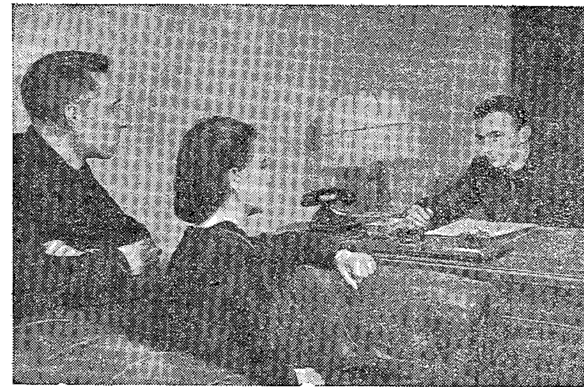
I shall always retain the fondest memories of my years at the Moscow Law School. The knowledge I acquired there has helped me time and again in deciding difficult cases. It is with profound gratitude that I remember the teachers who spared neither time nor energy to make their subjects clear and comprehensible. In my free time I often visited People's Courts, attended trials of criminal and civil cases, and consulted judges on various legal

problems. In the summer of 1945 I was elected Deputy People's Judge and during the vacations substituted for a People's Judge. When I graduated I became a judge. And that is how I "made my career." Others may have done it somewhat differently, but nonetheless it is a clear and straight path—without any property qualification attached, or inherited position, or favouritism of any kind.

The jurisdiction of each People's Court extends to a definite area. My judicial precinct covers a number of large apartment buildings, factories and offices. About 50,000 people live and work here. They are my constituents and it is to them I am accountable for my work.

In Dahl's Russian Dictionary I recently came across the saying: "The earth has worms, the water has demons, the forest has hooks, the court has crooks—where can one go?" More than three decades ago, in October 1917, this saying lost its meaning. Formalism and chicanery are alien to the very nature of the Soviet courts, and people apply to them without any fear. In our courts formality is never allowed to defeat the essence of a case, nor the letter of the law the general meaning and spirit of our legislation.

Soviet judges, contrary to judges in capitalist countries, do not stand aloof from the working people, do not masquerade as priests of Themis whom the uninitiated may behold only on the bench. They



People's Judge Georgi Ivanov receives citizeness Turbina. Any citizen may come to a People's Judge for legal advice

take an active part in public affairs. They consider it their duty not only to punish crimes but also to prevent them, not only to apply the laws but also to explain them. As aptly put by M. I. Kalinin, our judges are propagandists of the law, fighters for its execution and for observance of state discipline.

Like the other judges, I receive visitors five times a week—three days in the morning and two in the evening. Citizens come to a judge not only with definite suits and various other applications. They also come simply for advice on this or that

matter, to find out what the law is. The range of questions is extremely broad: some want to know what housing privileges are accorded to servicemen, others seek information concerning the benefits paid to the mothers of large families, and so on. Instances of people coming to me simply for advice are by no means isolated. I could cite a great number of them.

When a suit or other application is filed with him the judge acquaints himself thoroughly with the case. Then he explains the law to the plaintiff and tells him what documents have to be submitted in substantiation, and whether court costs have to be paid and in what amount. If a prima-facie case has been made out the judge appoints a day for the hearing and orders subpoenas and copies of the plaintiff's declaration served on the defendant and the witnesses. If the case is an involved one, prior to the hearing the judge summons the defendant to acquaint him with the suit and inform him that he has the right to attach documents and subpoena additional witnesses.

It is self-evident that when everything runs smoothly people do not apply to the courts. The courts usually deal with what I would call the seamy side of life: with various property questions, violations of the labour law, and housing, family and other disputes—survivals of capitalism still to be found in the minds of people. The majority of

the cases we meet with are civil cases. The number of criminal cases is comparatively small and is steadily decreasing from year to year.

The prerevolutionary press published noteworthy statistics about the percentage of the Moscow population that were tried by justices of the peace in criminal prosecutions in 1908. It appears that the Streletsky judicial division took the palm —*out of each hundred of its inhabitants sixteen* were accused of some crime or other. Second place went to the Nikolayevsky division—in that single year *eleven per cent* of its population passed through the dock. In the other divisions of Moscow the situation was about the same.

After reading these distressing figures I estimated the percentage of inhabitants in my precinct involved in criminal cases in the course of a year. As was to have been expected, it was a negligible fraction of one per cent.

Sixteen per cent, eleven per cent and a microscopic fraction of one per cent! These figures speak not only of the old and new courts, but also of the old and new Moscow.

CHAPTER THREE

Do you remember the circumstances under which the jury, contrary to its convictions, doomed Katyusha Maslova, heroine of Tolstoy's novel

Resurrection, to penal servitude in Siberia? Rereading the book, I copied the following lines: "That and no other decision was taken not because everybody agreed upon it, but, firstly, because the president, who had been summing up at such length, omitted to say what he always said on such occasions, that the answer might be, 'Yes, guilty, but without the intent of taking life....' Nekhlyudov was too excited to notice that the proviso 'without intent to take life' had been omitted and thought that the words 'without intent to rob' nullified the accusation.... The president was surprised that the jury, having put in the proviso 'without intent to rob' had omitted the second proviso, 'without intent to take life.' From the decision of the jury it followed that Maslova had not stolen, nor robbed, and yet poisoned a man without any apparent reason.

" 'Look at the absurd verdict they have reached,' he said to the member on his left. 'Why, this means penal servitude in Siberia, and she is innocent.'

"... The president looked at his watch.

" 'It's a pity, but it can't be helped.' He handed the list of questions to the foreman to read out.

"Everyone rose, and the foreman, shifting from foot to foot, coughed, and read the questions and the answers. All the officers of the Court—secretary, lawyers, even the public prosecutor—expressed surprise.... The president came back from his chambers with a paper and read: 'April 28, 188—. By

His Imperial Majesty's ukase, the Criminal Division of District Court No.—, in consideration of the jury's verdict and on the basis of Par. 3 of Article 771, Par. 3 of Article 776 and Article 777 of the Criminal Code, decrees that the peasant, Simon Kartinkin, 33 years of age, and the petty bourgeois Ekaterina Maslova, 27 years of age, are to be deprived of all property rights and to be sent to penal servitude in Siberia, Kartinkin for eight years, and Maslova for four years, and suffer all the penalties ensuing from Article 25 of the Code of Laws.' "

These lines were not copied accidentally. Pondering on their meaning, one involuntarily draws a comparison between the role of the juryman in prerevolutionary Russia and the present-day capitalist courts, and the rights and powers of our People's Assessor. How immense and fundamental is the difference between them!

The staggering courtroom scene drawn by the great master is not the product of his imagination: it gives a very true picture of the situation at the time. From the notes of Koni, the liberal senator and lawyer, we learn that there was a special law which forbade telling the jury the defendant's punishment in case of conviction. The advocates of this law asserted that "to speak to the jurymen about the punishment would be contrary to their essential function, since they are called upon to

settle questions of *fact,* while questions of *law* are decided by the court."

As Koni reports in this connection, the jurymen frequently feared that "something was being kept from them, that they were being played hide-and-seek with." And in reply to the court officials who agreed to clarify the matter of punishment only if the jury made a special request to that effect, Koni with good reason commented: "There are provincial jurors who in the majority of cases stand in awe of the court and would lack the courage to enquire about the punishment. They would think it uncalled-for inquisitiveness, causing the court unnecessary inconvenience."

In the Soviet courts a conflict even remotely similar to that so masterfully portrayed in *Resurrection* and the underlying cause of which is so forcefully explained by Senator Koni would be quite unthinkable. Unlike jurors, the People's Assessors are not isolated from the court; indeed they are full-fledged members of the court. They participate in the hearing of both criminal and civil cases. They put questions to the defendants, the witnesses and the experts. They withdraw to the conference chamber together with the People's Judge and have an equal right with him to lay down a decision or pass a sentence.

When doubts arise or questions of a legal nature come up, the judge explains the law to them.

But in expressing their will, in weighing the circumstances of the case and the evidence presented by the parties, in deciding guilt or innocence and the sentence to be imposed, the People's Assessors may disagree with the judge. And if the opinions of the two People's Assessors coincide the judge is obliged to abide by their decision.

In the conference chamber all questions are settled by majority vote, the judge voicing his opinion last so as not to impose his will on the People's Assessors.

For obvious reasons all names given here are fictitious. Thus it will be no violation of conference chamber secrets to say that recently I had an argument with People's Assessors Sergeyev and Nikiforova in passing sentence on citizen Tikhonov.

Nikodim Tikhonov, a 23-year-old fitter employed at a factory, was arrested outside a radio store in the act of selling radio tubes at profiteering prices. He did not deny his guilt but explained that he was a keen radio amateur and had been trying to make some money this way to buy privately other radio tubes that were expensive and hard to obtain. Since witnesses confirmed that he had been a radio amateur for some time, the People's Assessors thought it would be sufficient to put him on probation. I could not agree with them, and pointed out that when Tikhonov's apartment was searched many

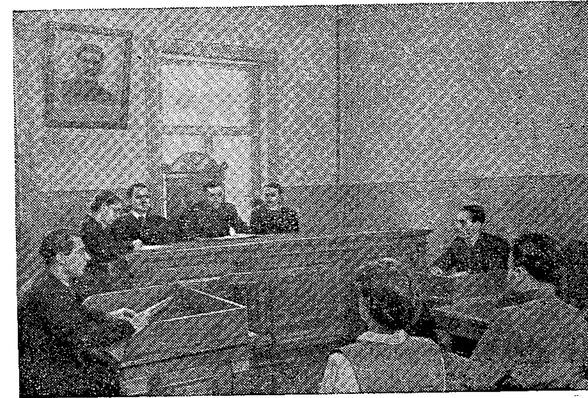
more tubes were found than any one man, even a keen radio amateur, might possibly need. But yielding to the two other court members, the People's Assessors, I drew up and pronounced a sentence putting him on probation for a period of two years.

I submitted a dissenting opinion, but the City Court overruled it and the sentence was upheld.

Such cases are perhaps not very frequent. But they are provided for by law and they do occur. I may add that should a People's Assessor prove to be in the minority, he has the right to attach his dissenting opinion to the decree or sentence, and it will be given due attention by the higher court. In this we see another illustration of the genuine *democracy* of our People's Courts.

The rights of our People's Assessors differ greatly from the rights of a jury and stem from entirely different principles. They are based on Lenin's teaching that all the working people should participate in the judicial system and in governing the state. Elected for a term of three years on the basis of universal, equal and direct suffrage by secret ballot, the People's Assessor comes to court as a state official fully cognizant of his rights and of his great responsibility to the people.

The People's Assessor sits in court for a term of ten consecutive days each year, during which



The People's Court of the 11th Judicial Precinct, Kiev District, Moscow, in session

time he is freed from his regular job but continues to receive his average earnings. Scores of factory workers, office employees, engineers, doctors and housewives of both the old and the young generations have shared court work with me. Among them, naturally, are men and women with different education levels, life experience and dispositions. But not once have I (nor, as far as I know, any of my colleagues) sat on the bench with People's Assessors who were indifferent to the fate of those involved in the case, who were not acutely aware that their principal duty is to defend, always and everywhere, the interests of the socialist society.

I have never witnessed in these People's Assessors the faintest sign of the timorousness or diffidence in front of the judge that Koni described when speaking about jurors. Making full use of the rights granted them by Soviet law, People's Assessors usually go thoroughly into all the details of the case.

I recollect that People's Assessors Nikitin, Yakovleva, Komissarov and several others at times posed many more questions to the contending parties than did I, the president, and directed the attention of the court to essential factors.

For instance, when a civil suit was filed against Novikova for the cost of furniture she had received from her place of work for temporary use, Peoples Assessor Potapov's questions brought out the fact that the sum included a depreciation charge. I had overlooked this, whereas it was an important factor in determining the amount of the claim. Thanks to the questions posed by Potapov it did not slip the attention of the court, and the claim was recognized only in part. Novikova was ordered to pay only the actual value of the furniture she had received.

Here is another instance. Chauffeur Degtyarenko violated traffic rules and caused an accident. Simultaneously with the hearing of the criminal case against Degtyarenko, the victim's civil claim was examined. The major part of the sum claimed was to cover expenses for night nurses who had

tended the plaintiff. People's Assessor Klochkov pointed out to the court that the expense accounts had not been certified by anyone and were clearly exorbitant. Since to settle the civil claim the court would have had to postpone the criminal case until additional documents were presented, it recognized the plaintiff's right for compensation but ruled that the amount be fixed by a separate civil suit.

These examples show that our People's Assessors are equal members of the Soviet courts who help the judge to get to the bottom of this or that matter.

As a rule, People's Assessors Snetkova and Grigoryeva, both factory workers, came to court about an hour before session so as to acquaint themselves with the cases on the trial list and the relevant laws.

Yes, our assessors are truly *People's* Assessors. Their daily work proves again and again the profound truth of Lenin's words: "Participation of the people's representatives in the courts is indisputably a democratic principle."

CHAPTER FOUR

The alimony claim of Teplova against Gulyaev was the last to be heard that day. The defendant's conduct in court was objectionable. He made himself out to be a poor man, tried to convince

the court that his former wife earned more than she actually did, and bargained for a reduction of the amount he would have to pay for the support of his own child. We discussed him for quite some time when we returned to the conference chamber after announcing the decision. Gradually the conversation turned to parents and their duties. People's Assessor Kruglova, a keen, intelligent young woman, a factory worker, asked the other People's Assessor, Potapov, a retired lawyer:

"Tell me, Pyotr Petrovich, did they have alimony cases before the Revolution?"

"In court? Hardly ever," was his answer. "Only as a very rare exception."

Kruglova pursued the question.

"I suppose the men were ashamed to have such matters get into court?"

Pyotr Petrovich looked at her over his glasses, smiled, and said:

"My dear young woman, you seem to know very little about life in the old days. Let me tell you, dear comrade, that there were plenty of unscrupulous people then, undoubtedly many thousands of times more than now. But the point is that the woman—not the man, mind you—found it to her disadvantage to take such cases to court. In a word, she couldn't afford it."

"How's that?" Kruglova said, not understanding.

"This is how. Nowadays filing an alimony claim is very simple. You write an application and hand it in, and you don't have to pay any charges—the defendant will have to. In those days it was quite different. Claims for the support of children were regarded by the law like any other claim, including commercial claims. If you filed a claim you had to pay the charges then and there. And do you know how they were computed? The plaintiff, let us say, wanted about one hundred rubles a month for the support of the child until he came of age. He would be of age say in about ten years' time. Hence the sum of the claim would be reckoned at twelve thousand rubles and the charges would have to be paid according to that amount. Whether you would get anything remained to be seen, but the charges had to be paid in advance. So it's not surprising that in the majority of such cases the woman preferred to settle with the father out of court for a mere pittance and give him a release from all further claims."

Time was passing, but the conversation interested both Kruglova and myself so much that we asked Potapov to tell us more about the prerevolutionary courts. The old man pondered a while, then said:

"There's a great deal to tell. Enough for a thousand and one nights. But that wouldn't suit either you or me. Instead, suppose I tell you about

some of the things that did not exist, that were unthinkable in the old courts but are part of our daily life today?"

We agreed, and he continued:

"First of all, young man, judges such as you were an impossibility in the old days. As far as I know you do not own a house. Yet even a justice of the peace, who stood on the lowest rung of the judicial hierarchy, had to own real estate to qualify for his position. That's point one. If you inherited a house and did become a justice of the peace, you would not have a conference chamber. You would not have had anybody to confer with, since a justice of the peace decided cases by himself. That's point two. Finally, if you were not a justice of the peace but a member of the district court and had an 'auxiliary staff' of jurors, you would never have met Comrade Kruglova among them. Firstly because she's a woman, and women couldn't be jurors, still less judges. And secondly because she's a worker."

We talked on for quite some time. This conversation stimulated a desire to learn more about the prerevolutionary Russian courts, and I went through old newspaper files, where I found much that was illuminating. Pyotr Petrovich had pointed to aspects of the Soviet courts which were totally unknown to the courts of old. Now here are a few cases taken at random from the annals of prerevo-

Personnel of the Ministry of Geological Survey of the U.S.S.R. at a meeting to discuss R. P. Dmitrieva's nomination for People's Judge

lutionary courts, cases absolutely inconceivable in Soviet courts.

In January 1908 a certain Mrs. T. was sentenced to a short prison term by a St. Petersburg justice's court for maintaining a house of assignation *without a licence*. (In those days houses of assignation as well as brothels could operate freely if licenced.) Mrs. T., however, was dissatisfied with the sentence. She appealed to the sessions court and finally had the sentence quashed.

Under Article 155 of the Criminal Code the maintenance of immoral establishments is punished by Soviet courts by imprisonment for a term of up to five years with partial or complete confiscation of property. It should be pointed out that such cases are extremely few and far between.

On June 25, 1909, a boy named Ivan Vorypayev threw himself under a suburban train on the Moscow-Brest-Litovsk Railroad. He had been apprenticed to Dudykin, an engraver, on Bolshaya Nikitskaya Street. When the mutilated body was extracted from under the train wheels, a note was found in which the boy said he was taking his life "because of heavy and unbearable beatings." Dudykin and his wife were prosecuted. But, although recognizing that Dudykin "at times employed physical violence" against his apprentice, the district court ruled that there was no conclusive evidence showing Vorypayev had been driven to suicide by this maltreatment. And so this couple, these exploiters and torturers, walked out of the courtroom unpunished.

A better illustration could not be found for Lenin's statement about the bourgeois courts, which "pretended to maintain order, but which, as a matter of fact, were a blind, subtle instrument for the ruthless suppression of the exploited, and an instrument for protecting the interests of the moneybags."

On October 17, 1912, the Moscow newspaper *Ranneye Utro* printed the following report from St. Petersburg: "Yesterday a justice of the peace heard the case of Frederick Ranet, a foreign newspaper correspondent, accused of disturbing the peace. Being in the company of some foreigners in a restaurant, Ranet, somewhat intoxicated, came up to the waiter Maximov and struck him in the face. A written charge was drawn up. Ranet stated that he had not wished to insult Maximov personally. He had merely wanted to prove that in Russia one could hit anybody in the face and get off with only a small fine. The justice of the peace sentenced Ranet to *seven days* of confinement."

This item carried the "jocular" headline "Everything Goes in Russia." From the light sentence it must be assumed that although the judge admitted the insolent foreigner's behaviour to be punishable he obviously considered it a fairly inof-

fensive joke. It is quite likely that the sessions court to which Ranet appealed did allow him to get off with "only a small fine."

Finally, here is another extract from the newspaper *Ranneye Utro* dated April 27, 1913: "The Singer Sewing Machine Company, whose publicity is flooding the country, deducted one ruble from the salaries of its numerous employees, supplying them with advertisement postcards for this amount instead. It was expected that the employees would sell these postcards, thus making up their loss and at the same time contributing to the company's profits."

Kuznetsov, one of the employees, outraged by such highhandedness, filed a suit with the Streletsky division justice of the peace. The company took back the postcards, but the plaintiff's "inflexibility" cost him his job. He was discharged the day the company received the court summons. This time he could not appeal to the courts since employers could discharge any employee without notice at their pleasure. No judge would have entertained jurisdiction of such a suit.

Speaking of the bourgeois courts, M. I. Kalinin aptly called them "the most reactionary part of the state apparatus ... when defending their rights workers will not find justice there."

CHAPTER FIVE

What does administration of justice mean? What is its essential purpose?

The American lawyer Hand says that the administration of justice is an acceptable means of conciliating conflicting interests of society.

Certainly a turgid and pretentious sentence, this—and, to tell the truth, none too clear.

Our definition of the administration of justice is simpler by far. Its purpose is the strict and unswerving observance of Soviet laws by all institutions, organizations, officials and citizens. Our law puts the social and state structure of the U.S.S.R., the socialist economic system and socialist property first among the institutions in whose defence the administration of justice should stand.

Our administration of justice is, besides, the guardian of the political, labour, housing, and other personal and property rights and interests of Soviet citizens which are all guaranteed by the Constitution of the U.S.S.R. and the constitutions of the Union Republics; of the rights and legally protected interests of state institutions, enterprises, kolkhozes, cooperatives and other public organizations.

In a person who is being tried for misappropriation of state or cooperative funds I see not merely a parasite out for an easy life at somebody else's expense, but an enemy of Soviet society plot-

ting against its economic foundation. To elucidate this point I shall describe a criminal case with which I dealt not so long ago.

Gromoboyev was a dispatcher at a big plant. His father, a watchmaker, needed winding stems for watches, and with the help of his loving son several thousand were made at the plant out of its material.

A winding stem is a very small object. The making of the lot did not require much metal. But whoever thinks that Gromoboyev caused the factory and the state only a trifling loss is grossly mistaken, for it was not the cost of the metal alone.

Here is what the court investigation established.

Drawings and special appliances had to be made before the winding stem could be manufactured. All this was done by employees of the plant during working hours. And because the plant's output was totally unlike the small-size winding stems, much time and effort went into experimentation prior to their mass production.

When "production" was started, the winding stem was turned, polished and nickel-plated by workers of different departments. They were all paid under fictitious vouchers. And this, apart from everything else, created an atmosphere of wholesale complicity and impunity, showed the morally weaker elements a way to easy pickings. One crime led to another.

Gromoboyev perhaps had no other aim than self-enrichment, but is it not evident that actually he sought to undermine the economic structure of our society? That is the inevitable conclusion to be drawn from a careful study of this case and others like it.

In the old days, they say, the average Russian considered state property as something fate itself meant to be plundered. An expression current was the "state pie"—and if one got near enough, gorging himself on the "pie" was only doing god's bidding. Rare indeed were cases when out and out embezzlers faced the court. A big prosperous slippery crook who always managed to get a clean bill of health was considered a "regular fellow." And there are no instances on record of a private citizen not directly involved in the case coming to the authorities on his own initiative to expose an embezzler of public funds.

In the United States Al Capone, one-time king of the underworld, was prosecuted not for banditry and blackmail but for non-payment of his income tax. Over there a gangster is looked upon as a hero. He is given publicity by the motion pictures and the radio, his exploits are glamourized in books, and besides dealing in murder he goes in for politics.

A crook or an embezzler can never be a "hero" in our society. Everything that our country pos-

sesses belongs to the people, and every intelligent citizen realizes that anything stolen from the state is something stolen from him as well.

Two buildings stand side by side. One houses a children's nursery and in the other lives a childless man who is not acquainted with any of his neighbours. What is the nursery to him? None of his affair, if one were guided by the old, capitalist code of morals. But from the standpoint of our Soviet code it means a great deal to him. He noticed that some of the nursery personnel often left the building with bulging shopping bags, and reported this fact to the authorities. When he was asked to be seated and to tell the story calmly, from the beginning, he exclaimed in surprise:

"How can I be calm when I see those crooks robbing the children!"

Once, when the court passed a severe sentence on a shop manager for stealing, the public responded with applause. I immediately called it to order, but the fact remains that the citizens had expressed their satisfaction with the just punishment of a man who had stolen socialist property.

Quite recently in court I received a note from someone among those present saying: "Citizens judges, do not believe the accused. He is lying. He did not lose the money entrusted to him. He embezzled it. Call me out as a witness if necessary and I will tell you everything." The court did not

call on the author of this note because he had been present in court and had heard the questioning of other witnesses. His testimony was actually unnecessary, since the weight of the evidence was against the accused. The note had no influence whatever on the outcome of the case, but it illustrated the people's intolerance of embezzlement of state property.

But do we always encounter such intolerance of embezzlement? No, not always. The doings of Gromoboyev, which I related in some detail, were discovered accidentally when the plant was audited. Although many at the plant knew about the manufacture of the winding stems, nobody had done anything about it. The department heads in all probability regarded the filling of this outside order with plant materials and plant equipment, at the plant's expense and time, simply as a "favour" to Gromoboyev. But it was an obvious, gross and criminal violation of Stalin's instructions about the need "to create such a moral atmosphere among workers and peasants which would preclude all possibility of theft, which would render impossible the life and existence of thieves and embezzlers of the people's property. . . ."

If these instructions of Comrade Stalin's were strictly and consistently carried out, always and everywhere, it would mean no little saving to the country as a whole. It is the duty of every official

of the Soviet state, and my duty as a judge, to help in every possible way to create an atmosphere wherein the plundering of socialist property is ruled out. What is there that I can and must do in this respect?

The exemplary punishment of embezzlers and the influence thereby exercised on the members of society of poor moral fibre is insufficient. In all such cases it is necessary to investigate the circumstances which made the crime possible. How is the property guarded and by whom? Is there a strict accounting of the property? Is the system of control adequate? Is the tested principle of entrusting and verifying being violated? For it must be borne in mind that a potential criminal frequently acts in accordance with the predatory principle of the old, capitalist society—why not steal when nobody stops you?

There is a Russian saying: whoever is careless about putting away things is as much a thief as the one who steals. Many is the time this has been brought home to me during criminal cases. It may be said without fear of error that wherever much is stolen or thefts are frequent, the guards are unreliable, control is inadequate and accounting is neglected. Vice versa, where accounting is neglected you can expect malversations. And accounting may often be neglected deliberately.

Take for example Kovalchuk, who was the

manager, salesman and cashier, all in one, of a drygoods booth. Time and again he told the manager of the factory workers' supply department and the bookkeeper, "I haven't got the education for your 'triple Italian' bookkeeping. Selecting an assortment, serving the customer properly, making a good turnover—that's my line. But you won't catch me wasting time doing a lot of writing. I keep rough accounts, nothing too fancy. If you want more, get one of those fellows who carry brief cases, but I kind of figure he won't sell much." The manager of the workers' supply department nodded understandingly, while the bookkeeper said, "The main thing is for the figures to click in the end." But in the end they didn't click by twenty thousand rubles, and it also turned out that Kovalchuk had "earned" an even larger sum by selling textiles at profiteering prices. The most interesting part of it is that when Kovalchuk was trying to clear himself in court he displayed quite a fair knowledge of "triple Italian" bookkeeping.

When sentence was passed on Kovalchuk the court also ruled that the rattle-brained bookkeeper be brought to justice. This was absolutely correct, for if he had taken the trouble to go carefully over any of the faked accounts submitted to him and checked the stocks and sales, Kovalchuk would have been caught much earlier and would have caused less damage to the department.

It is well known that Soviet production and commerce function better from year to year, coping with their plans more successfully and catering to the needs of the population much more efficiently. The overwhelming majority of the executives are gifted organizers who work persistently for the good name of their enterprises. But I, from my vantage point on the bench, have a good view of the results of negligence in such "trifles" as the taking of inventory.

A recent case comes to my mind. The warehouse keeper of a large trade depot was brought before the court in connection with a shortage of fifty thousand rubles' worth of goods. It was naturally pointed out that such a large amount of merchandise could not have been stolen in a single day. It had obviously been done little by little over a long period of time—written off, hidden away and then carried or carted off. When the court delved a bit deeper into the problem it found that a triple-faced divinity—mismanagement, chaos, and anarchy in accounting—ruled supreme in that warehouse. The case had to be remanded for further investigation, and Rokotov, the director of the depot, was indicted as well. One of the grounds for indicting Rokotov was that he had ignored the statements by workers about "minor" irregularities and organizational shortcomings. He had curbed criticism, surrounded himself with yes-men and done his

utmost to get rid of the "troublemakers." Rokotov's actions were a clear example of abuse of power and that is how the court termed them.

Apart from everything else, this case as well as a number of similar cases lead one to the serious conclusion that the absence of criticism and the encouragement of kowtowing create an excellent breeding ground for crooks, embezzlers and all other types of plunderers of socialist property.

Cases of misappropriation of socialist property have registered a substantial drop of late. But as they still occur, we must firmly stand by Stalin's instructions that "the main concern of revolutionary law at the present time is, consequently, the protection of public property, and not something else."

CHAPTER SIX

"Don't fight the strong, and don't sue the rich." This dictum I dug up in an old book of proverbs, and evidently it rang true in bygone days. I have never heard it, though—that was before my time.

Before us are two persons—in judicial parlance the two parties to the suit: plaintiff and defendant. Neither I nor the People's Assessors are in the least interested as to who is the richer of the two, who occupies a higher position officially or socially. We deal with the facts of the case, irrespective of any such attendant circumstances.

Here is a case in point. Two neighbours quarrelled. Citizen Lukyanov (general manager in one of the ministries) insulted citizeness Bodrova (bookkeeper of a small cooperative), and she sued him. To avoid the unpleasant procedure he approached the judge, casually making references to his position, naming several influential connections he had and baldly hinting that the case should be nonsuited. Of course, his efforts were in vain: he had to face the court. His guilt was proved beyond a doubt and he was sentenced to corrective labour at his place of work, that is, he remained at liberty and retained his former position, but part of his salary was to go to the state. A certified copy of the sentence was served on the ministry for execution by garnisheeing the specified part of his salary.

Troshin, a worker, was run over by a car belonging to the Military Procurator's Office. It was a case of reckless driving. A few hours later Troshin died in the hospital, leaving a wife and child. The widow sued the Procurator's Office and the court ruled that it pay a definite amount each month for the child's support until he came of age. Highly indicative is the fact that the defendant's representative made no attempt to oppose the claim. Some thirty-five or forty years ago, would a simple working woman have been bold enough to sue the state attorney's office for support of her child? And what would have been the result?

There was a period when court cases arising out of violations of the labour laws at an all-Union ministry located in my judicial precinct were frequent. Some of the ministry executives—heads of central administrations and a deputy minister—tried to bring pressure to bear on the court. They would phone and try to impress on us that a ruling against the ministry would create an undesirable precedent and undermine the prestige of a government institution. All these efforts, naturally, were senseless and futile. Each case was tried on its own merits. The unfounded claims were rejected (the telephone calls having nothing to do with it), while the well-founded claims were upheld.

For over a year now no such cases have arisen in the ministry. The administrators there have apparently learned to be more judicious in their adjustment of complaints, to settle them correctly with due consideration of the state interests but without detriment to the lawful demands of the worker.

There are some people, however, who do not properly understand the impartiality of the Soviet court and its policy of safeguarding the workers' interests which is dictated by our legislation. Seeing that the court upholds claims against government institutions, they try to "soak" them. Naturally, they do not succeed.

Take the case of Klimov. Upon his return from a business trip on which he had been sent by his factory he demanded that his taxi expenses be paid. Since he had had every opportunity to use the local suburban railroad, which would have come out much cheaper, the administration declined to pay the bills. When Klimov applied to court, he was nonsuited.

Vladimirsky took some draughting work to do at home. The supervisor considered the work improperly done and refused to pay for it. This led to a litigation. The court called in an expert who, upon examination of the work, found that Vladimirsky had done a slipshod job. It stands to reason that judgment was rendered against him.

Survivals of capitalism, such as endeavouring to give the state as little as possible and grabbing as much as possible from it, are still alive in some people. But they are sadly mistaken if they expect help from the Soviet courts.

CHAPTER SEVEN

Mitrofanov and Krainev, two seventeen-year-old youths, were brought before the court on a charge of stealing from a market stand. After a thorough examination of the case, the court concluded that there was not sufficient evidence to support the charge. However, along with a verdict clearing

Mitrofanov and Krainev the court gave them a warning, more or less as follows:

"Today you have been acquitted by the court. There is insufficient evidence against you, and the Soviet court is a just court. It does not bring in a verdict of 'guilty' against anyone simply on grounds of suspicion or because of any adverse impression he may have created. But at the same time the court is fully aware that your conduct is far from satisfactory. You do not go to school, neither do you work; you spend much of your time around market places where you consort with dubious characters. Such behaviour usually leads to no good. You are both young people, and you come from good working-class families. Your whole life is still ahead of you. The court enjoins you to mend your ways and issues you a warning."

Our decision was similar in the case of Yashkina, who was charged with slandering a neighbour. While pronouncing a verdict of "not guilty," the court made special mention of Yashkina's offensive conduct in the common apartment and her disregard of the accepted rules of community life. The court warned her against such behaviour in future.

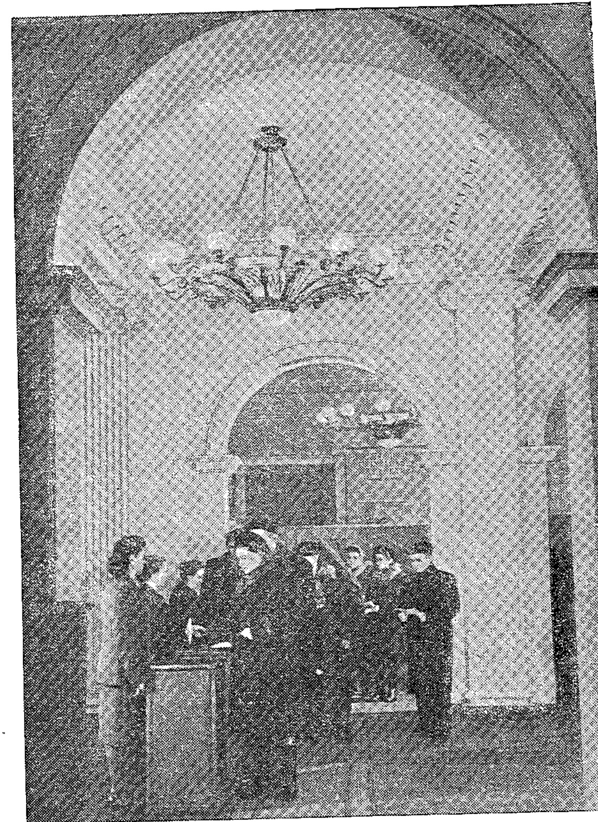
To a person unfamiliar with our legislation it might appear that these two instances indicate a tendency towards judicial legislation on the part of the People's Judge or the People's Assessors. In reality this is not so. Warnings by the court are

provided for by Articles 20 and 43 of the Criminal Code of the R.S.F.S.R. They are applicable only when pronouncing verdicts of "not guilty," when the court considers that the conduct of the accused might lead him to crime in the future.

In applying penalties prescribed by law the Soviet court not only punishes criminals but also pursues the object of reforming and re-educating them. As distinct from capitalist countries, punishment as an end in itself does not exist in the Soviet Union. Our legislation specifically emphasizes that judicial punishment may not aim at inflicting physical suffering or degrading human dignity, or seek to exact vengeance.

Imprisonment is not the only, and in the People's Courts, not the predominant, method of punishment. The Soviet Criminal Code provides for such methods, among others, as corrective labour without imprisonment, prohibition to engage in certain activities, court order requiring the reparation of inflicted injury, the taking of medical treatment, entrusting juvenile offenders to the care of their parents, public reprimand, and fines. The latter two methods of punishment are applied by the People's Courts fairly often, and in this connection I should like to point to one specific feature.

I always watch with considerable, though guarded, interest the reaction of the sentenced persons to the sentence pronounced by the court. On the



Voting on People's Judge Election Day. The polling place is a Palace of Culture in Moscow

basis of numerous observations I venture to state that the overwhelming majority react calmly to a fine, while a public reprimand jars and upsets them. And, frankly, each time I see this I rejoice.

When even a none too law-abiding citizen prefers to pay a fine rather than receive a public reprimand, that, in itself, is highly significant. I believe that if some thirty years ago he were faced with such an alternative he would have preferred to save his money.

Soviet courts and Soviet law are humane in the true sense of the word. In criminal cases when the Code provides imprisonment or corrective labour, the court has the right to give a suspended sentence. In other words, it may decide that the sentence is not to be put into force unless the accused commits a new offence within a certain period.

Suspended sentences are by no means a rarity, and I can note with great satisfaction that in the last three years neither I nor any other of the judges in Kiev District have had occasion to order that a suspended sentence be served. Neither Tikhonov, the fitter tried for profiteering, nor Sheetikova, the vendor's apprentice, who in the opinion of the court had sincerely repented of her complicity in the manager's unlawful dealings, nor any of the others put on probation were ever brought before court again and we trust that they never will be.

In deciding on a method of punishment, the People's Court bears in mind not solely the nature of the transgression and the injury it caused, but also the character of the accused and his motives. The motives of the individual whose fate is being decided and whether he represents a social menace, are matters of deep concern to the Soviet judges. Here is one example out of many that could be cited.

Within a period of six months I and the People's Assessors tried two cases that at first glance seemed identical from the strictly legal point of view: the possession of arms without a permit. Both men were guilty beyond any doubt. Yet one of them, Komarov, we sentenced to three years' imprisonment, while the other, Nikolsky, we merely put on probation. Why? Because they were offenders of totally dissimilar types and had violated the law from entirely different motives.

Komarov was a man with no definite occupation. When asked how and where he had procured the weapon, he answered: "I don't remember." Asked for what purpose he had kept it, he replied vaguely: "Just like that." But we did not give him credence. The weapon had been obtained by criminal means and for criminal ends. At the bar stood a socially dangerous person.

Nikolsky was a demobilized major of the medical corps. He had served in the Great Patriotic War

with credit and had been awarded several decorations. He frankly admitted that prior to being brought before court he had known his act to be unlawful. But the judges believed him when he said that he had kept the weapon not for any criminal design but simply as a souvenir of the war and his fighting comrades. It need not be doubted that even a suspended sentence was a serious punishment for Nikolsky, and that it would prompt him to observe the Soviet laws most scrupulously in future. And that is one of the basic functions of our judicial system.

When, in moments of leisure, I recollect the cases of suspended sentences I have had to handle and realize that these people have not betrayed the trust placed in them by the court, I experience a warm, happy feeling. But even more satisfaction is felt by a Soviet judge when, convinced of the defendant's innocence, he pronounces a verdict of "not guilty."

Here is a case that dates back to the days of rationing. Citizeness Skomorokhova was apprehended at a market place with five loaves of bread. She declared she had received the bread for resale from Firsova, manager of the market bread stand. The latter when questioned and brought face to face with Skomorokhova maintained that she had never seen her before. A verification of the till showed that the cash on hand and the clipped bread coupons tallied perfectly with the actual sales. But Skomorokhova persisted, and Firsova was brought before court. The court investigation disclosed that the bread had been procured elsewhere and that Firsova had been falsely charged in order to shield the real offender, a close relative of Skomorokhova's. Firsova left the court with her reputation unstained. Was that not reason for the judge to be happy too?

As a rule enquiries and preliminary investigations are sufficiently thorough. Soviet judges never ignore a single circumstance referred to by the accused in demonstrating his innocence. Together with the People's Assessors we look in each case for extenuating circumstances which would justify lighter punishment or a suspended sentence. And at the same time the hand of a Soviet judge will never falter when signing a severe sentence imposed on one deserving it. The principle we guide ourselves by is formulated in Article 3 of the Judicature Law:

"In everything it does the court educates the citizens of the U.S.S.R. in a spirit of devotion to the Motherland and the cause of Socialism, in a spirit of strict and unswerving observance of Soviet law, care of and attention toward socialist property, labour discipline, honest discharge of state and civic duty, and respect for the rules of socialist intercourse."

CHAPTER EIGHT

Soviet legal procedure guarantees the accused maximum opportunity for defence, and in civil actions gives both parties every opportunity to prove their case.

The defence counsel must be present whenever the prosecutor addresses the court. If the accused lacks the means for a defence counsel, one is appointed by the court. Both plaintiff and defendant are permitted to employ lawyers. State enterprises and institutions are usually represented by legal advisers in court proceedings.

Of course, in prerevolutionary times lawyers also addressed Russia's courts. Among them was Plevako, that celebrity famous for his eloquence, prodigious fees and—his unscrupulousness. He took on any case so long as he was well paid, and he often succeeded in proving that black was white and vice versa. He had a gift for psychological attacks on the jury. Here, for instance, is an episode that has come down to us by word of mouth:

Plevako was defending a downright rascal in a district court. It was summer and the windows were wide open. During his speech for the defence, church bells began to peal. Plevako interrupted his speech, crossed himself fervently and, turning to the jury, exclaimed with pathos: "Before God, he

is innocent." The jury was completely taken aback and acquitted the rogue.

No such cheap tricks, naturally, can have any effect on the members of the Soviet court, the judges or the People's Assessors. These people—brought up by the Soviet power and the Communist Party, rich in life experience and possessing a sober, realistic outlook on things—simply would not tolerate such buffoonery. The court has changed; and in composition, outlook and guiding principles the lawyers have also changed.

In the Soviet lawyer we see as a rule a conscientious assistant in establishing the facts of the case and ascertaining the law in point. In discharging his professional duty to his client, the Soviet lawyer will not attempt to mislead the court intentionally, to confuse the issue or protract the case, or pervert justice in any way.

When the guilt of his client is beyond doubt, a conscientious Soviet lawyer will not resort to any unscrupulous tactics to deny it. He will simply draw the attention of the court (and this is his professional duty) to extenuating circumstances and clarify the motives of the accused, all of which provides, in his opinion as counsel, grounds for a mitigated sentence.

I repeat, such are the vast majority of Soviet lawyers. Unfortunately, there still are rare and unpleasant exceptions. In court one occasionally

may meet a lawyer who seeks to obtain the desirable decree or verdict for his client not by a fair analysis of the facts and a correct interpretation of the law, but by bombastic speechifying and playing up irrelevant circumstances. Naturally, these methods cannot and do not meet with success in the Soviet courts.

Marx's call to men of letters: "Less generalization, declamatory phrases and self-admiration, and more attention to actual reality, a better knowledge of the subject" may with every reason be applied to just such lawyers.

Windbags are not popular in our country. They were held in contempt by Lenin and they are devastatingly ridiculed by Stalin. What we need in every sphere are competent and conscientious people, not phrasemongers.

I should like to make a few comments in passing about legal advisers of government institutions who appear in court. With very rare exceptions, they are men and women of high integrity, with complete devotion to their duties. Sometimes, however, they have a somewhat curious conception of these duties.

The court was examining a suit filed by the management of a plant regarding the removal of a woman worker named Akinfieva from the modest room she was occupying in the plant's apartment house to another room. Her deceased husband had

worked at this plant, and so had her son until he joined the army during the war, being later reported missing in action. The claim was wholly unfounded, but when I asked the plant's legal adviser whether he supported the claim, he replied:

"Absolutely."

"On the basis of what law?"

"I do not know of any such law, but I second the claim and request that it be upheld."

It was clear to the court that he was ill at ease, that he knew the claim was groundless and had little doubt as to its rejection. Then, what had he been guided by? In all probability by the instructions of some bureaucratic administrator who either could not or would not take a public-spirited view of the matter and had started a suit that had no foundation in law. It is the duty of a legal adviser, among other things, to explain to overzealous administrators that the safeguarding of the plant's interests and honour should not run counter to the interests of the state and should strictly conform to Soviet laws.

Often up for hearing in my judicial precinct are what we call railroad cases. These are disputes between various industrial establishments and the Moscow-Kiev Railroad. Many of these cases concerning freight shipments have to be dismissed because the plaintiff who charges the railroad with a shortage of goods on delivery has overlooked the

existing legal provision for a natural diminution of bulk goods. When the defendant points this out the counsel for the plaintiff usually agrees with him. And when we ask the counsel whether he really had not been aware of this from the outset, he replies:

"Well, you know, we thought it would be safer to write the diminution off through a court decision."

This indicates that some attorneys and administrators have made it a rule to file unnecessary claims. The practice certainly cannot be commended. Plainly speaking, they are simply wasting time and energy, are causing a lot of red tape.

To guard as the apple of his eye the property entrusted to him by the state is, without a doubt, the first commandment of every administrator. But applying to the courts as a means of ensuring oneself against any eventuality is something that will not do at all.

CHAPTER NINE

I constantly read and reread the works of Lenin and Stalin. To some of them, for instance Lenin's *The Immediate Tasks of the Soviet Power* and Stalin's *The Foundations of Leninism*, I refer time and again. I am absolutely convinced that failing this neither I nor any other brain worker would

be capable of accomplishing much. What kind of a lawyer would I make, for instance, if I did not know Lenin's and Stalin's most important theses regarding law and the state, the court and revolutionary law?

I do not wish to be misunderstood. My reading and studying is not confined to Lenin's and Stalin's writings relating directly to my profession. That would be a serious mistake, a crude and narrow professional approach to Marxist-Leninist theory. Anyone who limits his learning in this manner commits a crime against himself. A correct understanding of the policy and tactics of the Party, a grasp of economic problems and a knowledge of the Party's policy on the national question are essential to the specialist in every field of endeavour, whether political, economic or cultural. Besides that, I must know perfectly everything the treasure-store of Marxism-Leninism contains on matters of law. This is a guide in my daily work, an instruction addressed to me personally, as it were.

Every time I refresh in my memory Lenin's and Stalin's teachings on revolutionary law and justice, I ask myself: Did I act correctly in such-and-such a case? Do we judicial workers make full use of the invaluable advice given us? Are the general principles of Marxism-Leninism regarding the role and significance of the courts put into practice to the full?

Here I would like to voice my opinion concerning a certain rather important matter. I have in mind the way the press covers the activity of the Soviet courts.

It will be recalled that Lenin attached great importance to giving publicity to court proceedings. Focussing the attention of the People's Commissariat of Justice on the bureaucratic attitude of certain bodies toward the Volkhov power station project, he wrote: "It is necessary: 1) to bring this matter before the courts; 2) to have the culprits defamed both in the press and by a severe punishment. . . ." In a message dealing with a breakdown in the production of Fowler ploughs, Lenin pointed to the necessity of having such cases brought to "public trial, not so much for the sake of meting out severe punishment (a reprimand might suffice) as for making the matter public and shattering the general belief that offenders enjoy impunity." In a note to D. I. Kursky about the prosecution of employees of the Science and Technique Department and the Committee on Inventions, Lenin especially stressed the desirability of publicizing the trial in the press. There are on record several other emphatic statements made by Lenin on this subject.

In January 1925 during the discussion in the Organization Bureau of the Central Committee of the Russian Communist Party (Bolsheviks) of the events in Dymovka and the murder of Malinovsky,

a village newspaper correspondent, Comrade Stalin emphatically pointed out: "The Dymovka case must be presented in the press in such a way that our comrades will understand where it all springs from." It is quite evident that this remark—like all the other precepts of Lenin and Stalin—does not apply only to this particular instance. It should be understood as a broad principle. It points to the necessity of competent and comprehensive press coverage of all questions pertaining to the maintenance of revolutionary law and order.

Among the criminal and civil cases tried daily in the people's, city and regional courts of our vast country there are dozens press coverage of which could play no small part in the struggle against vestiges of the capitalist mentality, in the education of our people, in the propagation of the new, socialist approach to work and toward state and public property. But how many such reports will you find if you look through the files of our central and local newspapers for the past six months?

Many civil, criminal, labour, housing, alimony, divorce and other cases have been tried in the eleven precincts of the Kiev District People's Court during the past three years. Before us have passed great numbers of men and women from various walks of life, with diverse outlooks on the problems of life and with varying moral standards. I will make bold to affirm that at least thirty of these cases (one per

precinct each year) merited public attention and, consequently, space in the press.

However, the Moscow newspapers rarely carry reports of trials, and even those are written up superficially.

To have any educational value—otherwise its publication is quite pointless—a newspaper report should disclose the specific features and circumstances of the case, the motives and psychology of its main figures, and its significance in the light of the policy of the Communist Party and the Soviet system. I am convinced that a really useful coverage of court cases cannot be achieved by dry and routine reporting. It should be written up as a short story in journalistic style. Take the usual criminal court report in the *Vechernaya Moskva*—a newspaper which more frequently than others remembers the existence of the courts. What can the reader get out of it?

Not much, to be honest. The names of the presiding judge and of the persons tried, the amounts involved, and the sentences. Nothing more than a bare enumeration of names and figures.

What should a real press report be like? Of course, the write-ups of trials that were published in Russia in prerevolutionary times and are the accepted thing today in the West would turn the stomach of our Soviet reader. Sensation-mongering

that stuns or intimidates the public, as is the case abroad, is not what we want.

I do not presume to suggest any definite form of press reporting nor do I seek to impose my advice on our newspapermen. It seems to me, however, that a possible pattern for this type of writing may be obtained by comparing two separate reports of a case tried several months ago by the People's Court of Krasnopresnya District, Moscow.

What did the readers learn about it from the 23-line account in the *Vechernaya Moskva*?

Bundok, a British Embassy employee, had knowingly infected citizeness E. with a severe venereal disease. He had failed to appear in court. The crime had been clearly proved and Bundok sentenced in absentia to eighteen months' imprisonment.

This item, although of some public interest, is nevertheless insufficient.

Now let us take the other report of the same case, in the *Komsomolskaya Pravda*, and what do we learn?

We get a brief but forceful portrayal of the offender who, it appears, is just as debauched as he is cowardly. We learn that after criminal proceedings had been started he attempted simultaneously to blackmail and bribe the victim E. to drop the charge. Also, that he explained his refusal to appear in court by some special "instructions from London." We learn how the young woman E.

had come to this. Looking for an easy life, she had fallen into doubtful company where the loftiest aspirations and boldest dreams did not soar beyond things that were "genuinely foreign," such as stockings, perfumes, motion pictures, jazz records, dance steps and—escorts.

This is quite different from the first report. It gives food for thought and for serious conclusions. And that is what court reporting should be like—spirited and pointed.

When I ask myself whether the four cases reported in the press were the most interesting of all those tried by the Kiev District People's Court in the last three years, the answer is definitely no.

What, then, is the reason that court reports are both scarce and poor? I believe it is because many of our leading journalists scorn this particular kind of writing, in which Chekhov, Korolenko and Kuprin engaged frequently and with no mean success; as for the editors, they apparently fail to appreciate the educational role of the Soviet courts and hence do not demand regular coverage. As a result, more often than not, only casual court news finds its way into the press columns.

We judges urge journalists and writers to become more assiduous visitors of the courtrooms. Here they will find much of interest.

There is a great need for broad press coverage of trials. There is no doubt whatsoever that Soviet

People's Judge and People's Assessors Election Day—at Election Ward No. 9 in Sverdlov District, Moscow

people are interested in the work of our courts. They are interested in the psychology of the law-breaker, in the circumstances that favour crime (not out of idle curiosity but in order to eliminate these circumstances), and in general conclusions that might help to discern the potential law-breaker in good time so as to help him onto the right path.

CHAPTER TEN

I am not a constant reader of the magazine *America*. The contents of this United States Information Service publication are not very interesting. Its editorial board is either excessively naive or else it considers its readers naive and credulous. Issue No. 14, however, attracted my attention by its articles "American Courts," "John Marshall and the Power of the Supreme Court," "Provincial Lawyers" and a series of photos and illustrations meant to portray the activity of courts in the U.S.A.

The more you read these articles the more you wonder. All that writing and all those pictures—and nothing said about the real state of affairs!

The writers and editors of the magazine allege that American courts are the best and fairest in the world. They want to make the reader believe that the courts in the United States protect all citizens against unlawful, arbitrary or unjust actions by officialdom. They try to persuade us that the trans-

atlantic courts are "steadfast guardians of personal freedom," "defenders of the people's liberties." But to be candid, these efforts are doomed to failure since we too happen to know something about America, unpolished and unadorned. We also know something about American courts, and mainly from American sources, at that.

The magazine *America*, published in Russian for Soviet readers, contains the statement that in the "independent, enlightened, incorruptible and honest judge Americans see the chief defender of their most treasured institutions."

Now, James Bryce declares in *Modern Democracies* (a book published in the U.S.A.) that more often than not the men who actually control the appointment of judges use their influence to reward their adherents or nominate for judicial posts persons whom they intend to use in future. The result, he says, is that judges not only lack knowledge and ability, but also integrity and impartiality.

America informs us that because of their fairness and independence American judges enjoy the universal respect of the people.

But William Anderson, Professor of Political Science at the University of Minnesota, says in his book on American government that in a number of large cities the courts are merely the tools of the political parties and their bosses. At party conventions and banquets judges sit side by side

with gangsters who enjoy the protection of the local party chieftains, Republican or Democrat. It is natural that under these conditions trust in the courts is seriously undermined, Anderson declares.

Book Five of Ira Wolfert's *Tucker's People*, a well-written and truthful novel, is very aptly entitled *The Law Business*. Here, when minor gangster accomplices are caught red-handed in a police raid, Wheelock, "counsel" for the gang, says: "... Now we can show just what we can do and prove for everybody, the market and the trade, just how we can operate.... We're going to have the magistrate, whoever he is, throw out the case tonight, whatever it is. No postponements, no bail. The hearing tonight and bang! out it goes."

And when the hearing began "Wheelock had nothing to do. The Judge did all the work for him," because "Judge Garret was finishing out his term on the bench. He was anxious that his son should be named to succeed him. This was the handle Ed Bunte had used, this and the fact that Garret owed his job to Bunte."

Now then, whom and what do the American courts defend?

James T. Young, reactionary American lawyer, has frankly described the main tasks assigned to the courts by the present rulers of the U.S.A., but this is carefully concealed by the magazine *America*.

Young asserts that the function of the courts is to guard the bulwarks of conservatism. This, as is well known, they are doing with unfailing perseverance.

America proudly boasts that when a municipal, state or federal law clashes with the United States Constitution or the constitution of the particular state, the courts refuse to recognize its validity. But we know how this actually works out.

The United States Constitution prohibits race discrimination. Yet there is not a single instance on record of American courts declaring unconstitutional Southern legislation restricting the rights of Negroes. On the other hand, in 1917 these same courts invalidated laws reducing the working day to *ten hours*; in 1932 they declared a wage-minimum law unconstitutional in the District of Columbia, and in 1939 and 1947 they declared unlawful strikes by workers defending their elementary rights.

The whole world remembers the case of Tom Mooney, leader of the California workers. For five years running the American courts brought him up on one false charge after another, and in the end sentenced him to a prison term. Although entirely innocent, he spent 22 years behind bars. The dastardly electrocution of Sacco and Vanzetti, both innocent of any crime, will never be forgotten. Meanwhile the newspapers daily publish reports of an

ever-rising tide of prosecutions against honest Americans charged with "contempt of Congress" and "contempt of court"; of the imprisonment of the prominent writer, Howard Fast, and, the height of cynical profanation of justice—the arrest and trial of American Communist Party leaders.

America (I trust it is only the magazine) boasts about the "irremovability of judges." But a long time ago Lenin explained that irremovability cannot be practised to the full, and besides it would be absurd to enforce it in the case of incompetent and unfit judges. We openly say that since our judges are elected by the people they can also be recalled by the people if they see that the judges are unfit. It is not a mythical irremovability that guarantees the independence of Soviet judges, but their awareness of their responsibility to the people, and the people only.

America is gratified to see that "American law is not codified. Its sources are varied: the United States Constitution and the constitutions of the states, the treaties and laws passed by Congress and the state legislatures." We in the U.S.S.R. are guided by Lenin's instructions that "law cannot be Kaluga law, or Kazan law, but only all-Russian law, applicable uniformly to the entire Federation of Soviet Republics."

In our country, a married couple wishing to be divorced does not have to make a special trip to a

place where the law enables them to do it in two shakes of a lamb's tail. In the U.S.A. the state of Nevada is famous for just that.

In the state of Virginia, Margaret Hoosie, an Englishwoman, was imprisoned for "cohabitation with a Negro." In a Southern town six white barbarians raped a Negro girl and the judge said that there was no corpus delicti. First in one state and then in another Negroes are lynched and the courts acquit the mob-law instigators.

Such cases are absolutely inconceivable in our country. Besides, the Soviet law, under penalty of imprisonment, prohibits all propaganda or agitation aimed at inciting national or religious enmity. I dare say the editors of *America* will not deny that this type of propaganda is an everyday occurrence in the U.S.A.

I almost forgot to mention one interesting detail. It appears that in the United States there are special "facilities" for persons who are arrested. *America* informs us that if "Brown lacks the money for bail he applies to a professional bondman, who, after getting a guarantee from Brown's friends, arranges his release on bail, receiving a percentage for the transaction." Translated into ordinary language this means a usurer tolerated by the court.

Now that is something we cannot boast of. We have no such "facilities," I am happy to say.

CHAPTER ELEVEN

It would be naive to think that conditions are any better in other capitalist countries that brag of their "democracy," and where a sham façade of "well-being" conceals a wretched state of affairs.

The history of the development of class society shows that the ruling classes have always used the courts to protect their interests and to oppress the working people.

V. I. Lenin pointed out back in 1918 that "in capitalist society the courts were predominantly an instrument of oppression, an instrument of exploitation by the bourgeoisie."

Lenin's words are fully applicable to the bourgeois countries of today, where the courts are a tool of the propertied classes.

Frederick Engels thus characterized British courts: "The law grinds the poor, and rich men rule the law; there is one law for the poor and another for the rich—these truths have long since become bywords. How can it be otherwise? The justices of the peace and the jurors are rich themselves, are recruited from the middle class, and are therefore partial to their own kind and are born enemies of the poor."

In the United States, Britain, France and many other countries judges and jurymen are recruited

People's Judge R. P. Dmitrieva, up for re-election, has a talk with some of her constituents

among the most reactionary lawyers possessing a high property qualification and who have given practical proof of their "loyalty."

In contrast to the constitutions of so-called "democratic" countries, which proclaim, but only proclaim, freedom of speech, freedom of the press, equality of all under the law and other such "blessings," the Stalin Constitution—the fundamental law of our country—"does not confine itself to stating the formal rights of citizens, but stresses the guarantees of these rights, the means by which these rights can be exercised."

In accordance with the Constitution of the U.S.S.R., the courts in our country are elected. The People's Courts—the basic organ of our judicial system—are elected by the citizens on the basis of universal, direct and equal suffrage by secret ballot. Anyone who by his actions has proved his loyalty to the Homeland and to the people may be elected People's Judge or People's Assessor, irrespective of sex, nationality, religion, property status, etc.; naturally, the candidate for judge must have a law education. The law grants every public organization and association of working people the right to nominate candidates for People's Judges and People's Assessors and to campaign freely for their election.

In the United States, however, whenever a citizen tries to exercise his constitutional right of

"freedom of speech" and during an election campaign dares to speak against the local bosses' nominee, he is arrested and put in jail. I will not argue—maybe that really is what the American "freedom of speech" means. Blackmail, race discrimination, terror and ballyhoo are all put into play to keep the people away from the polls.

"People like a lot of noise. That's the first rule the politician and the circus performer has to learn," said an American party boss who evidently makes no distinction between the two.

In *The Sound Wagon* the well-known American writer T. S. Stribling presents a true picture of American "elections." He shows that the people do not participate in elections and are not interested in them. Through Henry Caridius, the hero of the novel, he says: "They don't vote. There is no way for just the people to inform themselves, they have no newspapers, no radios. They don't even register so they can vote if they should find a candidate. They are not interested."

That is the real America, unpolished and unadorned.

The rules regulating the election of People's Courts in the R.S.F.S.R. provide for universal participation of the people in the voting. Polling places are organized everywhere: in mountain villages, in remote settlements of the East and in the nation-

al areas of the North—and if the density of the population is small, even in places with a smaller number of inhabitants than stipulated by the regulations. The lists of candidates for People's Judges or People's Assessors are known to the electorate well in advance. Elections are held on nonworking days. The election expenses are shouldered by the state. All this again illustrates the democracy of our laws, which guarantee the exercise of the rights recorded in the Stalin Constitution.

Cases of bribery, blackmail and falsification during elections in the United States as well as in other countries are known to the whole world. *America* naturally is reticent about this. But it is a fact, a fact that cannot be denied. A good example is an episode during the 1946 elections in the state of Missouri. Proof was obtained of the counterfeiting of ballots, and criminal charges were brought against 71 men. But after the charges were made, the material evidence—counterfeit ballots—disappeared and the criminals went scot-free.

Our electoral law punishes persons who attempt to prevent citizens from exercising their right to elect and be elected to People's Courts, as well as persons who tamper with ballots or wilfully miscount votes.

Comrade Stalin, addressing a meeting of voters of the Stalin Election District, Moscow, on Decem-

People's Judge I. G. Panarin of the 3rd Judicial Precinct of Frunze District, Moscow, reports on his work at the dye shop of the Red Rose Textile Mill

ber 11, 1937, said: "Never in the history of the world have there been such really free and really democratic elections—never! History knows no other example like it.... Universal elections exist and are held in some capitalist countries, too, so-called democratic countries. But in what atmosphere are elections held there? In an atmosphere of class conflicts, in an atmosphere of class enmity, in an atmosphere of pressure brought to bear on the electors by the capitalists, landlords, bankers and other capitalist sharks. Such elections, even if they are universal, equal, secret and direct, cannot be

called altogether free and altogether democratic elections.

"Here, in our country, on the contrary, elections are held in an entirely different atmosphere. Here there are no capitalists and no landlords and, consequently, no pressure is exerted by propertied classes on nonpropertied classes. Here elections are held in an atmosphere of collaboration between the workers, the peasants and the intelligentsia, in an atmosphere of mutual confidence between them, in an atmosphere, I would say, of mutual friendship; because there are no capitalists in our country, no landlords, no exploitation and nobody, in fact, to bring pressure to bear on the people in order to distort their will.

"That is why our elections are the only really free and really democratic elections in the whole world."

* * *

I have been intimate with Ivan Larkin, today Assistant Procurator of Kiev District, ever since we were students at law school. Larkin, son of a Tula Region kolkhoz member, was a mere youth when he left his village to go to the front. When he first came to Moscow he had the rank of sergeant and had won the title of Hero of the Soviet Union. After recuperating from a heavy wound

he began to study, and he proved to be very capable.

The general opinion is that he is coping excellently with his duties as Assistant Procurator. In present-day America, Britain or France he could never have made such a career. When I watch him in court and listen to his plain but incontrovertible logic I think he was born to be a procurator.

Ivan Larkin is one of the many tens of thousands of simple folk whose talents have blossomed forth in our socialist society. I am attracted by his clear and searching mind, by his self-assurance, by his ability to dig right down to the essential roots of a case and to give a terse, forceful analysis of it.

Recently I had a talk with Larkin about the nature of the Soviet courts and their fundamental difference from courts in capitalist countries. It was a long, leisurely talk and it terminated, as our talks often do, rather abruptly, when he declared:

"Oh well, actually there can be no comparison. Ours is a *people's* court."

If I were called upon to define the essence, purpose and forms of our administration of justice in the fewest possible words I am sure I could not find anything better than that. The Soviet courts are truly people's courts, democratic courts of the first

socialist state in the world. They are courts of a new type, unheard of and impossible in any capitalist country. They are a shining embodiment of Lenin's behest regarding the participation of the whole working population in the work of the courts and in the government of the state.

The Soviet courts are people's courts in the full sense of the word. I consider it a high honour to be working in a Soviet court.

Printed in the Union of Soviet Socialist Republics