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Revolution	
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far
east

Reporter

65¢

Some Observations
On
LAW IN CHINA

Criminal justice
in China

By George W. Crockett, Jr.

All controversies are
divided into two
classes: "those between
ourselves and the enemy
and those between
the people themselves."

People's Courts
in
China

by Maud Russell

Criminal justice in China

George W. Crockett



meeting students and teachers at
a primary school in Tientsin.

GEO. W. CROCKETT, JR.
JUDGE

Recorder's Court in Detroit, Michigan.

THE PEOPLE'S COURTS

Maud Russell

Judge Crockett's article which appeared
in the December 1975 issue of
JUDICATURE

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FAR EAST REPORTER INTRODUCTION

Marco Polo's visit to a feudal China enabled many technological processes - including the compass, gunpowder, paper-making - to become known in the West, significantly accelerating nascent capitalism and the decline of feudalism.

Today China is again having an impact, but this time it is worldwide and more profound. The technological practices observed by Marco Polo could readily be copied in Europe; but the insights now gleamed by travelers to the People's Republic of China (for example, the great strides in providing food, shelter and health care for eight hundred million people and in developing new socialist human beings) cannot be transplanted "as is" into a capitalist society. They require the soil, and are the natural outgrowth, of China's socialist system.

Judge George Crockett's perceptive survey of China's legal system, "Criminal Justice in China," makes this dynamism very clear. The rapid decline in lawyers, courts and prisons in China measures the strengthening of the well-being of the people. Contrariwise, the proliferation of lawyers, courts and prisons in the United States is a barometer of an intensifying malfunctioning of the society: for instance, a widening disparity between the wealth of the few and the impoverishment of the many, racism and imperialist wars. A Peking University law professor told Crockett "So long as classes exist in a society there will be crime."

Instead of society's central thrust being the imposition of punishment on the offender, in the People's Republic of China the fundamental concern of the community and of officials is to save individuals from the punishment they have imposed on themselves (loss of others' esteem and of self-esteem) in deviating from social norms. Contradictions among the people, as distinct from those hostile to the People's Republic of China, are democratically resolved through self education and persuasion, using criticism and self-criticism in informal procedures.

Crockett reports that there was "such a scarcity of formal legal proceedings" that his hosts were unable to arrange for him to witness any. For an insight into such proceedings a reprint is included in this issue of the publisher's transcript of a corruption case, of two divorce cases, and of an accidental death case resulting from negligent operation of a bus. The conduct of these cases correlates with Crockett's information in rounding out a picture of the legal system of the People's Republic of China.

Judge Crockett's own courageous lifelong struggle against racism and against emasculation of the Bill of Rights evidences the ceaseless battle that must be waged here to preserve even a modicum of democratic rights. As the United States celebrates its bicentennial, the provisions of the Declaration of Independence - life, liberty and the pursuit of happiness - are not so much a cause for congratulation on victories already won, but rather a beacon, a challenge and a harbinger of a future time when the American people will fully and finally guarantee these rights to all in a new society. The People's Republic of China's course will help to illuminate this change-over, accelerating the time when thru the joint efforts of the peoples of the United States and the People's Republic of China their growing friendship will become irrevocable.

Criminal justice in China

George W. Crockett

The judicial system of the People's Republic of China has long been an undefined, ill-described aspect of Communist life in a society which has been shrouded in mystery for the first twenty-five years of its existence. My primary interest during a three-week visit last June, therefore, was to observe and make a factual comparison of our criminal courts with theirs. I was eager to study their constitutional guarantees, their court dockets, their problems of evidence, rights of appeal, sentencing practices and prison conditions.¹ All of these observations, of course, were to be within the framework of my own concepts of our system of American criminal jurisprudence.

How wrong I was! I quickly learned that my framework was useless, my concepts irrelevant and the experience ahead of me totally new.

To my amazement, I discovered that crime is simply not considered a problem in China. Lawyers (as advocates) are virtually unknown. Legally trained judges are so few that most people never see or hear of one.

1. Very few lawyers—and even fewer judges—from America have visited the People's Republic of China. I have been privileged to consult and compare notes with four whose visits preceded me: Doris Brin Walker, Esq., of Oakland, California; Frank Pestano, Esq., of Los Angeles; Nedwin Smoker, Esq., of Detroit; and David Drucker, Esq., of the New York Bar.

In this vast country of more than 800 million people, the resolution of nearly all criminal incidents—and these will be described later—is accomplished not by formal judicial processes and a corp of legal elitists, but by the people themselves. To understand the criminal justice process in Communist China, therefore, it is necessary to take an altogether new approach to the subject of crime and to the treatment of the criminal offender.

Few members of the American legal profession have visited China. Such visits were prohibited by our State Department prior to President Nixon's celebrated walk on the Great Wall in February, 1972. Since then, China's limited tourist accommodations, already greatly overtaxed by visitors from more friendly countries, have not expanded rapidly enough to cope with the greatly accelerated American tourists' requests. We were told that the 1975 quota of visas for Americans was only 1,000. These are generally restricted to applicants who have been active in their local U.S.-China Peoples' Friendship Association and have thus acquired some factual knowledge of People's China.

While no one ever said so, I strongly suspect that my position as a black judge in America aided acceptance of my visa application. I have since learned that as long ago as 1971 Premier Chou En-lai had expressed to a delegation of Concerned Asian Scholars his country's special desire to have "some black (American) friends" and other "minorities of the United States" come to China. Later I was to observe huge illuminated billboards in Peking, Nanking and Shanghai quoting Chairman Mao on the "unity of the peoples of all the world" with special reference to the "Third World" peoples of Asia, Africa and Latin America. Other large illustrations prominently included blacks dressed in African and Ameri-

can garb. Of course, we Black Americans, like most African nationals, feel a special kinship with the Chinese people because in many respects, our struggle for equality and recognition parallels that of the Chinese peasants and workers.

In my visa application I specified my desire to meet and talk with legally trained personnel and to observe China's judicial system in operation. What I ultimately discovered was essentially what Edgar Snow had reported in his authoritative book, *Red China Today*; namely that there are few magistrates and legal advocates and there is a scarcity of formal judicial proceedings. A foreign visitor, whether he is a lawyer or an ordinary tourist, is not likely to see a court or a trial, or even have an opportunity to converse with anyone who is especially knowledgeable about court proceedings. I was fortunate, however, in two respects. I was able to meet and talk with several Americans who were long-time residents of China. One of these, Sidney Shapiro, is an American-born and American-trained lawyer who has lived in China and practiced law there for many years prior to the Liberation in 1949 and has remained in China ever since. He presently is an editorial assistant for *China Pictorial*. We were also privileged to have an extended conference with two members of the law faculty of the University of Peking who graciously responded to a series of written questions prepared by me and presented to them several days in advance. Also, I continually put questions about crime and criminal procedures to our very competent and informative interpreter-guides and to the chairmen of the many revolutionary committees who spoke with us. All of them appeared to be most knowledgeable about their communities.

Despite diligent efforts to comply with my request, I did not visit a court nor did I have an opportunity to observe any legal proceed-

ing. This was due to a combination of factors: (a) "trials" are so few and so unexciting that it is not easy to ascertain on short notice when and where one is being held; (b) as a member of a group of lay tourists my contacts (except as noted above) were with lay people in the tourist service, who were not especially familiar with courts and legal proceedings; and (c) the language barrier would require that I be assigned a legally-oriented interpreter-guide for my individual use.

Mao's teachings

It was the American attorney, Sidney Shapiro, who first informed me, in response to my initial question, that one could hardly expect to understand the judicial system of China unless he had first read and understood Chairman Mao Tse Tung's 1957 speech on "The Correct Handling of Contradictions Among the People." (He then gave me a copy.) That speech, he said, presents the basic philosophic framework for the resolution of all disputes—public and private—in the People's Republic of China today. The professors at the University of Peking Law School also, in the course of their responses to my questions, frequently referred to Chairman Mao's speech on "Contradictions."

In that speech, Chairman Mao divides all "social contradictions" (i.e., controversies or disputes) into two general classes—"those between ourselves and the enemy and those among the people themselves." "The people" are "the classes, strata and social groups which favor, support and work for the cause of socialist construction." "The enemy" are "the social forces and groups which resist the socialist revolution and are hostile to socialism."

To deal with the two general classes of "social contradictions," Mao said,

The people's democratic dictatorship uses two methods. Towards the enemy, it uses the method of dictatorship, that is, for as long a period of time as is necessary it does not let them take part in political activities and compels them to obey the law of the people's government and to engage in labor and, through labor, transform themselves into new men. Toward the people, on the contrary, it uses the method not of compulsion but of democracy, that is it must necessarily let them take part in political activities and does not compel them to do this or that, but uses the method of democracy in educating and persuading them. This education is self-education within the ranks of the people, and the basic method of self-education is criticism and self-criticism.

Chairman Mao's approach to what we would consider common acts requiring criminal prosecution is to use moral suasion and peer pressures. For most crimes, he recommends that the people themselves show the culprit the error of his ways. Rehabilitation will follow if and when the person "on trial" understands the destructive social consequences of his errant behavior.

The new Chinese Constitution, adopted on January 17, 1975, incorporates these teachings of Chairman Mao into basic law. It acknowledges the two kinds of "contradictions" and the two classes of defendants: those who support and work actively for the fulfillment of the aims of the revolution and those who oppose and intentionally engage in conduct inimical to the revolution. It further countenances a separate criminal procedure, a separate standard of justice and a totally different character of disposition for each class.²

2. Citizens are granted "freedom of speech, correspondence, the press, assembly, association, procession, demonstration and the freedom to strike, and enjoy freedom to believe in religion and freedom not to believe in religion and to propagate atheism."

The Constitution also provides that "The citizens' freedom of person and their homes shall be inviolable. No citizen may be arrested except by decision of a people's court or with the sanction of a public security organ."

Procedural patterns

In the People's Republic of China two distinct procedural patterns are followed in the administration of criminal justice. The one reserved for conflicts involving "the enemies of the people" (which also includes serious crimes) involves "formal" proceedings which are more in accord with the American criminal justice system. Here there would be a formal statement of charges, a trial before a professional tribunal and, if the trial resulted in a conviction, some deprivation of freedom and/or civil right. In short, this procedure involves coercion—the exercise of State power.

The other procedure is "informal." It is reserved for conflicts within the ranks of the people, and it abjures the trappings of a trial or the use of coercion and force to resolve the matter. It involves conciliation, mediation, education, criticism and self-criticism and is comparable to our American voluntary arbitration or conciliation service. It is totally divorced from officialdom.

Obviously, therefore, in a given situation of claimed wrongdoing of any kind, the first decision to be made in the Chinese judicial process is whether the situation presents a "contradiction" among the people or if it is one that involves "the enemies of the people." Hence, all civil disputes and virtually all criminal cases are initially processed—and disposed of—"informally" as "contradictions" within the ranks of the people. In such cases there is no court or court officialdom and no judgments, verdicts or sentences.

This "informal" process is conducted entirely by lay persons who make up the "conciliation committee." These might be members from the production team (in rural areas) or the neighborhood council (in cities)

or the factory or other unit in which the defendant is employed. In other words, his neighbors and co-workers have sole responsibility for the handling of the matter.

The process consists first of an investigation to ascertain the facts and assess blame. The proceedings are conducted "on the spot"—a sort of neighborhood affair in a locale that is convenient and familiar to everyone and where everyone can have his or her say. Everything is received and evaluated and everyone (including the defendant) is heard who has a contribution to make to the resolution of the issues. The aim is to find out what in fact was done, who did it and, most importantly, why it was done.

Once blame is established and counter-revolutionary factors ruled out, next comes the effort at mediation and conciliation among the litigants in civil disputes and, in criminal cases, criticism, self-criticism and then the effort at re-education of the defendant. The efforts of the conciliation committee may be supplemented by calling upon members of the families of the interested parties for assistance in impressing upon the defendant the error of his ways and how his wrongful conduct impedes the progress of his unit and the development of socialist reconstruction in China. If this effort is unavailing, the conciliation committee ultimately will seek official action and refer the facts and the recalcitrant party to the revolutionary committee (the governing body) of his neighborhood council, his employment unit, or his commune.

The aim of all of these efforts is not merely to ascertain blame or fault but also to further indoctrinate both the litigants and the masses in Marxist-Leninist ideology and make them conscious of the manner and the extent to which the particular wrongdoing has interfered with social reconstruction. Each case, therefore, is a matter of free, open and orderly discussion among the litigants or the

defendant's peer group. If the effort at mediation, criticism, self-criticism and re-education is deemed by the conciliation committee to have been successful—that is, the errant litigant or defendant fully understands, appreciates and acknowledges the error of his ways—that is the end of the matter. He remains within the protection and the good graces of “the masses.”

Disposition by conciliation and re-education within the ranks of the people disposes of almost all instances of civil and criminal wrongful conduct. But this does not apply to offenses regarded as “most serious.” “Most serious” offenses (our interpreter's term) usually mean a criminal homicide, a brutal rape, a robbery or vicious assault or the embezzlement of public funds. This category, of course, includes also all “treasonable and counter-revolutionary activities.”

These offenses, along with all others that are not finally disposed of in the “informal” process, are referred to the courts and are handled in more formal manner. Further investigation may be conducted; written charges will be prepared and served upon the defendant; and the defendant will be arrested by the Public Security Agency. The case will then be heard almost immediately by a three-judge trial court. One judge will be a regularly designated magistrate who normally will have had formal legal training. The other two judges will be lay persons (sometimes called “assessors”), who will be peers of the accused selected from among his neighbors or fellow factory workers or members of his commune. They may or may not have had some formal legal training, but in all likelihood, they will be leading and highly respected members of their unit.

The decisional process

Such Western concepts as an “independent judiciary” and “separation of powers” between legislative, executive and judicial bodies do not figure in China's judicial scheme. The Constitution specifies that

... The people's courts are responsible and accountable to the people's congresses [the legislative body] and their permanent organs [the revolutionary committees who execute the laws] at the corresponding levels. The presidents of the people's courts are appointed and subject to removal by the permanent organs of the people's congresses at the corresponding levels.

The mass line must be applied ... in trying cases. In major counter-revolutionary criminal cases the masses should be mobilized for discussion and criticism.

We were told that the courts in the People's Republic of China “are important instruments for exercising the dictatorship of the proletariat” and that the tasks of the courts “are to try counter-revolutionary cases and serious criminal cases,” as well as to settle civil disputes. We were told also that the courts operate “under the leadership of the masses and the Communist Party as the vanguard of the masses, and they firmly implement Marxist-Leninist-Maoist thought by carrying on the struggle against counter-revolutionaries and serious criminals, protecting the legal rights of the people, and defending the socialist revolution.”

I inquired about the recurring terms “the masses,” “go to the masses” and “follow the mass line.” It was explained to us that what is meant is “consult with and be guided by what you Americans call the ‘grass roots’ and try to resolve all contradictions among the people at the grass-roots level.” This explanation was understandable for the “informal” process described above, but with our Western background, and noting the absence of juries, we had difficulty understanding how a court engaged in a “formal” trial could be expected to “go to

the masses" with the issues in the case.

We were somewhat surprised to learn that the court's decision is always a tentative or suggested one. The decision must first be reported to the people's congress (or its appropriate committee) at the particular court's level—municipal, county, province, region or national. The people's congress (or its appropriate organ) will discuss the matter and make the final decision. We were assured that, since by this time the facts are clear and both the congress and the court are applying Communist Party policies, there almost never is disagreement between them. If there is disagreement, however, the congress' decision prevails unless overruled at a higher level and by a similar process.

An authoritative publication by the Committee of Concerned Asian Scholars entitled *China! Inside the People's Republic* (Bantam Books, Inc., 1972) suggests there is nothing new in this practice of having China's courts "follow the mass line":

Traditionally, the Chinese views on laws have been very different from our Western ideas. Face-to-face resolutions of differences have always been preferred to court decisions or trials, and this attitude has carried over into present day China. . . .

There is no tradition in Chinese law of judicial decisions resting on previous cases of a similar nature, as in the American system of precedents. Instead, politics has long been and apparently still is accepted as a natural influence on the law. Chinese law and courts today, we are told, follow the 'mass line,' seeking to conform to an idea of justice that is both political and based on the community's opinions. (p. 130)

Since there are no rules of evidence, as we Westerners understand them, everything that will aid the court in arriving at the truth and deciding the appropriate disposition will be received. Because of the thoroughness of the prior investigation and decision in the "informal" proceeding, the accused is not presumed to be innocent, and there al-

There is no longer the need for a body of legally trained advocates. What few private practitioners are left are assigned to and used by foreigners.

so is no presumption of guilt. And since there are none of our "technical" rules of procedure, a litigant or defendant may be represented by anyone of his choice, a relative or a friend; or he may ask and receive appointed trained counsel at no cost.

Attorney Shapiro informed me that in the years immediately following Liberation (from 1949 until about 1956), China had lawyers and the usual lawyers' organizations. But formalities have been eliminated; law cadres and law students are sent out to instruct and advise peasants and workers about the laws and their legal rights and obligations, and everyone now has a right to appear and be heard in court. The accused may, and frequently does, elect to defend himself or have a relative or friend as his advocate. Hence, there is no longer the need for a body of legally trained advocates. What few private practitioners are left are assigned to and used mainly by foreigners.

The training of legal personnel reflects this change also. Formerly the law department at Peking University—China's largest law school—offered thirty courses and required five years study for a degree. Now

they offer ten courses³ in addition to the works of Marx, Lenin and Mao.

There are two hundred students divided between the three-year course of study for legal careers as government lawyers or law professors and the one-year course for cadres who will be assigned to work among the masses. Also there are schools on the provincial level for training political cadres for work in the judicial and public safety organs.

Socialism and crime

In response to our written questions we were able to obtain the following over-all view of the crime problem in our meeting with the law professors at Peking University:

Crime is an expression of the existence of the class struggle. So long as classes exist in a society there will be crime.

In old China crime was a very serious problem. There were gangs, robbery, prostitution, opium, etc. But the reforms brought about by our socialist society have changed all of this and crime has been greatly reduced because the people feel more secure. There still are some crimes, but for the most part they are counter-revolutionary cases involving persons who have been influenced by the exploiting class's ideas.

We do not rely upon our courts to reduce crime; we rely upon the masses. Only a very small percentage of criminal cases come to the courts.

Neither do we rely mainly upon our courts to resolve civil disputes. Instead, these are settled at the grass-roots level—in the factory, the neighborhood or the production team or brigade conciliation committees. We call these our "Sunflower court-yards." The masses understand that they have a responsibility to make a social investigation and solve the problem on the spot.

The emphasis in the treatment is not merely punishment. Efforts are made to educate the offender in the principles of socialism, to point out how he came to commit the crime, how it was

3. Legal Theory, Philosophy, Political Economy, Political Ideology, Criminal Law, Civil Law, Criminal Detection, Marriage Law (including Inheritance), International Law and Constitutional Law.

harmful to the interests of the people, how to correct the crime and turn over a new leaf. For example, some youngsters were influenced by the wrong ideology and corrupted by the exploiting classes. Hence, in the treatment of juvenile criminals, we rely primarily on education rather than punishment. We punish and hit hard at those behind the scenes who influence the juveniles.

Punishment may involve imprisonment for a limited period, life-long imprisonment, or even the death penalty. However, in case of death penalty, we provide for a reprieve of two years before carrying out the death sentence so as to see the result of reform through forced labor and re-education.

The prison system operates on the principle of educating and reforming the criminal and enabling him to take part in productive labor. We combine punishment with ideological transformation.

We provide an opportunity for the criminal to change his reactionary ideology and provide favorable conditions for him to turn over a new leaf. We regard all criminals as human beings and treat them in a human way. We have instituted a series of study courses in the prisons and discussion groups in order to help them criticize and repudiate their former old reactionary ideology.

All criminals are required to take part in physical labor according to their physical conditions, so as to transform them through labor. If the criminal behaves well and reforms, he might be given a chance to shorten his sentence.

Imprisonment or death penalty will be imposed on murderers or those engaged in serious counter-revolutionary activities, and then only in serious cases. Other types of current crime are rape and theft. These are usually treated through re-education. As a whole, there are very few prisoners. Only very few criminals who appear in court are put in prison. Most are put under the surveillance of the broad masses of the people.

A new society

To the Western mind, the approaches of the People's Republic of China to crime and the judicial process are difficult if not impossible to comprehend. Indeed, even to one who has been exposed to Marxist ideas and who is a close observer of the application of socialist precepts by Mao to the unique

Chinese situation, the actual living experience of viewing modern China first-hand is nonetheless mind-boggling.

Socialism, as practiced in Mao's China, is creating a society unlike any in our experience. To those steeped in the ideology of private property, free enterprise, production for profit and intensive competitiveness in every aspect of life, China comes as a total shock.

To comprehend this new society—to understand why serious crime is a rarity, juvenile delinquency nearly nonexistent and lawyers virtually unnecessary—it is necessary to appreciate the enormous impact of this new socialist system on every individual in China.

All land and all property except for personal possessions is owned in common. There is no competition for jobs and no lack of work. Communal ownership develops a mutual protection society where each citizen feels himself an owner and a partner. Hence, one who steals or cheats offends not only the individual victim or the specific property but all of society. How can one steal when everyone around him is a defender and a detective?

Children are raised in an atmosphere of social concern. They are enveloped from early childhood with personal attention and solicitude extending from parents to teachers to local officials and to the people themselves. If there is deviant behavior, the causes are sought in the family or other life experience of the child and remedial action taken. The approach is positive and rehabilitative not disciplinary in a primitive sense.

Those traits we assume to be instinctual—selfishness, greed, the desire to dominate, the compulsion to accumulate—all of these and many other characteristics of our society have no basis for existence in China.

This remarkable absence of interpersonal hostility is epitomized by Chinese police.

Their only visible function is to direct traffic. They are casually dressed, are unarmed save for an occasional billy club and are invariably relaxed and courteous. No citizen owns firearms. Jails are few and their populations small. The trappings of a restrictive regime are absent. These observations are not only those of casual visitors but have been authenticated by every authority I have consulted or read in recent years.

Crime and the judicial system are products of the society. In the case of People's China, the phenomenon of a quarter of a century of Maoist socialism has produced a new society vastly different from our own. If Communist China and its criminal justice system are to be understood, we must be willing to study China's profoundly different social structure and ideology. The lessons therein for coping with crime in America today are many. □

THE PEOPLE'S COURTS

by Maud Russell

During May and June 1959 I attended four court cases in China: a corruption case in Nanking, divorce cases in Shanghai and Hankow, and an accident case in Chungking. Each attendance took the better part of a morning or afternoon. The courts consisted of a regular judge, two people's assessors (people's judges), a prosecutor, a recorder, and a policeman. In one case there was a lawyer for the defendant. Any of the public interested in the case attend and are called upon to express their views or give facts about the case. Court opens with the judge introducing the court personnel to those in attendance, explaining the function of each member of the court and the technique of the court procedure; he then addresses himself to the defendant or the parties, making clear to them all their rights in the matter.

A CORRUPTION CASE

In the corruption case in Nanking the court was held in a large auditorium, with the court personnel sitting on the stage. This was the only case of the four in which there was a lawyer—a woman who spoke for the defendant. The accused was an accountant in

a large construction enterprise. Four hundred workers, many from his own enterprise, attended the session. The Judge asked the defendant to stand up, take off his hat, and listen to the charges against him read by the prosecutor. He was charged with stealing material from the construction jobs and with making false sickness-benefit applications and then collecting on these false claims. The Judge then proceeded to question the defendant:

Question: Are the charges as read true?

Answer: It is true.

Question: When did you begin working with this enterprise?

Answer: In 1956.

Question: Did you ever commit this crime before?

Answer: Yes, I have been in prison for the same crime.

Question: When were you released?

Answer: In 1954.

Question: How much was the sum of the corruption?

Answer: Six hundred yuan.

Question: What was the corruption?

Answer: I revised prices for materials.

Question: What about tools?

Answer: I changed the figures on them.

Question: How much?

Answer: I took away one of the lists but still charged 20 yuan.

(The defendant then went into details about taking 150 yuan and then returning the sum because other workers had discovered his stealing.)

Question: Don't you know that the government refunds whatever you have to outlay for the job—but your private expenses you have to pay yourself?

Answer: Yes, but I kept back some 80 or 90 yuan.

Question: When students came to the yard to polish bricks, did you pay them wages? (Defendant "couldn't remember".)

Question: Between August 1955 and December 1958 how much money did you steal?

Answer: More than 500 yuan.

Question: You and your wife earn 80 yuan a month; that was enough; still you wanted more: how did you use the money?

Answer: I bought clothes and a watch.

Question: What do you now think about your crime?

Answer: My character is not good and my ideas are wrong. I

want to repay my debts. My comrades trusted me; I am sorry I violated that trust. What I did before was wrong, so now I want to tell all the facts about my crime and I want to reform. I thank the people who helped me discover my guilt early—otherwise I would be more guilty. Now I want to be sentenced.”

The Judge then called on members of the audience to speak; there were about four hundred men and women—workers, and one after another they got up and added facts about the accused’s cheating and expressed their anger and indignation. The first to speak was a staff member of the same enterprise.

“How did this man steal? First, he took advantage of peasants who brought in material; he made incorrect lists, and made about 80 yuan. Second, inexperienced students came in to polish bricks—they were inexperienced as to the wage scale—he made an extra ten yuan from each student. Third, during The Great Leap Forward workers wanted to work extra time, so they worked three shifts; they were allowed pay for one meal at night, and he took some of that money. Fourth, he took company medicine-fund money and bought tonics for himself—that is why he is so fat; and he bought hot water bottles for himself. Fifth, at the time of the Great Leap Forward when everyone was working for the country, he thought only of himself—this is the great crime he committed.”

The next speaker was a woman treasurer who had worked with him in the same enterprise:

“I talked with him about his ‘lost’ lists and asked him to find the lists. I told him that I remember clearly that he put three lists in his pocket; he denied it. Later I found the lists but not the money; he denied he took the money. I gave him a chance to confess, to tell the truth, but he persisted in his denials. I challenge his statements to this Court: there is a discrepancy in his dates; he has not told the full truth. What was his procedure? When people get medical service they have to sign a paper: he told them it was not necessary; then he put his own seal on the document and collected the money.”

Then a cook stood up and told what he thought about the accused’s crime:

“Our practice is for workers to report at the end of the month on how much they owe for food (eaten on the job, at the company dining room—Ed.) and then that sum is deducted from their wages. He would put down a wrong sum and thus got 10 yuan from each worker so cheated. Sometimes the kitchen hasn’t enough cash and has to borrow from the management; he falsified the sum and tried to bribe the cook.”

A worker from another job criticized him:

“You were in prison for two and a half years and then you again committed the same crime—and after you were trusted. You were freed and then in 1958 you got work with the construction enterprise in June, and in August you began to steal and in the end you had stolen 500 yuan. The worst thing about this is that at that period when people were busy taking The Great Leap Forward you were stealing: *that* was the worst thing. And, only two in your family—80 yuan was more than enough, but you wanted to live luxuriously. You stole on every opportunity—you were a *capitalist!* (“Capitalist” said with vehemence—Ed.)

A man worker:

“These facts anger me. The very worst thing is that these crimes were committed during The Great Leap Forward.”

The Judge then spoke up—“Our time is limited. Please do not go on repeating the same facts. I know how you all feel, so you don’t need to say that over and over. Now don’t speak unless you have new facts to add.”

The next speaker from the audience was a worker from another job:

“This worker’s level was rather high. He had graduated from a business college in Shanghai. In the old society he was an accountant, and so he got the mentality and experience of the old society. He was accustomed to eat at good restaurants. He was clever at distracting the attention of the workers as he used his personal seal on blank documents, and then used these papers to collect money from the government.”

Then one of the people's assessors spoke up: "The time is short; give us more facts—not just repetition of what we know and what you feel." The Judge added: "The just anger against this worker is understandable, but now, please, just add facts." More workers spoke, expressing anger; altogether, over a dozen workers spoke from the audience.

Then the Prosecutor rose to speak: "The defendant has basically confessed to the facts: about his stealing and the methods he used. He claims he 'merely intended to steal' but witnesses have given the facts about actual stealing. The defendant is still not quite honest, not completely honest; he says he 'didn't buy leather clothing' when in fact he did. Before Liberation the defendant had a job in the reactionary Kuomintang army—and later he acted as a counter-revolutionary, as a section leader in the counter-revolution; but our Party trusted him—we took over Kuomintang personnel and trusted it. His fault, stealing, harms our country."

The Judge then asked the defendant's attorney, a woman, to speak:

"This is the first time I have met with a case of stealing. I am surprised that in 1959 there could be stealing. But—though we have heroes and heroines—it does take time to do away with capitalist thinking. The defendant before Liberation worked in the Kuomintang army, in which there was much stealing, and he learned from this—he is therefore different from the common people: they can understand. I have talked with the defendant; he told me, 'When I was released from prison I determined to obey the law and be a good citizen; but when I met with money, the old thoughts came back. Why did I steal? I got married after being freed and used a lot of money and got into debt.' I asked him why he didn't ask for help; he answered that he was ashamed to ask for help. I agree that he must be sentenced but I have some opinion as to the seriousness of the crime. One fact—about the 150 yuan—he intended to put it into a bank, and that is different from using it, so the degree of the crime of his stealing is different. This defendant can't distinguish between private and public; he was wrong; but the sentence can be light. Another factor to take into consid-

eration—he did tell the facts about the 150 yuan and this is in his favor. It was wrong to steal but he says he would like to sell the things he bought and return the money. I hope the Judge will see the real facts—he did wrong, but not too serious a wrong. How do I feel about this?—some people think that now that we are a socialist country there will be no such crimes—but we cannot be blind."

The Judge then asked the defendant: "Do you want to say anything?" The defendant answered, "No, let the Government sentence me." The Judge, the two Assessors, and the Recorder then retired to discuss the case. During this recess the defendant's lawyer came and sat with me and told us she had no formal training but had taken up the work as a lawyer. After twenty minutes the Court resumed. The Judge asked the defendant to stand up before the bar and then delivered the verdict:

"The defendant's character is bad; stealing is natural to him. Though trusted by our Government, even after a prison term, he stole. The fact that he did not use some of the money does not mean he did not steal; he did use some of the money to buy things for himself. He repeated his former crime. According to the Law of the People's Republic of China (quoting the relevant sections—Ed.) the defendant is sentenced to three years in prison and to return all the stolen money.

"If the defendant does not agree with this sentence he can appeal to the Provincial Government Court."

The Judge then repeated the names of the personnel of the Court; and the police officer escorted the sentenced man from the court room.

A DIVORCE CASE: THE WOMAN APPLIES FOR A DIVORCE

This case took place in Shanghai in the District People's Court, in a fairly small court room, in which the Court personnel (Judge, two Assessors, and a Recorder) sat on a low dais about a foot above the floor level. One of the assessors was a woman. The litigants were a couple, with the woman applying for the divorce.

After the usual formalities of identifying the court personnel, explaining the court procedure, the Judge asked the woman to step forward from the front bench on which the couple was seated. I sat on a rear bench with the audience. The Judge then questioned the woman:

Question: How did you get to know your husband?

Answer: I'm a native of Hangchow; in 1948 my father died and I went to live with my sister. My husband was a neighbor and we got to know each other. Then I made a trip to ----- to try to find my foster mother; I failed to find her, and this man who was then living in that town, took me to the home of one of his friends to live. One day he told me the house was too small, and asked me to live in a hotel. He deceived me, and later we were married. We never got along; he was very strict and demanded a husband's prerogatives. He gambled; he treated me like a child; he suspected me when I came in late from work or when I went out to an evening party. For a time we didn't live together. In 1958 we came to Shanghai; our families tried to reconcile us. My husband's brother said he would try to help if we would agree to be reconciled. I agreed; I tried to reason with my husband—but he refused. Our relationship got no better. So I want a divorce. Now we don't even speak to each other, though we live in one room.

Question: When did you first ask for a divorce?

Answer: In Nanking. But his mother and elder brother had feudal ideas—they were against divorce. I was influenced by them so I did not bring the case to the court. Then in Shanghai I had new neighbors and fellow-workers and I got new ideas: one of these new ideas was that it was not necessary for me to suffer like this.

Question: Have you any children- and where are they?

Answer: Yes, two boys, one eight and one five. The elder one is in Tsinan with my sister. The younger one is in the nursery run by our office.

Question: What did your office do about this matter?

Answer: They tried to mediate several times; but there is not the slightest hope. I have waited a year for him to change. The situation is now affecting my work.

Question: What is your main request to this Court?

Answer: A divorce and the custody of the two children. The present situation is no good for us or for our children.

Question: Have you thought this through thoroughly? What

do you think about it now? To get a divorce is not a trifle. You must think seriously about this. If there is any hope, you should reconsider. What will you do about the children?

Answer: Even now the children are looked after by *me*. Everything concerning them is arranged by myself. The elder one is away with my sister, but the father never asks about him. The elder one writes to me. They will be happy with me and I am willing to bring them up. The elder one is getting on well with my sister. The younger one is a lovely boy, in the nursery, and I keep in touch with the nursery. After the boy is old enough to leave the nursery he will go to school and the neighbors will help me look after him.

Question: Aside from the children, are there any other problems? How do you get along economically?

Answer: We would be better off if my husband would move. If he doesn't, I will. About the furniture—I don't care; he has already sold a lot of it for gambling. I hope he will pay something toward the expenses of the children.

The Judge then asked the husband to step forward and began questioning him:

Question: When were you married?

Answer: August 1948.

Question: How did you get along?

Answer: Quite all right.

Question: When did you start to have trouble?

Answer: Since 1953 we haven't got along well.

Question: What is the real cause for the break? What are your thoughts about it? You said you married from choice.

Answer: We are both responsible. I admit that I have exercised "a husband's prerogatives"—but I have tried to overcome such old ideas. My wife has looked down on me and she has always been very strict with me. We are both responsible, but since it has developed to such an extent, it is of no use to try to keep her with me.

Question: Do you agree to a divorce?

Answer: I hope we can make up.

Question: What will you do to achieve a reconciliation? What will you do about the children if there is a divorce?

Answer: I know we are both responsible for the children. I would put them in a nursery.

Question: But your sons will be too old for a nursery?

Answer: I will try to solve the problem.

Question: What about the furniture?

Answer: That is unimportant; that is secondary. That could be settled by consultation between the two of us.

Question: What is your opinion now?

Answer: I don't think she will live in the present house; I hope to go on living in the house. I agree to divide the furniture—I have no objection to her suggestion—we will be reasonable. I agree to a divorce, but I want the children.

At this point the wife spoke up: "He has told lies about our relationship. When I first had relations with him I was a virgin; now he insults me by telling that I was not a virgin. I will not give him the children." Then the husband spoke up: he blamed his wife, saying that the children are indifferent to him and that this is her fault. The Judge then went on questioning the couple. First he addressed the woman:

Question: In speaking of the children, think what is most beneficial for them—isn't it for the mother to look after them?

Answer: I want the children. But I pledge I will not cut them off from him. I will not treat him as an enemy. I have never said they could be without a father. They are afraid of him because of his treatment of them; he never shows any concern for them—only when he is in high spirits. I pledge I will not keep them from meeting their father. I hope the Court will consider the problem in the interest of the children. And I hope the Court will not think it well to let the father have them. I ask the Court to so decide.

The Judge then turned to the husband and asked:

Question: Do you agree to let her have the children?

Answer: No, it would be a burden on my mind.

The Judge again questions the wife: "How much responsibility for the children do you want him to have?"

Answer: Only for one child—the one in the nursery. It would be about 20 yuan a month. It costs 23 yuan—but I know he has debts. I don't know how much. The Court can investigate his debts.

The Judge then asked members of the audience to speak on the

case. A man, a fellow worker in the office where the husband worked, spoke up:

"The disputing between these two started in 1956. I tried to mediate. At first both were confident they could make up and forget the past—but this attitude lasted only a day or two. In 1957 there was a reconciliation that lasted one week. The relations got worse and worse, and they wouldn't even speak. They were always quarreling and it affected their work. Both their offices tried to bring them together. According to present estimate there is no hope; it is better to grant the wife a divorce.

Then a woman, a fellow worker in the office where the wife worked, spoke up:

"They haven't got along since 1956; she asked for a divorce then; we tried to mediate; she brought the case to court in 1957; the Court mediated but the situation got worse and worse. She is not in good health—the situation is an extra burden on her health. Recently they have quarreled worse and at length. We think a divorce is good. Now about the children—generally speaking, each could have one child; but there are other factors—we don't know if the husband could look after a child. In my opinion, let the wife have the children during this period; and then when the children are older the parents can negotiate about them.

The Judge then asked the wife, "What is your opinion about this and—about your husband wanting the children?" The wife replied that she agreed with the suggestion from the audience concerning negotiating about the children at a later period. Then there was a fifteen minute recess during which the Court retired to discuss the case. When the Court returned the Judge made a statement:

"Before this case was called, the Court itself made a thorough investigation. Now we have heard the two parties and the audience expressions, and we have discussed the case. The Marriage Law states that marriage is founded on mutual understanding and common work, and that it must be based on a voluntary relationship, that there should be respect for

each other and equality, and that both should be responsible for the children.

"In this case the woman was 18 and in middle school; she went to look for her relative when she was in a state of confusion, with no one to turn to; she had had correspondence with the man and went to call on him for help in finding her relative; it was mainly due to her having to turn to him that they were married. Due to objective factors, it was a hurried marriage. Therefore there was not a solid basis for the marriage; they didn't know each other well enough to know if they couldn't get along after marriage. They could have cultivated a good relationship—but they failed to do this; due to the man's idea about a husband's prerogatives he did not treat her as an equal. He looked down on her as some one who knew nothing and he did not want her to be in touch with outside circles. And the wife did not do her best to create good relations. So they quarreled over trifles.

"The reasons for the bad relations, as the Court sees it are: 1) the husband did not change his 'prerogatives' idea; 2) he had worked as an agent for capitalists and so was influenced by bourgeois ideas; 3) they had different ways of doing things. As for her—she didn't do enough to help him change his old habits; she was not patient enough; she thought he was not as good as she was and she looked down on him. They had differences over finances. They lived separately, one upstairs and one downstairs. They had been married for eleven years and have two children—but no solid foundation for marriage before and no getting along after marriage.

"The authorities where they work have been concerned with the problem and have tried to mediate. Her office tried to help her respect him but in spite of the efforts of her office she didn't take it seriously, so there was no improvement in relations. On her part she was mentally distressed and her health got worse and her work was affected. In spite of the efforts of the two offices, there were no results.

"If they remain together as man and wife it is not good. Both have agreed to a divorce.

"As to the children, opinions differ; both want them. According to the Marriage Law the children are not private property to belong to one or the other after divorce. Even

if one parent gets custody the other can see them and has to fulfill obligations to them. So, the crux of the matter is—settlement in the interest of the children.

"According to the Court's investigation, the father did not pay attention to the children. The mother did. She found a way to arrange for their care in case of a divorce; the father, on the other hand, could not give us any concrete measures he would arrange for their care in case of a divorce; he only says he 'would arrange.' The Court feels the wife is better suited to care for the children. This does not mean the two belong to her. The father has the right to see them and even to bring them to his home at times. Also, there is a time limit—negotiations about the children can take place after a certain period. And, the children will grow up and conditions will change and the parents can reconsider the situation. The time may come when the father will be in a better position, so that he can look after them. Even reconciliation can be considered.

"The Court agrees: the wife is to look after the children. As to the expenses for the children, each is responsible for one child. How much—that is to be decided. The 23 yuan a month for the nursery is too much, though a child in a nursery needs more than he will later on in primary school."

The Judge then rendered the verdict:

"According to the Marriage Law the divorce is granted. The children for the time being are to be with the mother. The father is to pay 16 yuan a month for the child in the nursery. The father can have a say about their education. As to the furniture: the wife gets the bed and two chairs; the husband gets the balance of the furniture and the house.

The Judge announced that an appeal to a higher court could be made within ten days.

A DIVORCE CASE: THE HUSBAND APPLIES FOR A DIVORCE

This was a case in Hankow, with the husband applying for a divorce. The Court, consisting of the Judge, two People's As-

sessors, one a woman, and the Recorder, sat at tables facing several rows of benches. The couple sat on the front row on one side of the aisle and I and my companions on the other side of the aisle. Previous to going into the small court room a court official had received us, given us tea and some information about the court. There were four or five people in the audience, besides the four of us who were visiting observers. The Judge, as usual, named the Court personnel, describing the function of each, and explained the court procedure. He then asked the two parties to the case if their friends were represented in the audience, receiving affirmative answers. The Judge then asked the husband to stand before the Court and began the questioning:

Question: What is the reason for this divorce proceeding?

Answer: We were married in 1956; and we got along all right; there were some differences in customs and speech; at first we quarreled lightly and then seriously. Because of the quarreling at home I sometimes worked three shifts—so I didn't work very well. The cadres in our factory tried to help us, help us understand each other; then we criticized each other—but when we got home we quarreled again. So I think divorce is the only way out.

Question: What is the main reason for the quarreling?

Answer: It has to do with health and the children. When I want to sleep she doesn't keep the children from making noise. On Sundays and rest days I don't want to stay home—there is no rest there. And: last year she got a letter; I gave it to her unopened; she said it was from her brother. I doubted her. Sometimes I received a letter from a friend, who had a name like a girl's name; but it was a schoolmate of mine; she suspected me. So we suspected each other. We quarreled and for three months I ignored her and the children. Our factory comrades tried to reconcile us, but our quarreling was endless.

The Judge then turned to the wife and asked:

Question: Your husband has given his reasons for wanting a divorce; what do you say?

Answer: We fell freely in love with each other. There was no forcing in our marriage. Recently—for the last two or three years—we quarreled seriously. Cadres tried to reconcile us but afterwards we quarreled. I did suspect him—he always came home late and gave me no reasons. For the last several months he has had no concern for the children—spent no money on them.

Another reason for the quarreling is that my mother-in-law treats my sister-in-law better than she treats me. And—the letter my husband suspected was from a schoolmate. And he did not let me see the letters he got. We didn't talk to each other except to say ironic things.

I do not agree to a divorce. We fell in love freely; the contrasts between us were small. I want him to do away with his shortcomings; everything will be all right if he overcomes them.

And we must think of the children—divorce would not be good for them.

The Judge returns to questioning the husband:

Question: Your wife doesn't agree to a divorce; she says you two can understand each other.

Answer: It is better to divorce; it is the final way. I want the children. No matter what, I want a divorce—then I will not worry over quarreling; keeping on living together we will keep on quarreling.

Question: What if your wife overcomes her shortcomings?

Answer: Of course divorce is an unhappy thing. Both of us are responsible for this. I feel sick about this.

Question: Your wife's reasons are small things. If you both overcome, there can be reconciliation.

Answer: I have thought about this for a long time. Our factories have tried—even called a special meeting. But still we quarrel—seriously. We are happier now if we don't see each other—we have come to this. It is difficult for her to overcome her shortcomings.

The wife spoke out: "I will never agree to a divorce."

The Judge asked the wife: "What is the outlook for overcoming your shortcomings?"

The wife replied: "In the future we can discuss, with neither insisting on his or her own opinion."

The Court then took a five-minute recess to retire and discuss the question. When the Court returned the Judge made a statement:

The Court made an investigation before the case was called. We found that relations inside the family and between these two had shortcomings. So something must be wrong and we want to settle this question of a reconciliation.

The husband broke in: "I do not want a reconciliation; the factory comrades have already tried for that."

The Judge responded to this outbreak: "Your contradictions are small; if you can change your opinions and overcome your shortcomings, this case can be resolved. Shortcomings exist in you, the husband; and you must think of your children." Then the wife broke in: "I still cannot agree to a divorce; there are some fellow-workers of ours who understand this. I want to hear from them."

Two fellow workers, both men, spoke from the floor. The first one said:

"After the marriage their relationship was good. But the children do make a lot of noise—and the grandmother shouts at them. My opinion is that the relationship between these two and between the parents and the children is hurt because of the old parents. The old folks are not good cooks and they are disorderly—and this is the irritation the young folks face when they come home from work. The relationship between the young couple is basically good but the older relatives cause the trouble."

Then the second worker spoke from the floor:

"I have worked for several years with them and I know they fell freely in love. The problem is not serious, except for what is happening to the children. Our trade union tried to reconcile them; we think the main thing is to understand and forgive each other—and to understand and forgive the older ones too—they have difficulties too."

The husband broke in again; he repeated his reasons for wanting the divorce and said, "Maybe we will quarrel again."

The Judge spoke to the husband: "Your wife has confessed her shortcomings and you have admitted that 'divorce is an unhappy thing'. So—think about the future and how to improve relations. Fellow workers who have worked with you for several years and know the facts about your relationship and about the children say that you can each overcome your shortcomings; and think about your work. Try to rethink this problem. The Court is trying to solve this question; we think the feelings you both have are not so

seriously broken that you must divorce." The husband again broke in: "We will still quarrel." The Judge continued, "If you still think this way you don't believe in your wife. You must believe in her and help her overcome her shortcomings; think about the beginning of your relationship when you fell in love with each other; you should be seeing the good parts of your relationship, not just the shortcomings." The husband replied: "I hope this Court hearing will be of some help; will help her see; I want to know what she will do."

The Judge then asked each to give their suggestions. The husband said: "We should both acknowledge the suspicions we had of each other and try to overcome them. And we can send the children to a nursery." The wife offered her suggestion: "We will send the eldest to the nursery, but not the youngest; the old parents can take care of the youngest. I ask my husband not to pay too much attention to the shortcomings of the old parents—we can't ask too much of these older ones."

The Judge then turned to the question of money. "The wife has raised the question of money; you each have saved money in the bank, but didn't tell each other."

To this question the husband replied, "I can now speak of the economic aspects. We do have income enough, but we need to plan our spending. And about the children—we will send both of them to the nursery. If my wife has different ideas from mine we will now talk more openly about these differences. But I do need rest when I come home from work." For her part the wife said, "In the future I will not let the children make noise. And I agree to send both of the children to the nursery."

So the case was resolved; the Judge said, "Yes, send both of the children to a nursery—this will be good for the education of the children. And now you both understand each other better. And as to your old parents—you should respect them and talk over things with them." The session ended with the husband and the wife each signing their names to the agreement—no divorce and the children to go to a nursery.

AN ACCIDENT CASE: A BUS DRIVER KILLS A LITTLE GIRL

This was a case in Chungking. The parties to the case were the bus driver who had killed a little girl and the girl's mother who

was wounded in the accident, being hit by the bus. The accusation against the driver was not the killing, but "violation of the speed law." The Court personnel was the usual one—Judge, two Assessors, the Prosecutor, the Recorder and the police officer. As customary, the Judge introduced the court personnel, giving the function of each, explained the court procedure, and informed the defendant of all his rights in the law. Here the Court sat on a high bench above the room, but with the Prosecutor sitting below on a level with the parties, the witnesses, and the audience. The Prosecutor read the charges against the defendant who had been called to stand. Then the Judge proceeded with his questioning.

Question: What did you do before Liberation?

Answer: From eight years of age I went to school. After fifteen years I graduated and learned auto driving. I joined the Kuomintang army auto department.

Question: How many years did you drive for the Kuomintang Army?

Answer: 1939 to 1948. After Liberation I worked at No. 2 Building Department. Then I went to work for Public Communications.

Question: Did you have any accidents before?

Answer: No.

Question: What about this time?

Answer: On April 7th at eleven o'clock in the morning I was driving the bus from the Normal University. I saw people cleaning the street and I tried to stop. There were five or six children running across the street; suddenly I saw a figure in front of me; I tried to turn to the left to avoid that figure—then I saw a figure on that left side and I could not stop; I went on through and saw someone lying on the road.

Question: What was the number of your bus?

Answer: 303-1800, a bus with 41 passengers.

Question: What was the speed of your bus?

Answer: 30 miles an hour.

Question: Why did you speed when you saw children, was there any weakness in your brakes?

Answer: No.

Question: What hindrances were there to stopping?

Answer: None. I only saw two street cleaners and some children.

Question: What was the speed of your bus?

Answer: 20 to 30 miles an hour.

Question: What did you do?

Answer: I turned to the right; I saw figures; then I turned to the left.

Question: Where did you find the wounded woman?

Answer: When I turned to the left.

Question: Why did you turn to the left?

Answer: I was trying to get the woman between the wheels, not under.

Question: Was she wounded?

Answer: I saw something was wrong with her foot, but no blood. Then I heard her shouting and crying. Then I tried to take her to the hospital, and was helped by some one else.

Question: Did you know the child was killed?

Answer: I knew it only afterward. It was the rear of the bus which killed the child.

Question: Do you know what action you should take when you see children?

Answer: I should reduce speed. It was my pride; I have done careful driving for about 20 years and was proud of my skill. (He then went on to talk in detail—Ed.). I should take all responsibility for the accident.

Question: You saw people cleaning the street; what should have been your speed?

Answer: No more than eight miles an hour.

Question: Was the main reason for the accident that you were driving too fast?

Answer: Yes.

Question: What did you see of the killing of the child? And, what part of the bus hit her?

Answer: I am not clear. At first I thought no one was killed. A bystander told me. I only saw children in front and could not pay attention to children in back of the bus. As far as I know, the rear of the bus killed her, because of my turning.

The Judge then asked the defendant to sit down; and asked the police officer to bring in the witnesses. The Judge proceeded to question the first witness, the wounded mother.

Question: What is your name: what were you doing? Where

were your children?—on the right or on the left?

Answer: I heard the bus; I was cleaning the street. I don't know if I was hurt by the bus or by the people. (She went on speaking, at a very rapid pace, for several minutes, in great detail—Ed.)

Question: How far away was your child when you heard the bus?

Answer: Several metres. I dared not try to grab her. One child was on the right and one was on the left.

Question: Did you see the bus hit the child?

Answer: No. I tried to run away. I was already on the left.

Question: Was nothing hurt except your foot?

Answer: I felt. There is something wrong with my teeth.

Question: Have you been to a hospital?

Answer: Yes, for three days. They found nothing wrong with my teeth.

Question: Did you bury the child?

Answer: Yes.

Question: Was anything wrong with the other child?

Answer: No.

Question: Who else was cleaning the street with you?

Answer: (She gives the names.)

The Judge then called a second witness, another woman. He asked her name, asked about the bus, asked if she had been in the same place as the other woman, and asked her what she had seen. She responded *at length*, with almost endless details, explaining: "I was so close I didn't see how the child was killed. I was carrying my child away." The Judge then called up the defendant again, asked the same questions as before, and got the same answers.

Then all three—the defendant and the two witnesses, were called to the stand and questioned further. The Assessors would whisper to the Judge, he would question the three—but there was no attempt to confuse any one; there was a patient effort to clarify facts. The whole proceeding was carried on in a kindly manner, with no attitude of contempt for the accused or pressure to drag any implications or innuendo from any statements made by the accused or by the witnesses. During the questioning of the three, the child of one of the woman witnesses, outside in the garden cried; the woman left the court room, gathered the child in her arms and returned to the court room—not to the bench

but stood in the back of the room. There was an air of informality and yet of dignified attitude toward every one concerned.

The Judge asked the defendant, "What is your opinion about what the women witnesses have said?" The defendant answered: "I have no opinion, but I did see children running across the street."

The Prosecutor then took up the questioning, asking the defendant about his turning from left to right and from right to left. He pointed out that the defendant was driving within city limits, near schools and shops, and not out on a country road—and questioned him:

Question: What should your speed in that city area be?

Answer: 15 to 20 miles an hour.

Question: You admit you were going over 20 miles; and you maintained that speed after you saw the street cleaners and the children. Why did you not drive slowly?

Answer: I was too proud of my ability to avoid accidents.

Question: Did you think of the possible results?

Answer: No.

Question: Do you know the rules about driving?

Answer: Yes, but I didn't follow the rules.

Question: Was the bus in good condition?

Answer: Yes.

Question: What was the cause of the accident?

Answer: My pride. I didn't stop when I saw the children.

There was then more questioning by the Judge, the Assessors and the Prosecutor; and the wounded woman again spoke at great length. Then the Prosecutor summed up the case:

"A lovely child has been killed. A mother was wounded.

The Great Leap Forward stresses safety. The car was in good condition. The accident was in the city and near schools. The driver saw the children on the street, so he had an indication of the need to slow up.

The Prosecutor then recommended that the punishment be combined with education, and because the driver was confused the sentence should be light.

The Court recessed for ten minutes and then returned; the

Judge made a statement: they had taken into consideration the record of the defendant, they again gave the names of the court personnel, they repeated the details of the case, saying that the facts were clear, and then rendered the verdict. The defendant was sentenced to one year in jail.

The Judge in kindly tones told the defendant that if he were not satisfied with the verdict he could appeal and that within three days he could secure a copy of the transcript of the trial. He asked the defendant his reaction to the verdict, to which the prisoner replied that he had no opinion to express. The police officer then escorted the prisoner from the court room.

* * *

So much for the raw material of the four court cases I listened to in Nanking, Shanghai, Hankow and Chungking—courts in three provinces, Kiangsu, Hupeh and Szechuan. Now for some facts about these courts. A people's assessor is any citizen, male or female, who has reached the age of 23 and who has not been deprived of his or her political rights; these assessors come from all walks of life: they are elected by the people in the district where the court is, for two years, and may be re-elected. The district of the Shanghai court which I visited has over one hundred permanent assessors and may invite assessors from other districts to function in its court. The assessor has the same rights as the judge; he not only takes part in arriving at facts but has an equal voice in deciding on a judgment. This system draws a multitude of people into judicial activity and helps the court reach a sounder judgment within the provisions of the law because the people's experience of real life and their knowledge of local conditions is put at the disposal of the court, and in turn makes more and more citizens familiar with the workings of justice in their land. The judge is nominated by the people's organizations (trade unions, women's organizations and other people's organizations) and the appointment is made by the People's Council (the local government organ). Higher judges are selected by the Municipal Council. Judges of the Supreme People's Court are appointed by the Standing Committee of the National People's Congress. Lawyers in criminal cases act as advocates; in civil cases they act as representatives of the party concerned, coming to court for the party, except in divorce

cases where the parties themselves must appear. In divorce cases there are no fees. In civil action no hearings are conducted until the court is clear on basic facts; the method is to base everything on evidence and never listen to statements only, but to investigate before proceeding. In this independent investigation made before the case comes into the court, the members of the court go personally to question the office of the organization or place of work of the parties, the neighbors, the relatives and the parties concerned. Only a people's court may try a citizen—it is illegal and a serious crime for any government institution or any person outside a people's court to try any citizen.

The court officials with whom we talked in Hankow told us there were few property cases now; that most of the cases that come before the court are divorce cases, but that these are decreasing in number; they are mostly due to the clash of the old society ideas with the new ideas. For instance, grandparents want the grandchildren at home, especially now that older folks do not have to work, having pensions and leisure in which to "enjoy the grandchildren." But the new society provides for a new kind of upbringing of children—with good health habits formed in the first years, good education stressed in the primary years and good social relations formed as the children mature. Nurseries, kindergartens and schools are laying the foundations of a nation of healthy, educated and cooperative people.

June 1976

FAR EAST REPORTER

MAUD RUSSELL, Publisher

P. O. Box 1536, New York 17, New York

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