

March 24, 1935.

Dear Mr. Rogers;

The free day gave me a chance to accept an invitation to attend a closed concert at the Conservatory given by the children in the Middle Schools of the City. Some weeks ago I wrote about a concert given by a Students' Orchestra, the members of which ranged <sup>from</sup> from eighteen to twenty-three. The group who performed today ranged from six to thirteen. Some two thousand parents and children jammed the Great Hall at the Conservatory to hear what proved to be a very creditable concert. The high light seemed to be the playing of a boy of six, who played two violin solos. He has been taking lessons only four months, but in spite of the shortness of this period he was able to get a sure, clear tone from his tiny instrument--about a quarter size I should say--and without the least stage fright he stood right up and played both pieces from memory. Other numbers included a children's choir of 250 voices, a smaller choir, which did more artistic work in interpreting, a brass band, a mandolin and guitar orchestra, aesthetic and so called physical culture dancing, and several recitations. Choral work with children is always hard, but the chief difficulty of discipline had apparently been overcome, and the choirs sang well, and what is more important artistically. To see a brass band of twelve year-olds is always a surprise, but when many of the largest horns <sup>are</sup> were propped up by girls, it is more of a surprise. I recall only a few months ago reading that the highest paid member of the all-girl jazz orchestra which has been touring the States was the tuba player, as American girls considered it beneath their dignity to play the heavy instruments. These girls apparently loved it, and judging from my general experience here would have probably been insulted if they had not been allowed equal parts with the boys. This developing of musical and artistic use of free time is fast becoming one of the pet hobbies of the Government. Every effort is being made to keep the children occupied and off the streets. During the spring vacation which is now in progress in the Middle Schools the children meet every day in the schools for entertainment, whether it be movies, or a speech or an excursion about the town. To turn them loose entirely for a week or so would overload already busy parents.

All of this campaign for profitable use of spare time is only part of the general campaign to wipe out hooliganism, which has of late come forcefully to the public's attention. You will recall that I have previously written of the wild boys and the attempt made to care for them. Only recently a group of criminal children was exposed. Their so called club was on the corner nearest our home, and for some time they have attracted attention. It was discovered that these boys in their teens and a girl seventeen had three murders to their credit, and that they were generally a bad element. As is well known the Criminal Code of the RSFSR provides a penalty of ten years for murder, if accompanied by some named circumstances such as mercenary motives, second offenders, murder endangering the lives of others, <sup>made</sup> to conceal another grave crime, <sup>made</sup> by persons responsible for the victim, <sup>and</sup> by taking advantage of the helpless condition of the victim (Art 136). But this statute, ~~is~~

although highly publicized is not the extreme penalty. If the interests of the State are involved or jeopardized the supreme measures of social defense may be used, among which are death, and life banishment, coupled with confiscation of all property. Three of these defendants received the death sentence in the courts, under what was stated to be an article of the Revolutionary Law—undoubtedly a reference to acts against the State. The papers featured the news in what appears to be a plan to make an example of the case, and the articles declare that within two months there will be no more hooliganism. The formerly quiet Moscow is to be returned to its quiet state and the street hold-ups and murders which Pravda decries must be stamped out or Pravda will want the Militia (like Police in bourgeois countries) to tell the reason why they have failed to act successfully. Once again the newspapers take the lead in the attack, and in so doing they perform one of the primary functions of the Press. A newspaper is not only a dispenser of news, but the papers each have departments which follow up complaints of subscribers and make life miserable for the beaurocratic. Articles daily appear criticizing the working of watch repair stores, the railroads, early marriages of children permitted by lazy officials who failed to check their age, etc. etc. I have been told that this department is the most important department of the papers, and that the foreign language papers (English, German, and French) published here are financed by the Government primarily to give foreign workers an outlet for their complaints and a staff of checkers-up who can look out for their interests. The pages of the Moscow Daily News (English language) certainly bear this out, for complaints run from bed bugs, cockroaches in the food, and dirtiness to inefficiency of every sort. The paper checks on each and forces an issue. As a result the last stand of many a person if red tape has nearly entangled him is to threaten to write Pravda or the News, and people tell me that then things really get done.

Yesterday was "International Evening" at my Institute. By that was meant that MOPR was having its annual meeting to tell of its work and enlist new members. You undoubtedly have heard of this world-wide organization. It works in every country of the world doing what it can to help workers who are imprisoned, persecuted and beaten up. Its most prominent work has been the now un-ending effort to free Thaelmann, but it has been none the less active in other countries, and takes a part in the defense in American Courts of labor agitators etc. brought to trial. Its members here number millions I am told, and apartment owners are frequently called from their suppers to donate some money to the International fund. Most expressive pictures are displayed showing the police beating workers in Chicago, negroes being lynched in the south, Indian riots in Bombay, German firing squads, Austrian police charges, etc. etc. The program consisted of the usual speeches telling of the work of the organization, a speech about the Paris Commune and why it failed (Lack of unified working mass, and failure to nationalize the banks), a speech by an Austrian Communist boy now here as a refugee after the Socialist battles of last year, the reading of a letter from Polish prisoners, and finally a letter being sent by our Institute to students imprisoned in California. Just who the students were, where they were students, and why they were in jail was not explained. Naturally I was interested and am going to find out where in America students are sitting in jails for more than a night or so after a riot. The wall newspaper was full of news of workers the world around, and stressed the International character of our Institute which has representatives of some twenty nationalities

within the boundaries of the Union.

The lectures on the History of the State are now dealing with Imperialism, and we were treated to an account of the revolution engineered in Columbia when we needed the Panama Canal. Britain's exploits in Iraq were exposed as an effort to make of Iraq a free state, a member of the League, only so that Britain could make treaties and get concessions which she might have been denied had she been responsible to the Mandates Commission. Dealing with a de jure independent power makes things more orderly. Her exploitation of Egypt was exposed with the resulting development of Egypt into a one-crop country, since cotton was sorely needed by British mills, and a balanced economy in Egypt was of little concern to English Imperialists. Japanese maneuvers in Manchuria were passed over as being "too well-known to need comment."

The blast in the Hearst Press about the Moscow University Summer School and people who are connected with it has not gone unnoticed here. The vigorous attack on Prof. Heber Harper, and John Dewey as Soviet agents may be a warning of what is in store for every one who has studied in the Union. Perhaps the dye is being cast, and there can never be a turning back. To live here and study here may make us in the eyes of the ever-growing fascist press at home an unhealthy element, not to be tolerated under a fascist regime, which is now being predicted here as a very possible future for America. Huey Long rated a long feature article in the press, and he was pointed out as the most likely candidate of the fascist elements for President.

With all good wishes, I am,

Sincerely yours,

JNH.

( Could you have Ben and another copy of the "American World." My teacher said used the last in the store, & no amount of scolding could bring it back, she informs me.

Moscow.

April 2, 1935.

Dear Mr. Rogers;

Self-criticism is one of the most familiar slogans used in the press which attacks everything which seems to be falling short of the desired goal or departing from the path necessary to complete the program. But this weapon is not alone used by the press, for every organization arranges for periodic sessions of self-criticism. Usually no startling revelations are brought forth, but occasionally there is a publication of facts which startle the country, as for example the publication by the Commissariat of Railways in self-criticism of the accidents during the last year. Previously no accurate official figures on railway accidents had been available. Our Institute of Law also has an evening of self-criticism each year, and I had one of the treats of the year the other night when I attended it. As we are under the Commissariat of Justice, the meeting was called by the Commissariat and presided over by the Under-commissar, a young (cir. 35) forceful, tall, dark-haired man who kept the meeting in excellent order during the entire time, a real feat here where I have not previously attended a really quiet meeting. The Director of the Institute gave his long (1½ hrs.) report, covering the work of the Institute during the year to date, being a report not only of scholastic work, but also cultural work, by which is meant the activities which we might call extra-curricular, such as foreign language groups, dancing lesson groups, literary discussion groups, musical educational groups, etc. He outlined the work students did in social and party service about the City, and finally read statistics showing the parental class background of the students (commonly called their class origin), the number of party members or Komsomols (youth's preliminary party organization in which they are prepared for party membership), scholastic record for the year, and the groupings of party and non-party members in the various scholastic groups (the top places were shared quite equally but as the lower ratings were read out it was seen that non-party members had kept themselves out of the lowest failing group), and finally he read statistics on the dormitory and dining hall which the Institute also runs. Of all these figures the ones telling of class origin and scholarship of party members were the most interesting. Class origin always plays a vast role, for all other things being equal a boy or girl from peasant or worker ancestry is preferred to those from other ancestry, for the simple reason that practice has shown that children most frequently follow in the paths of their parents' political thinking, and therefore the odds are in favor of the sons and daughters of peasants and workers making better citizens for the peasant-worker state than children of old-timers. Another generation this may no longer be considered, for as Molotov has pointed out in his speech on Constitutional reforms, when the time comes that only a small minority of persons are still alive who are only one generation removed from the undesirable classes (former priests, former Czarist police, merchants, landowners,

and former bourgeoisie) then this differentiation which is now everywhere apparent need no longer continue. The poor showing of Party and Komsomol members as compared to the non-party minority who had succeeded in keeping themselves out of the failing group was severely criticized, for it showed either that people having achieved their membership were resting upon their laurels or else that they were kept so busy in meetings, organizational work, etc. that they did not give the time they should to their work. There might also have been added an analysis of the social background of the non-party students to see whether they came from families in which they had been intellectually stimulated from the cradle up and consequently better equipped for the intellectual work of the law.

Following the report of the Director came the short speeches of various students and professors, objecting to this or that thing in the curriculum of the general life of the school. In time for these speeches the Peoples Commissar of Justice, Krylenko, came in. A short, oldish, but robust man, with shaved head and vigorous manner, he immediately attracts one's attention. The premier mountain climber of the Union as well as the organizer of Chess as a national passtime, he brings to his work physical strength and mental agility. A former member of the intellectuals of the old school, he has nevertheless played a huge role in the legal work of the Revolution and is looked upon as the core of the system. Never once during the three and a half hours of his stay with us did he sit down, but he constantly walked about the platform, asking questions of the speakers, or answering some hot argument, or even joking them out of their position. Intolerant of shoddy work and criticism of the need for historical courses, he never failed to speak his mind. I tried to picture a meeting at Harvard with Dean Pound and Attorney General Cummings taking criticism from every quarter. One young girl said she had heard the same criticisms other years and yet nothing had happened. The importance of the position of a People's Commissar had no terrors for her, and the Commissar later said that her indictment of his stewardship of the school was one of the most effective of the evening. Finally he took the stand himself and explained the difficulties faced in providing new dormitories due to the overcrowding of Moscow, of providing different food due to the need of keeping it at low prices for the students, but he did promise that a better plan of study would be organized. He emphasized the absolute necessity of studying foreign languages, and foreign legal systems, and said that Russian students must without fail know the Constitutional Law of America and England in order to appreciate our legislation. In the future the Institute will give a course of comparative law, for without an understanding of bourgeois systems of law, students are not qualified to criticize. We had started our meeting at six o'clock, and his speech brought it to a close at eleven thirty. Every moment had been a contest, with the exception of the director's report, and all of us left rather hungry and tired, after such a session, but I for one felt that few times before had I had such an experience.

The end of March brought with it the end of my first six months of language study. My teacher had organized a four hours

examination on two successive days, one half written and one oral. Fortunately I was able to sound sensible on the oral part, but I was disappointed in my written work. It is still a problem for me to know when there is a soft mark following a letter, and also to distinguish between the different "ee" sounds, which have no counterpart in English. When I talk, such errors are of course not as apparent as when I must write, for everything shows up on the written page. Now I will start working about half my time on selections from legal material in order to develop a legal vocabulary. Although I still feel discouraged occasionally at plays which seem to slip over my head, I do rejoice that I can grasp most of what goes on at the Institute, and can read the daily papers with a certain amount of facility. Knowing as much as I do of the language makes life immeasurably easier, and I realize more than ever that one of the reasons why this land seems so odd and incomprehensible to Americans is because of language difficulties.

With the end of the first six months and a slight lull in Institute work, I welcomed the coming of one of my friends and his wife on a five day tour. I took the time as my vacation, and also as an opportunity to do some of the sightseeing which I had put off until I could feel more at home in the language. We saw factories and workers clubs, dining halls, and recreation rooms, museums and stadiums, markets and stores, and operas, and ballets, and plays. I had long heard that factories should not be missed, and now I can say that they are a real sight. I have seen a great many plants at home, from steel mills, foundries, china factories, slaughter houses and meat packing plants, woolen mills, cement factories, and auto assembly plants, so that I had some comparison. Here we saw a factory turning out machinery for automobile factories. It was light, and airy, and clean, with rest rooms, a library, dining halls and recreation rooms and clinics for the workers. Our most modern factories run by enlightened companies provide these also, but they cannot provide the spirit of a worker who feels it is his shop, working for his future. Wall newspapers emphasize this difference, and the large crowds in the library and reading rooms during the rest hours accentuate this feeling that the workers are trying to push forward to better master their work and improve their factory life and their future.

In the evenings we saw some excellent plays and ballets. Quite by chance Anthony Eden attended the ballet on one of the evenings. He and his party sat in the old Royal Box, while the rest of us were hurded around to side entrances to make clear for him the main entrance, carpeted in newly laid red plush. A young man (38), he has caught the imagination of the populace, and on every side one hears only praises. Having been favored with a rather unique honor in being photographed with the Chief himself, he has been accepted with great acclaim by the press, and every one looks to a new friendship between England and the Union. The Ballet chosen for him was a new one "The Three Fat Men" showing the misrule of three fat princes, followed by a revolution and the liberation of the people. It is modern in the extreme, and delightfully amusing in its caricature-like portrayal of a royal court and reception. The British Delegation sat quietly in their box, but seemed to be having a great time of it. Later I met one of the English journalists who had accompanied the party, when Major Faymonville gave a cocktail party. They were all impressed, I was told, with Moscow, and particularly with

the subway which although nearly completed has not yet been opened generally to the public. The papers tell us that the visit represents a definite turning by England from her conciliatory attitude towards the Reich to friendly cooperation with the Union to preserve the boundaries in Eastern Europe. It may even then be too late to save Memel from Germany, but that remains to be seen. Duranty who attended a little luncheon for my friends at Mr Wiley's, to whom they had a letter, tells us that war in Europe seems inevitable in the near future, although in all probability it will not become general to such an extent that the USA will be drawn in.

Professor Korovine gave me another evening in which we discussed the Soviet Attitude on International Bodies for settling disputes, and then from that we drifted into a lively discussion of America, and why the Communist Party has had such a small membership over there. He had advanced the thesis in one of his lectures that the quota system of immigration was instituted to keep out revolutionary elements, and with that explanation I of course took issue as I had always thought that it was instituted to keep out undesirable elements which were largely defined as criminal elements coming from southern and eastern Europe. I was shown that the argument was the same in both cases, except that I had failed to draw the correct interpretation, in that criminal elements, except in cases of mental disease were persons who took that form of protest against the existing order. The Southern and Eastern Europeans came from countries where they had been most severely exploited and when they went to America they found themselves still in large measure confined to the manual labor jobs (i.e. Italian ditch diggers, and Russian factory hands) and as a result their criminal practices continued perhaps not as a conscious protest against oppression, but as a factual protest against a capitalist society which exploited them. Thus the crime movement was in itself revolutionary, not in an organized way, but in cumulative effect. You can see what fields our discussions open up and what a fertile field for discussion we find.

Now I am back at my desk for the final two and a half months before sailing. I want so much to leave here with a pretty fair working knowledge of the language, so that next fall I can settle down at the Institute and do the fundamental basic work necessary.

With all good wishes for a Happy Easter, and my greetings to the Staff,

JNH.

WSR..JNH...

April 12th, 1935

Dear Hazard:

I am just back to honest labor after gadding about the country with Antonius. Now he is in Washington completing his researches there and conferring with any number of people. Apparently, he has thus far found his trip worthwhile but rather tiring.

Enclosed are two clippings which curiously enough reached me via Peiping. Walter Young's wife has relatives in Indianapolis who sent the clippings to her. Please return them to me. My general impression is that Houghton is a gabby person who ought in consequence to be treated gingerly.

Sometime ago Professor George S. Counts read several of your letters. According to my recollection of the moment I neglected to send you two paragraphs of interest to you in a letter he sent me. (The letter in part had to do with Antonius seeing Professor Paul Monroe in regard to the Near East colleges).

Twice within recent weeks I have talked with Mr. Skvirsky. On both occasions he asked in a very friendly way about you.

"Sam" Harper has about decided not to go to Russia this year. One reason is that during the last week in June the Harris Foundation (connected with the University of Chicago) is to hold a conference to discuss Soviet affairs, at which the Soviet Ambassador will be present and perhaps one or two Soviet government officials from Moscow. If you are hereabouts you will be welcome to attend the conference.

The other day Manley Hudson inquired about you, possessively.

Your number 31 has just come. Your letters continue interesting.

By the time this reaches you spring will probably have arrived in Moscow and I hope you will find it enjoyable.

Cordial greetings,

WSR/FC  
encls.

P.S. If you will need additional funds to cover your return journey, please let me know your requirements well in advance.



Moscow  
April 8, 1935.

Dear Mr. Rogers;

The city is still humming about the disclosures of crimes committed by minors, who are called by the popular term hooligans. Some weeks ago I wrote telling of the discovery of a "club" near our home where a band of four, all in their 'teens had been active as hooligans (generally bad and incorrigible characters) and had even gone so far as to commit murder. These three boys and a girl were seventeen and over, and were the first ones <sup>to be executed</sup> ~~to be executed~~ under section 59 (3) of the Criminal Code of the R.S.F.S.R. which reads:

"59(3)- Banditry, i.e. the organization of armed bands or the participation in them and in attacks organized by them on Soviet or private institutions or private persons, or in holding up trains or destroying any railway or other means of communication or any means of connection (telegraph, telephone, etc.) entails--  
deprivation of liberty for a period of not less than three years and confiscation of property in whole or in part, provided that in cases where there are aggravating circumstances of a particularly serious nature the penalty shall be increased to the supreme measure of social defense: death by shooting, with confiscation of property."

After the first news release of the execution, there followed daily news of the sentencing and shooting of other young criminals, all of whom were found to have murdered. The Statute although applying only to bands is given a broad interpretation, for as Prof. Estren has explained in his lectures on the Criminal Code, a band is interpreted as being two or more persons. In all cases I read there were three or more executed with the exception of one where a boy killed a girl while attempting rape. Undoubtedly he was linked in some way with other criminals making a "band".

The application of severe measures to persons under sixteen years of age was prevented by Sec. 12 of the Criminal Code which reads:

"12-Minors under the age of 16 years are not liable to measures of judicial-correctional character. To them the Commissions for Juvenile Cases may apply measures of social defense of a medico-educational character."

Unfortunately many of the hooligans and criminal "bands" were composed of youngsters under the limit. Whereas in many cases these boys were sent to correctional places such as the famous Bolshovo near Moscow, many others either refused to be reformed or to settle down, and they continued their wanderings and became the famous "wild boys" or "bezprizornee". The government has apparently lost patience with this element for today there appears a new decree from the Central Executive Committee and Council of People's Commissars reading:

"With the purpose of doing away with criminality among minors as quickly as possible, the CEC and Council of Peop. Commissars of the USSR decrees:

1. Minors, from the age of 12 years, convicted of <sup>Committing</sup> ~~committing~~ larceny, of causing violence, bodily injury, mutilation, murder or attempts to murder are to be brought before the criminal court for the application of all measures of criminal punishment.

2. A person caught encouraging or drawing minors into taking part in different crimes, and also compelling minors to carry on speculation, prostitution, begging, etc. ~~are to~~ be punished by imprisonment for not less than five years.

3. Sec 8. "Basic principles of the Criminal Laws of the USSR and united republics" shall be repealed.

4. The governments of the united republics shall be encouraged, (lit.-It shall be proposed to the governments. etc.) to bring the laws of the republics into harmony with the present decree.

Dated April 7, 1935.

It remains to be seen whether this decree will have retroactive effect. Prof. Astren has explained that laws are retroactive only when the criminal would be benefited thereby, as for example if a penalty is made less severe during the time of the criminal's confinement, after he has committed the act but before sentence; but they are not retroactive when the penalty is made more severe. The Prof. ridiculed bourgeois laws which hold a man under a severe law which is repealed during the time he awaits conviction or sentence. It would seem that if the principle of retroactivity is not applied in this case, it would be in accordance with the Professor's explanation.

It is partly a mystery to me, <sup>just</sup> why these strict decrees and laws are being applied. I have heard in lectures that the theory of the criminal law here is not vengeance or prevention of crime by fear of punishment. It is said to be based on the principle that a criminal should be removed only if he is harmful, and there is no other way to protect the state and the people. If we limit ourselves to this principle, any application of the new law must be for the purpose of protecting society and the State from a person who has <sup>already</sup> committed a crime, and in theory the presence of the law on the books is not intended to have any preventive effect on youngsters who have as yet not committed crimes. It would appear to be hard to define the point where a law providing punishment becomes most effective as a threat to future wrongdoers, <sup>already</sup> In my opinion any criminal law is factually such, but perhaps the Slav reacts to laws differently. Certainly the press emphasizes the fact that there is in process a campaign to clean up hooliganism. It would not appear that the campaign is limited only to cleaning up persons already guilty of such, but it would seem to extend to stopping hooliganism in the future not alone by exterminating past criminals who might prove to be repeaters but also by discouraging new criminals. Just what part in the campaign the laws factually play would make an interesting study for a psychologist.

I must say that I admire the way in which the police unearth criminal activities. Only recently they turned up a group of counterfeiters, who had been making false passports, party

documents, and trade union cards. The men now stand trial. Likewise the police turned up a large ring speculating in lemons which they had been getting from some higher-ups and selling on street corners under the established market prices. The system used by the police is the familiar "watchful-waiting" game whereby the plots are allowed to fully develop and then are nipped when they are going strong, evidence is plentiful, and the full circle is exposed. Occasionally the police delay too long as they did with the December assassins, as in that case apparently the police thought the plot was not quite ripe and failed to make the round up in time to prevent the murder. But for the most part success in tracking down crime and counter-revolutionary groups is so usual that the police are treated to a very healthy respect. For one interested in law and crime prevention and disclosure this country presents some fascinating possibilities for study. Every effort is being made to improve methods of training of prosecutors, lawyers, judges, and court experts. This effort has taken the form of a long decree which has only just appeared in the Collection of Laws. Next time I will go into that fully so that you may understand the changes which are going on here in the legal field. There is no question that law is becoming a real science, and the effort to link it closely to social problems merits the most exacting study.

In this connection you will be interested in reading Harold J. Laski's "Law and Justice in Soviet Russia" (Day to Day Pamphlets No 23—published by the Hogarth Press, London. 1s.6d.) which has only recently appeared, and, while in many cases far too general, gives quite an interesting picture of law here. It amplifies at some length the theme of his article in the Nation of last August.

This letter has seemed to turn into one about law alone, but as such it concerns itself with my major interest. You cannot help but realize that I wish I were more of a psychologist, for nowhere is law so close to the daily life and needs of the people. I shall have to do what I can in spite of my disabilities along that line. It is fortunate that living with a family interested in psychology and psychiatry I get a little chance for conversation about the effect of the law on the individual. If you ever run across books touching on these problems I should enjoy knowing about them.

With all good wishes, I am,

Sincerely yours,

JNH

MOSCOW,  
April 13, 1935.

Dear Mr. Rogers;

By now you should have received my homely translation of the new decree concerning the expansion and reorganization of legal education in the Union. It represents months of thought, and <sup>from</sup> comments made here and there during the term I might have guessed that such a decree would appear before the term finished. It includes several innovations, the one of primary importance being the Allunion Legal Academy. Up to this time advanced work was done primarily by the Department of Law and Administration of the Communist Academy, which in a sense was not so much a Government Organization as a Party Organization. It worked primarily in the field of research and systematic revision of the Codes, also being a training school for the most able of the younger jurists. Just what part in the picture the new State Academy will play is not yet clear. The renaming of the existing Institutes of Soviet Law so that they will now be Law Institutes, without reference to Soviet Law means that there will be introduced courses in comparative law, and perhaps even courses in English commercial and criminal law. Vishinsky, the State Prosecutor, and Krylenko, the People's Commissar of Justice, had both on various occasions told us at the Institute that a knowledge of laws in bourgeois states was essential to equip a student to criticize intelligently bourgeois law and develop Soviet law. A course is now starting in Anglo-American Criminal Law, no doubt as a feeler to see how these courses may best be conducted. Krylenko even went so far as to say that students must understand American Constitutional Law so that they ~~might~~ better understand developments in America. I felt at the time that our Constitutional law looks queer enough to us Americans and when it is transplanted to a lecture in a Soviet law School it should seem even more mystifying. The sections of the decree dealing with training of court workers, etc. seems to be putting into concrete form the feeling that law is to play a more important role than formerly. One cannot help but notice that as time goes on many of the old laws and methods of training are coming back in a slightly new form. Of course the Russians hail this as one of the benefits of their system. They can always experiment. They can throw all law out the window as they did in the early days of the revolution, and then as they see the need for certain sections of it, they can reintroduce it with the new orientation needed under the new State structure. Complete freedom from punishment for children seemed ideal, but cases actually arose where children did criminal acts, and then would turn on their captors, and say "You can't do anything to me under the law, I am a minor." When small children learn that trick, it is only too apparent that all the fancy theories of child development without restraint and punishment have produced a product with which society is not prepared to cope, and as a result we see the reversal of form in the recent decree re-instituting regular criminal trials and punishment for children over the age of twelve years. Similar changes are going on in the family law. Divorced husbands were failing to pay the alimony decreed by the court as necessary for the care of their children. Izvestia tells us that the following percentages have been paying up: Of the Workers- 39.8%; of the office workers-45.1%; of the others-28.6%. Irregular payments were rec'd: From workers-13.9%; from office workers-11.3%; from others-7.1%\*. But those who made no payments at all were represented by the following percentages:

\* Why these percentages do not add up to 100% is not explained.

workers-25.9%; office workers-19.7%; and others-28.6%. The paper demands that new laws be enacted to protect the children and get the alimony, suggesting that the court's decision be written into the divorced husband's passport and criminal and civil penalties shall be enacted which may be applicable against the corporation or bureau for which the husband works which fails to take the alimony out of his wages. The Divorced husband who defaults shall be subject to forced labor or a short deprivation of liberty. In cases when "the avoidance of payment of alimony is accompanied with abuse of his official position, the period of deprivation of liberty may be increased up to two years." Besides this there may be taken from the defaulter for the satisfaction of indebtedness incurred (presumably for the children's benefit) 50% of his wages. Whereas this proposal may not become law; judging from the usual manner of proposing ideas in the press, which if they receive a favorable reaction later become law, I should not be surprised to see some such provisions in the Family Code within the year.

In commenting on the new law relating to crimes committed by children Vishinsky in Izvestia remarks that this is the "first instance in Soviet legislation of the double liability of adults guilty of encouraging or attracting minors to take part in various crimes or forcing them into some crimes such as speculation, prostitution, and begging". You will recall that the new law provides for imprisonment of such persons for not less than five years. It would seem to me that this is not the last of the changes in the law, for I should not be surprised to see a change making divorce less easy. As you know, it is now possible for one party to go to the recording bureau (ZAGS), and without giving reasons register a divorce from the absent spouse, who is notified by mail the next day. Too many cases have arisen where men have abandoned their wives after a few months or a year, and some people think that men, knowing that a divorce can be had for the asking never think twice about marriage if they see a pretty girl. Whether a law making divorce depend on a hearing with both parties and an examination of the reasons given would make marriage a matter to be given a few more moments of thought is a debatable point. It remains to be seen what changes may be proposed, if any.

In the decree I sent you, you will notice a large table concerning scholarships the students receive. These have their benefits and their disadvantages. The benefit is obvious, in that no longer is education dependent either upon the parent's pocket book or the University Employment Bureau's ability to find the student working his way through a job. But then there is the duty of going wherever the government may send you after school is finished. This is said to be a pleasure for one who is conscious of his social duty, but there must be nights when some lonely district prosecutor in the mountains of Uzbekistan or the tundra of Yakut dreams of the white lights of Moscow and balances social duty against the pleasures of life. It is interesting to note that these scholarships are in part based on scholastic achievement. In the Law Institute the highest ranking students get nearly 200 rubles per month, the average run around 150 rubles per month, and the ones who are just scraping through get 100. Scholarship, which might suffer due to the fact that there is the assurance of a job at the end of the course, is urged along by making it the source of the pleasures money can buy while in school. This is quite in keeping with the premium system

everywhere in use, in factory, collective farm, and school. I have heard lecturers explain it as very different from capitalism, as the premium is paid for more effective social work. The reward therefor is not the result of greater selfish effort on ones own behalf, but a true reward for social work on behalf of the community. Sometimes it is explained as necessary only because this generation which is still so close historically to capitalism understands this type of incentive best. ~~It~~ <sup>This</sup> is the same argument as is used to support the use of terms such as "guilt", "punishment", and "violation of the law" which are admittedly terms carried over from old bourgeois law having no place in this society, but which are used merely because the people have not yet become accustomed fully to a different terminology more in keeping with the realities of a socialized legal system, and need to have the old terms so that they may understand, although imperfectly, their duties and transgressions.

Mr. Bullitt arrives today, and the personnel of the Embassy awaits his orders, which may be to reduce the staff. Except for the changes in the military and naval sections, there have been ~~no~~ removals. When I called on Mrs. Wiley the other day, Mr. Wiley told me that he was looking forward to a ~~little~~ <sup>must have</sup> vacation. It ~~has~~ been a difficult ~~task~~ to guide the Embassy during the trying times of disillusionment resulting from failure of negotiations. We had a delightful talk, as I happened to be the ~~only~~ caller. He certainly impresses me as being a man with a vast fund of information at his finger tips and a real ambition to make this group here a success. Mr. Bullitt will give a ball to celebrate his return to his post, the like of which is said to have not been seen here for some seventeen years. Most of the colony is invited, and I am looking forward to a bit of a relaxation from the flannel shirt and cap of everyday wear.

Professor Korovine has been giving an evening course at the Institute, in "International Relations during the 19th and 20th Centuries" with special emphasis on the part played by Czarist Russia. It is a seminar of only about ten students, and we have had some lively discussions. Last time in discussing the background of the World War (called Imperialist War here) he suggested that the reason America entered the war was the following--America claimed the right of a neutral to trade with all countries. Factually it was impossible to get into the North Sea and to the Kiel Canal to trade with Germany. As a result most of the trade went to the Allied powers who were more easily accessible. After two years of the War America saw that she had vast sums invested in the Allied Countries. Seeing that the Allies were not faring too well, and also being moved by a friendly feeling naturally engendered by the investment of large sums, she found herself required to jump in to protect that investment. The emotional excuses based on the German failure to respect belligerent rights, while serving to whip up the emotional elements of the population, nevertheless played little real importance in the final decision. He ~~read~~ <sup>also</sup> to us the secret Franco-Russian Military Alliance and explained the meaning and reasons for the inclusion of provisions which were suicidal ~~for~~ <sup>to</sup> Russia, and served only the interests of France. That was an amazing series of treaties and revisions which the Czar arranged!

Spring is about here, and I never felt better--Hope you too are finding all to your liking. All best wishes.---JNH.

DECREE OF THE CENTRAL EXECUTIVE COMMITTEE AND COUNCIL  
OF PEOPLES COMMISSARS

Measures for the Development and Improvement of Legal Education.

With the purpose of further developing and improving the work of preparing personnel for the court organs, prosecuting attorney's office, investigations, and state arbitration courts, and the legal workers of the various administrative offices, the Central Executive Committee and Council of Peoples Commissars decrees:

1. For the preparation of leading workers in the court organs, prosecuting attorney's office, investigation bureaus, and state arbitration courts there shall be organized beginning with May 1, 1935 in Moscow on the basis of existing courses for the leading workers of the People's Commissariat of Justice of the R.S.F.S.R. and Allunion Legal Academy under (the direction of) the CEC of the USSR with a two year course of training. In the organization of the Allunion Legal Academy there shall be formed a Supreme Academical Course (VAK) with a course lasting one year.

The number of persons admitted to the Allunion Legal Academy for 1935 shall be established at 250, and of this number 100 shall be in VAK.

2. The names of the existing Institutes of Soviet Law shall be changed to Law Institutes, there being established a four year course in the basic departments of these institutes, and in the preparatory departments (there shall be) a one year course for those who leave their office work, and a two year course for those who study without leaving their regular employment.

3. In addition to the existing six law institutes (those in Moscow, Leningrad, Saratov, Kazan, and Sverdlovsk operated under the Peoples Commissariat of Justice of the RSFSR, and that in Minsk operated under the People Commissariat of Justice of BSSR (White Russian Republic), and the three law faculties (The Bakin Social-Economic Institute, the State University of the Georgian SSR, and the State University of the Armenian SSR) there shall be organized as well:

- (a) Beginning with May 15, 1935, on the basis of the Legal Section of the Kharkov Institute of Soviet Law and Administration--The Kharkov Legal Institute under the direction of the People's Commissariat of Justice of the Ukrainian SSR;
- (b) Beginning with September 1, 1935, on the basis of the existing Legal Section of the Tashkent Institute of Soviet Law and Administration--The Tashkent Legal Institute under the direction of the Committee for the Direction of Learned and Scientific Organizations (a Committee) of the CEC of the USSR with the duty of preparing legal personnel for the Soviet Socialist Republics of Uzbekstan, Tadjkent, Turkmen, and the Associated Republics of Kazackstan, Kirgiz, and Kara-Kalpak, and with the duty of organizing instruction in the existing national languages.

4. The enrollment for 1935 in the law institutes and faculties shall be established at 1,490 persons in the basic (4 yr) departments of these

and 870 persons in the preparatory departments with the distribution of this number among the Republics of the Union in accordance with the attached table (Table No. 1).

5. The enrollment in the preparatory courses in the Junior Universities shall be fixed for 1935 at 300 persons, divided as follows: RSFSR-200 persons; Ukrainian SSR-50 persons; Tadjkent SSR-25 persons; and Turkmen SSR-25 persons.

6. For the training and retraining of legal workers in the Districts (Raion) (District prosecutors, examiners, and peoples judges, etc.) shall be organized under the direction of the Peoples Commissariats of Justice of the Republics of the Union a system of schools to train legal workers, and courses to retrain these workers, the support of these schools coming from the state budgets of the Republics of the Union.

The Course in the schools preparing legal workers shall be for one year, and in the courses for retraining these workers shall be for six months.

The system of one-year schools for the training of legal workers shall be fixed for 1935 at 31 units with an enrollment of 1,300 persons, and the enrollment in the six-month legal courses shall be fixed at 1,750 with a distribution among the Republics of the Union and the Prosecutor's Office and Supreme Court of the USSR according to the affixed table (Table No. 2)

NOTE-For the Tashkent and Turkmen SSR's the course in the schools for legal workers shall be fixed at 2 years, and the (shorter) courses shall be 1 year.

7. For the training and retraining of the secretaries (clerks) of the People's Courts, the district prosecutors, the court executives, and the notarial workers, there shall be organized a system of short three-month courses.

At the same time the Supreme Court of the USSR, the Prosecutor's Office of the USSR and the Peoples Commissariats of Justice of the Republics of the Union must guarantee that all persons taking part in the work of the court organs, prosecutor's office and investigations will take part in these three-month courses.

The enrollment in the short three-month courses in all specialties shall be fixed for 1935 at 1,970 persons, with a distribution among the Republics of the Union according to Table 2.

8. The number of persons taking part in studies through correspondence school courses shall be fixed for 1935 at 4,000 persons, with the division of this number among the Republics of the Union and the Supreme Court and Prosecutor's Office of the USSR according to Table 2.

9. The enrollment for 1935 of "aspirants" (persons studying to be teachers) in the law institutes and scientific-research law institutes shall be fixed at 70 persons, of this number in the RSFSR shall be 45; The Ukrainian SSR-15; White Russian SSR-5; and the Georgian SSR-5.

10. It is ordered that the plans of study, the programs and educational work for the legal junior universities shall be examined and approved by the Allunion Committee for the Highest Technical Education under (the direction of) the CEC of the USSR, with the cooperation of the President of the Communist Academy of the USSR, the Prosecutor of the USSR, the Supreme Court of the USSR, the State Arbitrage Bureau under



the Council of People's Commissars of the USSR and the People's Commissariats of Justice of the Republics of the Union.

11. The following system of legal scientific institutes shall be established:

(a) A State scientific research institute of criminal and correctional-labor policies under the Prosecutor and Supreme Court of the USSR and the People's Commissariat of Justice of the RSFSR in Moscow, with an affiliate in Leningrad, with the responsibility for their maintenance in the budget of the RSFSR;

(b) A State scientific research institute of court psychiatry, named in honor of Prof. Serbovy in Moscow, under the direction of the People's Commissariat of Justice of the RSFSR with the responsibility for its maintenance in the budget of the RSFSR.

(c) A State scientific research institute of criminal and correctional-labor policies in Kiev, and a scientific institute of court experts in Odessa under the direction of the People's Commissariat of Justice of the Ukrainian SSR, with responsibility for their maintenance in the budget of the Ukrainian SSR.

(d) An institute of criminal and court experts in Minsk under the direction of the People's Commissariat of Justice of the White Russian SSR, with responsibility for its maintenance in the budget of the White Russian SSR.

12. There shall be established in 1935 the following measures of scholarships (literally-money guarantees) for the students of the various sections of the system of legal education:

(a) For students in the Allunion Legal Academy the scholarships shall be fixed from 250 to 300 rubles per month, in accordance with the family situation and scholastic success of the student;

(b) For students in the highest academical courses of the Allunion Legal Academy there shall be preserved during the time of their study maintenance in accordance with their present place of work, and besides that they shall be paid scholarships of 150 rubles per month.

(c) For the students in the law institutes and law faculties the same scholarships paid in 1934 in the Institutes of Soviet Law shall be preserved.

(d) The students in the one-year law schools shall be paid scholarships of 200 rubles per month (without preserving maintenance in accordance with their present place of work).

(e) For the students in the six-months and three-months courses in training and retraining of legal workers during the time of their study there shall be preserved the wages which they are receiving at their present place of employment. Those ordered to attend courses in other cities and districts-besides receiving the equivalent of their usual wages-shall receive a scholarship of 100 rubles per month.

13. There shall be set up a capital fund for the construction, renovation, and repair of study halls and dormitories of the law institutes and faculties, the sum of 4 million rubles for 1935 with a distribution of this among the various institutions according to the individual tables.

14. The governments of the Republics of the Union shall be encouraged to enact measures conforming to the general theme of the present decree (measures) dealing with legal education.

Signed (over)

Signatures-

President of the Central Executive Committee of  
the USSR.....M.Kalinin  
Vice-President of the Council of People's  
Commissars of the USSR...Ya.Rudzutack  
Secretary of the Central Executive Committee  
of the USSR.....I.Akulov

MOSCOW  
April 19, 1935.

Dear Mr. Rogers;

I have previously written you, telling of the campaign against banditism, but at the time of my earlier letters I had never witnessed a bandit trial. Recently a regular session of the Moscow City Court was held in the auditorium-court room of our Law Institute before which were brought two defendants charged with violating Sec 59(3)<sup>1</sup> of the Criminal Code of the RSFSR. The long red-covered table of the court, flanked by the two smaller red-covered tables of the prosecutor and the defense attorney placed on the platform before the massed red banners of the school, in a setting slightly more effective than the regular court rooms, gave the affair a rather formal and dignified tone. At five o'clock the two prisoners were brought in, followed by the Professional Judge, ~~and~~ a young, well-dressed, alert, and capable man of about 38, and his two assistants or lay judges, both between 28-33, dressed in khaki uniforms of some office or other. The ~~Ass't~~ Prosecutor of the City of Moscow was a young woman, around 30, dressed in a mannish blue serge suit, while the defense attorney was an older (about 45), rather fat, short man with a kindly face now and again wreathed in smiles. Witnesses were lined up before the Court and advised that under Sec 95 of the Criminal Code any false ~~evidence~~ <sup>testimony</sup> subjected the witness to "deprivation of liberty or forced labor for a period not exceeding three months", and then they were sent out of the room to await their calls.

This trial in open court had been preceded by the customary preliminary investigation, somewhat akin to our Grand Jury investigations, and all the depositions of the witnesses and the defendants comprised a record which lay before the judge and with which he seemed entirely familiar. Procedure demands that a defendant must testify, and the first shaved-headed young fellow was called upon to stand. Born in 1912 on a farm in the District of Moscow, and later a member of a collective farm he came first to Moscow in 1927 to be with his brother who lived here. Educated in the village school and later in a scientific course while working in Moscow he presented the appearance of quite an alert young man. He returned to the collective farm in the spring of 1928, and remained there until 1933 when he again came to Moscow to work during the winter in a repair shop, returning in the spring to the farm to help with the summer work. After that was over, he again returned to Moscow, where he worked until March 21st of 1935 on which date he was arrested. He had once before been judged by a Court and been sentenced to four months of labor for selling collective farm provisions. On cross examination by the Prosecutor, he admitted that he had lied about <sup>the full period of</sup> his studies in Moscow, and he admitted having practically deserted the collective farm at a time when they needed all the help they could get. In contrast, the second defendant, a tall, slow-moving, less intelligent type, also of nearly the same age, and likewise born on a farm, which he left before it was organized as a collective farm, he gave the impression of a typical wandering young boy, not quite aware of any duty to society and

1\*Sec 59(3)--See notes at end.

certainly not educated to play his part in the new society. He had not worked for the last three months before his arrest, and as later ~~was~~ brought out from witnesses, during this time, he lived on money given him by his Aunt, with whom he lived in Moscow. He had previously been before a Court and found guilty of misuse of property he had no right to sell. He had somehow evaded the call to the army for men born in his year, and had never shown any desire to return to his mother who continued to live on the collective farm. He admitted drinking a great deal; that he had known the co-defendant only two weeks before his arrest; and that they used to drink about three litres of wine at a sitting, and drank vodka in tea glasses.

Then came the unfolding of the fact concerning the offense for which they were arrested. They had been seen standing in front of a movie house, apparently somewhat drunk on March 21st of this year. A young man came out after one of the performances, whom they said they had never seen before. They attacked him, and in the scuffle the tall defendant ~~shashed~~ <sup>the victim's</sup> face with a straight razor which was produced in court and admitted by the defendant to be his. The wound was eight centimeters in length from the top of the forehead down the cheek to the mouth. A Doctor testified as to the wound, and that if it had been just a little lower it would have probably been fatal in cutting an important artery. After gashing the victim, witnesses testified that the two defendants fled together, but were caught by a policeman, and when taken to the station, and on the way, the tall defendant swore profusely at the police. The victim recovered and was a witness in court testifying to his complete innocence of any provocative cause or that he had ever seen either defendant before. The Aunt of the tall defendant testified that he led a quiet respectable life, but on cross examination by the Prosecutor she admitted his transgressions in drink. She testified that her nephew never shaved, <sup>himself</sup> and owned no razor, but on cross examination was confronted with his admission that he shaved, <sup>himself</sup> and that it was his razor. Witnesses who were standing near the theater testified to the fact of the fight and to the swearing at the policeman, and the affidavit of the policeman was read forth, setting out all the same details already brought out on the trial. After an intermission of fifteen minutes we returned to hear the closing speeches of the Prosecutor and the Defense Counsel.

In a clear firm voice the woman prosecutor summarized the facts, and then went on to point out that Lenin had said that hooliganism (rowdyism and actions in utter disregard of human life) might be an act of class war. "Such acts of hooliganism may strike at the very heart of the socialist state, undermining law and order. The present transitory period from capitalism to communism is the crucial period in which capitalism and class enemies must be stamped out. Hooligans are class enemies and the revolution demands their extinction. The acts of these <sup>defendants</sup> show them to be hooligans and within the meaning of Lenin's attacks. The Court is the tool in the hands of the proletariat to defend the proletariat against class enemies. It has a duty to destroy elements inimical to the proletarian state. Hooliganism has become a serious threat to the progress of the dictatorship of the proletariat, and these defendants are actors in this general crime wave. Both defendants had been convicted in court before of anti-social acts. Both had every chance to work and go straight. Their act included elements of social danger as set forth in Sec 47 of the Criminal Code\*<sup>2</sup>. In summary they are people without a class consciousness, without the welfare of the proletariat at heart, and Sec 59(3) \*\*<sup>3</sup> is applicable to their crime and sets forth the penalty which should be exacted. It was a band, as two persons

\*Sec 47-See notes at end.

\*\*Sec 59(3)-See notes at end

acted in concert, and one of them was armed with a razor; thus the defendants came within the definition of an "armed band" to which the section is applicable." Since the (taller) defendant carried the razor, and did the slashing, since he had shown his utter disregard for class welfare, not only here, but in his evasion of the service in the army, which defends the proletarian class, and in view of the fact that he was a part of a sweeping crime wave of hooliganism, the Prosecutor demanded the highest measure of social defense, shooting. For the other defendant who had no weapon, and had not had such an unsavory past record, she demanded 10 years of labor.

The defense attorney, who had said little except to cross examine witnesses in an almost inaudible voice, ~~she~~ stood to give the following summary. He pointed out that these boys were young, that their previous transgressions had not been of ~~this~~ <sup>a</sup> serious character, and that this act itself was not of the serious nature the Prosecutor claimed. He suggested that she was confusing two things: organized banditry directed <sup>to</sup> ~~to~~ the undermining of the proletariat, and simple roidyism which should come under Sec 74 of the Criminal Code\* and for which the penalty is "not exceeding three months of deprivation of liberty" or if riotous, "not exceeding two years." He saw little danger to the state in a boy with a razor, and then closed with a plea for leniency.

The Court deliberated for an hour--the prosecutor had talked three quarters of an hour and the defense half an hour. After that at 12.45 a.m. (seven hours and 45 minutes after the trial opened) the Court filed in. We all stood up for the reading of the sentence. The Court found the (taller) defendant guilty under Sec 59(3) and sentenced him to be shot with confiscation of his property, and sentenced the other defendant to two years. From the <sup>and on the</sup> witness bench went up a muffled moan which developed <sup>into</sup> a shriek as the last words of the sentence were read, and the Court filed out. *The Supreme Court may review the record, and must approve the sentence before the carrying out can take place.*

For a foreigner the severity of the sentence may be a bit startling, but perhaps I can give some idea of the theory back of it, for Prof. Bulatov had given us a few days ago a lecture in the course in Criminal Law which helps to explain the attitude, not only of the Union, but also of the foreign jurist, who finds himself surprised. Perhaps I can paraphrase much of what he said-----

"The Soviet Criminal Codes use the term "punishment" (nakazaniye), and this old time-honored word was used throughout Lenin's writings and is still used by Stalin. It does not, however, have the connotation known to bourgeois society, but rather it has the meaning of "measures of social defense." Such a term in the long form was too unwieldy and unfamiliar, and so it was not used in the codes and in explanatory writings, the old word continuing to appear, but with a new meaning. What does this change in meaning signify? In the pre-fascist <sup>European</sup> world punishment was intended as a penalty for a specific crime. The punishment must <sup>be</sup> ~~ad~~ <sup>tailor</sup> ~~tailor~~ with the offense; thus for murder, the punishment is death, for manslaughter perhaps life, for burglary twenty years, and for simple larceny ten years. The law

\*Sec 74. Hooliganism, i.e. any scandalous act coupled with obvious disrespect for society, entails deprivation of liberty for a period not exceeding three months.....

Any such act when it takes the form of violent or riotous behavior or is committed repeatedly..... entails deprivation of liberty for a period not exceeding two years."

is replete with similar comparative lists showing <sup>the</sup> bourgeois philosophy that the matter of prime importance is the exact nature of the crime. Soviet principles of punishment are different. The longer term, "measures of social defense," accurately describes the new meaning. The problem involved is the social danger inherent in the person before the court. The act for which he is brought in is only one feature to be considered. The court must study the character of the person before it. The court is not punishing a person for the crime he has already committed; it is determining whether society needs to be protected from a person who may, judging from his history, be a danger to society in the future as he continues to commit crimes. The offense he is now guilty of might bring him a penalty of only ten days <sup>in Capitalist Countries</sup> ~~abroad~~, whereas here in the Union, it may mean life or more as being an indication of the potential danger of the defendant. This principle is not new to Soviet Codes, for the Anthropological School, which is a reactionary school existing under Imperialism, long ago developed the principle. Fascism has now seized upon this same principle, and concentration camps and shootings are measures of social defense (in this case the defense of the bourgeoisie and petty bourgeoisie), in many <sup>instances</sup> ~~cases~~ far more severe than the punishment which would have been applied if only the old idea of punishment had been continued. But under fascism the old idea also does continue side by side with the new, and we have a dual principle of punishment; which is often confusing to the student of law in fascist countries. The Court is the organ which applies the law, which is itself the tool of the society governing the country, and it is the duty of the court to ensure the continuation of the ruling bourgeoisie or proletariat, as the case may be, by destroying enemies and potential enemies. The application of this theory to the case I witnessed is, I hope, clear.

There remains alone the sociological question involved. In capitalist countries suffering from unemployment and impoverishment of the working and peasant (farmer) classes, the critic can turn to these overwhelming obstacles to explain why a young man becomes a thief and criminal. Driven to crime either to get money and "living," or as a reasoned attack on the persons who have things and retain them by exploitation of the working class, the young man sooner or later turns up in court. In the Soviet Union, one at first looks for a different explanation. Work can be had for the asking, but even then crime continues. How do they explain it? Perhaps there are two explanations. One is that the people, particularly on the farms, are still very near, historically, <sup>to</sup> a capitalist background. Protest in the form of criminal acts, and getting things by crime are too recent methods of action for the young farm boy to so quickly forget. <sup>them</sup> The other explanation is that the progress of rebuilding the nation is slow, and as yet there are still not the possibilities of educating all the peasants, and providing for them all that they need. When this is accomplished there will not be the impetus of need which now drives boys to crime.

I have done my best to give the picture as it shapes up for me at this time. No doubt as the months go on, I may change my understanding--that happens all the time, I find, but perhaps this will serve as a preliminary survey in the field of comparative criminology.

1-See my letter No. 33 for text of Sec 59(3) *[Please copy to copies you need]*  
 2.-Sec 47-The fundamental question to be decided in each particular case is that of the social danger of the crime before the court.

*(continued next page)*

## Notes-continued

In this connection, in the selection of one or the other of the measures of social defense laid down in the present code the following shall be considered aggravating circumstances:--

- (b) that the commission of the crime might have caused harm to the interests of the state or of the toilers, even though the crime was not specifically directed against the interests of either.
- (c) that the crime was committed by a group or band of persons.
- (d) that the crime was committed by a person who had already committed a crime, except where the said person is considered as not having been indicted.....
- (e) that the crime was carried out with particular cruelty.....”

3—Sec 59(3), see note 1. supra

Please send this to the lawyers on the list you might say. I suggest that this is a very interesting to them and they are.

J. B. Scott

R. R. Brown

J. R. Smith

C. F. Galster

S. C. Hunter

J. N. P. Stohr

C. W. Andrews

Judge Edgecomb

W. D. MacKenzie

I suggest that for the rest, except for my family, it be too technical & uninteresting.

Moscow,

April 20, 1935.

Dear Mr. Rogers;

My number 35 was so full of law that there was no room for the events of the week, and in order to continue this diary of mine which has now been rambling over seven months, I am writing only two days after sending off my last letter.

Major Faymonville had one of his inimitable, friendly cocktail parties to welcome the Ambassador back to his post. I have already often written of these affairs, conducted in the most informal manner, and always bringing together not only the staff of the Embassy but the Correspondents, the American specialists, the students, Russian military officials and persons who have just come to town for a few days. Few places have provided me with as many opportunities to meet the intellectual element of the community, and I never miss my chance to attend when the Major calls me up. The Ambassador looked well, although I hear that his streptococcus throat is still bothering him, and some of the staff think he should have not tried to come back into this climate so quickly. He spoke very cheerfully of America and also of meeting you in New York for a chat. He is now swamped with calls from all the people who have accumulated during his absence who are anxious to present letters, and in defense has gone into retirement until his Ball to be held on the 23rd.

After the cocktail party, Mr. Bess of the Christian Science Monitor took me home for a delicious supper served by his Chinese boys, brought with him from China, his last post. He is fast getting the reputation of the most outstanding correspondent and I can certainly agree with such an evaluation of his talents, for few men do more thinking about this place than he. Friends came in for bridge, and I enjoyed one of my very rare bridge evenings.

Professor Heber Harper took me out to tea to see a Mr. and Mrs Vitteles<sup>(?)</sup>, of the Department of Psychology of the University of Pennsylvania. He is here on a fellowship sponsored by one of the Rockefeller-endowed Institutes. He is completing his sixth month of study and has interested himself to a very large extent in the treatment of criminal elements and the education of children. Both questions have been bothering me for some time, for both deal with fundamental principles I need for the work in law. As I see it, criminal law is an attempt to keep order and protect society in two ways, by eliminating the persons who have already proved themselves dangerous by virtue of the fact of having committed some act which society has defined as harmful and names a crime; and also by frightening persons who might wish to commit crimes in the future. But just as with medicine, the first of these purposes only cures after the harm is done, and then cures chiefly by means of extermination. Only recently was an attempt made to rehabilitate the actor himself. The second purpose is preventive but in a pretty primitive way, and even then its preventive force is often doubted by some groups. The other approaches to the problem of crime, i.e. rehabilitating the man who has already committed a crime, \*Criminal law also is said to serve the purpose of punishment and of satisfaction of the victim's desire for revenge. Neither seem to have social significance of the kind I am here considering.



committed an act defined as a crime, and training the youth in such a way that they do not develop in such a way as to become criminal elements seem more enlightened as they strike deeper than law and involve less hardship, broken homes, and loss of life, both of victims and condemned men. Our discussion of the methods used in the Union and whether recent decrees may be interpreted as a change in the methods used was so intense that both the Professor and I are to go back for breakfast tomorrow and continue. Criminal Law, psychology, sociology, medicine, and even economics are very much allied in this problem. I was much impressed by the following from Laski's, Law and Justice in the Soviet Union, "I predict with some assurance that, in this aspect (study of social problems of law and familiarity of bar with them) of Russia's legal system, the whole world will go to school to Russia in the next generation." (p.31) -- and --- "I should add that work in this realm (application of law to social problems) is enriched by the insistence that legal philosophy and history must never be divorced from their sister sciences. The connection of the investigator of law with his fellow students of anthropology, psychology, economics, and even medicine is constant and direct." (p.33). It puts in a nutshell what has been forming in my mind during the winter, and which I want to develop at some length in my annual report. It almost seems that you and he have hit on somewhat the same idea on opposite sides of the ocean.

Professor Korovin unfortunately infected his foot and was confined to his apartment for several days. I grasped the opportunity to go up and see him for another of our fascinating evenings, at least fascinating for me. After going over the high-lights of Laski's book he looked over the early part of Taracouzio's International Law and the Soviet Union. He was very much impressed with the work, and expressed the idea that he wished some Soviet Professor might have the chance to study it and write a critique. I promised him to get a copy for him. ~~Would you have Ben send one right over?~~ The book is handy as a digest of Soviet law, customs, and treaties, and in a country where such things are too few it will be handy not only to me, but to some of the others.

Ostensibly to improve my French which has suffered badly during this study of Russian, I decided to make my reservation on the Normandie and not on the Bremen. Underneath I find there is a slight urge to travel on the "last word", particularly after this rather secluded life of the winter, and when I find that both lines quote almost identical prices from Moscow to New York, and both take the same time, due to the fact that the Bremen takes a day getting around from Bremen. X I booked with the French Line Office here and plan to sail June 15th from Havre, arriving in New York on June 20th. I trust that the change meets approval.

The other afternoon I enjoyed a preview at VOKS (Allunion Society for Cultural Relations with Foreigners) of a new movie about the gold fields in Siberia. The picture was outstanding primarily because of the scenery, most nearly like that around the Salween River in the Shan States of Upper Burma, and because they set a forest fire and took unusual pictures of bears groping blindly ahead of the flames which liked through tall standing timber. Afterwards they served one of their bountiful teas, at which I met a young man from

California, over here studying accounting methods under a <sup>system of</sup> socialized economy. He was <sup>a</sup> rare treat, having prepared himself at some length for his coming, and now after his fourth month he really has quite a fund of information. Accounting here has many "nice" problems, some of which I ~~once~~ touched upon in my letter about the Gov't Budget. He is now looking forward to some work in the State Planning Organization to learn how raw materials, which have no determined cost are carried on the books, and how the ~~cost~~ <sup>selling</sup> prices <sup>of manufactured goods</sup> are determined when so many of the items involved <sup>in the manufacture</sup> are themselves arbitrarily set in price at their source of production. He also wants to find out how the Planning Commission estimates what goods should be produced and in what quantities--why they made a mistake in overproducing perfumes so that the trolley cars have to carry ~~adds~~ <sup>adds</sup> to popularize perfume enough so that the surplus production is not left on the government's hands. You can see what a field he has. After all as time goes on and I see the increasing number of students here in every kind of a field, I wonder just what repercussion all this study is going to have in America. We hear that the Summer School has an unprecedented number of applicants, many of whom are coming back for their second year. The little trickles are turning into a river. I wonder whether there is yet a flood to come.

Spelling in these letters has me on pins and needles. In rereading my No. 35, I find several errors, one of the worst being a reversal of the "ei" in seized. You have got to keep reading a language and writing it every day to remember how it is written. Russians say English is the easiest language to learn to speak, and the hardest to learn to spell. I would have laughed seven months ago, but now I know what it means when the usual language of the day is Russian, and the unusual one English.

Please remember to have ~~en~~ send me another copy of Taracouzio's book so that I may give it to Prof. Korovine (his name in Russian has no "e", but the Russian "i" in my opinion is clearer if the "e" is added in Eng). But Taracouzio always cites him without the "e").

Sincerely yours,

JNH

I have been reading the new magazine The Social Frontier, published in New York by George S. Counts, and having on its board Charles A. Beard and John Dewey. It is a pretty fascinating publication, and if you have not yet learned of it, you will probably enjoy it.

I was sorry to give you trouble with the Equitable policies. I have no records here of the dates they fall due, but only remembered it was in the Spring. Undoubtedly the Co. will get them right. They have been doing it for some ten years now. I am very sorry to have worried you.