NCSEER NOTE

This is the fourth in a series of Council Reports which, in all, will contain a book, by the same authors and probably with the same title, forthcoming, M. E. Sharpe. This Report contains Part III: an introductory essay, Transition Years: Economic Crimes by Donald Barry; and three chapters by Yuri Feofanov: Ch.4, A House with a Mezzanine; Ch.5, Politics Guards the Socialist Economy; and Ch.6, The Transition Year of Yuri Andropov. Subsequent Reports in the series, numbered sequentially, will contain the remaining Parts IV - VII, and will carry the same main title and the subtitle of the Part contained.

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III. TRANSITION YEARS: ECONOMIC CRIMES

Donald D. Barry

The word transition comes in handy in discussing Soviet and post-Soviet politics. The stability of the Brezhnev era gave way to several transitions after that leader's death, as four people (Brezhnev, Andropov, Chernenko, and Gorbachev) sat in the General Secretary's chair in a period of about twenty-eight months. The whole Gorbachev period was also a transition of sorts, as the Soviet system itself was dramatically transformed before its disintegration in the space of less than seven years. And now Russia (along with the other former Soviet republics) is proceeding through a series of transitions, as the attempt is made to create a political democracy with a market economy.

It makes sense, therefore, that Feofanov would use the word transition in Chapter Six, on the Andropov period. But even the cases in that chapter, although initiated under Andropov, were not concluded until after his death. Similarly, the cases in Chapter Four, on illegal housing construction, run from the Khrushchev era into the Brezhnev period and beyond. And the matters discussed in Chapter Five, "Politics Guards the Socialist Economy," also span the period of more than one leader. In fact, all had their origins in the Brezhnev period, but were not finally resolved until the Gorbachev years.

These cases, then, transcend the organizational principle followed in the book up to now, based on the tenure of a particular leader. But all of the cases referred to (as well as those in Chapters Seven through Nine) have at least two characteristics in common. First, all have to do with economic crimes, actual or alleged. And second, all have a direct connection to the Brezhnev era. Those in Chapter Four began or ended under Brezhnev. Chapter Five's cases involved activities initiated during the Brezhnev years for which, as the courts finally ruled, the principals were wrongfully prosecuted. The cases in Chapters Six through Nine have to do with acts carried out in the Brezhnev era -- involving political and economic corruption -- that could not be prosecuted until Brezhnev had left the scene.

"The House With a Mezzanine" involves two cases of allegedly illegal housing construction by individuals. In both instances a reasonable measure of common sense finally prevailed, in Feofanov's view, but not without considerable grief for the families who sought to build comfortable homes for themselves. The ideological stigma against "privatism," he shows, affected both the state bureaucracy and a considerable portion of the public.

In "Politics Guards the Socialist Economy" three cases are presented, all involving individuals accused of economic activity beyond the bounds of what was legal. But unlike the
Rokotov case in Chapter Two, the defendants here were not charged with making large personal gains at the state's expense. In fact, their acts brought benefit to the socialist economy, and the pay they received for their labor was in line with standard rates. Their "crimes" bordered on the ideological, in that their initiatives were seen as challenges to the strict control over economic activity asserted by the system. In all three cases the defendants were eventually vindicated by the courts, but only after harassment by the authorities and incarceration. For Johannes Hint, the vindication came only after his death.

The Kudinovskaya Plant case presents a theme that Feofanov returns to later in the book: the harsh provisions of the criminal procedural code, at least as interpreted by investigatory officials, that made possible the securing of apparently false confessions without violating the law. A pattern of behavior is described, and emerges again in subsequent chapters, in which a defendant confesses while in detention -- sometimes under conditions of solitary confinement -- and then retracts the confession upon release.

The Zhandybaev case is a classic example of a "verdict by command" -- on the order of higher authority. It is also one of several cases involving a republic of former Soviet Central Asia. In this instance a decision of the highest court of the USSR was required to secure Zhandybaev's release.

The most well-known of the three cases in the chapter is the Hint case. Hint was an Estonian scientist and inventor with an international reputation. A doctor of technical sciences and laureate of a Lenin Prize, he was the head of a special design and technological bureau named "Dezintegrator." Hint and other employees of the bureau were arrested in 1981 and accused of embezzlement, forgery and other crimes. After numerous interrogations he and the others confessed, but all later retracted their confessions. A lower court sentenced them to long prison terms, a decision that was affirmed by the Criminal Collegium of the Estonian Supreme Court in 1983.

Two documents related to the Hint case are included at the end of the chapter: "The Last Word of Johannes Hint," his statement to the lower court before sentencing; and the special ruling1 of the USSR Supreme Court issued in connection with the decision of the Court rescinding the sentences against Hint and his fellow defendants and ordering their full rehabilitation.

An interesting sidelight to this case is the fact that part of the investigation was conducted by Telman Gdylian, the procuracy investigator who made a name for himself (and a political career) by bringing charges against a number of well-known officials and alleged mafia operatives, particularly in Uzbekistan. Feofanov has a considerable amount to say about
Yuri Andropov's tenure as leader was so short (November 1982-February 1984) that it is difficult to discern what his broad policy goals would have been if he had held the top post longer. There is general agreement, however, that fighting corruption was high on his agenda, as a number of initiatives in his first months in office indicate. It is also clear that the Soviet leadership had grown sufficiently concerned about the magnitude of corruption to begin moving against it even during the last years of Brezhnev. An apparent sign of the weakened position of Brezhnev during his final years was the initiation of criminal investigation proceedings against some personal associates of Brezhnev, as well as people connected with members of his family.

But the anti-corruption campaign became more concerted under Andropov. According to Leslie Holmes, Andropov "made the drive against corruption a top priority almost as soon as he became the new General Secretary." The effects of the campaign can be seen in a number of ways. Perhaps the most significant was that Nikolai Shchelokov, long a close associate of Brezhnev and head of the Ministry of Internal Affairs, was dismissed about a month after Andropov took over. A year later, in December 1993, when it appeared that he would be tried for corruption himself, Shchelokov committed suicide (his wife had committed suicide in March 1993). Another sign of Andropov's initiatives was the commencement of a number of corruption trials.

The two cases presented in Chapter Six involve corruption charges against middle-level apparatchiks, one a deputy minister and the other a former secretary to Leonid Brezhnev. Feofanov comments in the course of the discussion that the level of officials who could be prosecuted for corruption at this time was still rather low. Under Gorbachev that level was raised somewhat.

NOTES

1. Soviet law provided (and Russian law continues to provide) that where conditions warranted, a Soviet court could issue a "special ruling" (chastnoe opredelenie) to institutions, enterprises, organizations and officials drawing the attention of the personnel thereof to violations of the law and conditions that have facilitated the commission of a crime. The body to which a special ruling was directed was required to report to the court within a month as to measures taken to correct violations. The 1960 RSFSR Code of Criminal Procedure (Article 321) specifically mentions special rulings and their applicability to several sets of


During the 1960s I covered a case that had to do with the confiscation of a private house (it was then called an "individual structure," since the word "private" as applied to property legally belonging to a person was considered seditious, capitalistic). The house was confiscated on the grounds that it had been built by "non-labor income." This justification had been introduced into law in spite of its obvious illegality. A person receives a plot of land and constructs a nice house, and suddenly the local soviet or a procurator makes certain demands: that you present receipts showing where you got the money for construction, and where you got the construction materials; and that you explain who built the home and under what circumstances, etc. The authorities proceeded under a presumption of guilt of anyone who became an owner of a decent-looking house, rather than a pitiful wreck. Of course this was not the case with higher party and state officials, generals, writers, artists, important scholars, in short, the elite of society. They received land plots that exceeded the legally-prescribed size, and built dachas or villas there. For them, hard-to-get building supplies and construction crews were available. These people were, as we say, "beyond the law."

The two Shumilin brothers from the city of Istry near Moscow did not fall into this category: one was a fitter and the other a teacher. Their two families, with the help of their father, built a large two-story house. It immediately came under the suspicions of the authorities. The documents the owners presented regarding building materials and other matters were not considered satisfactory and the house was confiscated. The brothers took their case, without success, to the procuracy, the courts, and the local soviet, and only after that turned to the newspaper. I investigated the case and came out in defense of the brothers. In answer to my article the authorities responded that there was no basis for re-opening the case. I published several more articles on the same matter. At last, the Chairman of the RSFSR Supreme Court studied the case and issued a protest. All prior judicial decisions were overturned, and the Supreme Court ordered the home returned. The problem was that the home had already been turned into a kindergarten. The brothers made a deal with the authorities: they would get another plot of land and be compensated for building expenses, and they would build a new home.

So everything ended well. But in order for this to happen it required the government newspaper Izvestiia to speak out five times! Although the arbitrariness of the authorities was obvious, no court would defend the rights of the citizens until the press stepped in. There were
quite a few such cases, because a campaign had been mounted aimed at confiscating homes build with "non-labor income." After a while this campaign was toned down, and finally it disappeared completely. But the party and state authorities simply would not leave alone those who, on the basis of honestly earned and officially documented resources, wanted to build a house or dacha under the right of private, or, as we then said, individual possession. When individual builders learned to make sure to get the necessary documents for materials and labor, the authorities introduced other restrictions: they limited the size of the rooms and all subsidiary spaces, such as terraces, attics, lofts, cellars, etc.

Why? To what end? On the basis of what kind of logic? What's the harm if nice homes and villas are built in the suburbs? But what was at work here was the ideology of "social justice." So that all were equal on a beggar's level, excluding, naturally, the nomenklatura and the Soviet "establishment" in general. As before, they built their palaces behind high walls, leaving the rest of the population in shacks.

It was inevitable that conflicts and suits would arise. I'll discuss one of these cases, since I participated in it. And along the way I'll point to some of the absurd restrictions that the Soviet authorities wrote into the law.

The house located at 965 Central Street in the village of Zelenogradskii (the Pushkin region of Moscow Oblast) was full of puzzles. Two thirds of the house was purchased in 1976 by the brothers Grigorii and Semyon Mirkin. One puzzle was that its space was virtually impossible to measure. In dozens of documents, sizes were indicated for living space, overall floor space, the part of the house that was heated, non-living space, the size of the verandas, the attic, the mezzanine, the second floor, the kitchen, and the store rooms. It went from 22.4 square meters heated living space to 170 square meters of general floor space. There were as many variations as there were documents. And these were substantial documents: judicial decisions, conclusions of experts, papers having to do with suits brought by the local authorities, and a satirical article in a newspaper. This didn't include, by the way, the petitions and countersuits of the brothers.

But why did they keep measuring the home over a ten-year period? The fact is that having bought this run-down structure, the new occupants petitioned the village soviet for permission to carry out substantial repairs and some reconstruction, and were granted it. In the documents it was all spelled out: the brothers had acquired a home with living space of 43.3 square meters and useful space of 63.3 square meters, with an attic of 48.9 meters, a terrace of 17.8 meters. In rebuilding the house, the living space was to go to 48.8 square meters, the useful space to 102. the attic to 64.8, and the single terrace would become two terraces, each
19.5 square meters in size. In addition, the document granting permission for the repairs stated: "Taking into consideration that the proposed increase in size is being done on the foundation of a reconstructed terrace that had fallen into disrepair, and that the home is being supplied with gas, we find it possible to make the decision regarding occupancy and use of the house." (I ask the reader’s forgiveness for citing these detailed numbers. It is only to show in what petty detail the authorities delve when it is someone else’s home). What is the difference to the local soviet, the surprised American reader might say, how many meters there were in the attic, and how much bigger it became? But this was a precise affirmation of the principle of beggarly equality. It was not only the authorities whose suspicions were raised. Citizens too. At each stage in the process anonymous accusations came in: "they’re building a boyar’s mansion, a real palace, and where did they get the money?" And how did we respond in those days to anonymous accusations? Morally we condemned them, but in practical terms they were given eager attention: suddenly it was possible to uncover something criminal.

I brought up the documentation deliberately, because it puts the figures right before one’s eyes. If one considers that 12 people, the families of the two brothers, were using the house, then it was far from a palace for a tsar. But the oblast newspaper published a satirical piece entitled “Slippers with Boot-Tops.” The headline suggested the contents of the article: they say they bought a dilapidated house (“slippers”), but they transformed it into a palace (“Boot-Tops”). Most strongly criticized in the article was the village executive committee, which had approved the repair -- meaning that they had approved capitalism right under their noses.

The press is not an anonymous informant. Against irresponsible press statements one can respond. This required carefully checking on the kind of income used to do the repair, and on whether it was unearned. The brothers, a physician and a production chief on a collective farm near Moscow, were able to present appropriate receipts for everything. It was discovered that although the house was rebuilt with permission from the authorities, it did not have a plan. This was a violation known as unauthorized construction. The brothers admitted that they had made a mistake, thinking that the permission of the village soviet was sufficient, and said that they were prepared to alter the construction in any way that the authorities ordered. But the machine of repression had already been set in motion. The authorities brought suit in court to take the unauthorized structure without compensation. Luckily, the times were changing. It was the period of perestroika.

The Pushkin area people’s court heard the case and dismissed the suit of its own local authorities. To the credit of the court, they did this in spite of the threatening article in the press. The Pushkin area soviet reacted calmly to the dismissal of the case, not appealing the
decision and thereby indicating that they were ready to fully validate the house’s construction. But further anonymous charges surfaced, and other complaints led the oblast authorities to consider the issue. The oblast court vacated the people’s court decision and ordered a new hearing in a people’s court in a neighboring area. And this time the suit of the authorities was again dismissed. Unfortunately, however, this was followed by a protest by the oblast procurator. The court decision was again rescinded and when the case was heard by the Moscow Oblast Court, it was ruled that the Mirkin home should be confiscated without compensation. The Brothers tearfully pleaded for time to return the house to its previous dilapidated condition, to remove the verandas and make an attic of the loft. But this was disallowed, for rather novel reasons. The experts said that in practical terms it was impossible to restore the home to its original condition without tearing it down. Once it has been done, to undo it was not allowed!

This was a ‘death sentence’ to the housebuilding of the Mirkins. But why so harsh, not to say cruel? To get an answer I spent some time in Zelenogradskii. Good God. I thought when I got there, there was such a dispute about this? It was a modest house, and for 12 people even somewhat tight. But the alert neighbors saw in a ‘private operator’ the direct potential for a Rockefeller who before you knew it would buy up the whole area (jumping ahead of my story, as I am preparing this for publication. I can see a parallel: as the president, parliament, and society move toward private property and the market, powerful forces of reaction sound the alarm, that Americans and Germans, along with the domestic mafia, are buying up all of Russia).

I went to the Pushkin area soviet. There I discussed the story of the house with the deputy chairman of the soviet. What’s up, I asked, and why are honest people being so doggedly harassed? He replied that the soviet was not in any way trying to deprive the Mirkins of their property, and in addition, he sympathized with the brothers. But, on the other hand, the authorities cannot disrespect a court decision that has gone into effect. It was true that this house was not very useful to the local soviet executive committee, and when all things were considered, this was a matter of concern, since selling the home was prohibited by law.

'Put yourself in the place of the local authorities,' he continued. 'We have conflicts of this kind all the time, endless complaints. Just like now. A respected fellow, a war veteran, built a garage near his dacha without permission. Must it be torn down or his house confiscated? Or should something else be done? It’s rare for owners of homes and dachas not to rebuild or fix up their places. Families grow, and one wants to live more comfortably. If nobody submits a petition of complaint to us, then there’s no problem. But imagine that a year
passes, or three or ten. They quarrel with the neighbors. And then an alarm sounds -- rebuilt without a plan. If you try not to move against the unauthorized builder they will say that the soviet indulges private property instincts."

"Following that logic," I said, "you’d have to confiscate a car if the driver violated the traffic rules, or evict a tenant if a mess was uncovered in an apartment."

"But what can we do?" asked the representative of Soviet authority with a sigh. "If they order it, we will confiscate and evict."

In our story two people’s courts considered the transaction regarding the house permissible, and two higher courts said it was illegal. The power is on the side of the higher courts. But who is right under the law? To remove doubt, I turned to the institution that is responsible for ensuring legality, the procuracy. But note where the protest against the decision of the people’s court came from: from the oblast procuracy. I will try to set forth our conversation as precisely as possible:

"Why is it necessary to tear down or confiscate a house? Why not a fine?" I asked. "A crook could build a mansion, and happily pay a fine, and everybody else would be envious," the procurator answered me.

"Why would it have to be a crime? What about an honest person who wasn’t informed of the law?"

"And where did he get the building materials? You can’t buy them in a store. And that means . . . ."

"So catch him if he’s a thief. But why take a house from honest people."

"If everything was allowed without limit, what would happen then?"

"What in fact would happen?"

"It would be the restoration of capitalism."

With that the discussion ended. I was also told, in this same procuracy building, it is true, that “not everybody” built such villas. But this was by a procurator not threatened by capitalism.

I heard the same thing within the walls of the USSR Procuracy. Here it was explained that basically the dacha has no legal status: that since 1960 it was forbidden to build them, even though they were being built everywhere; that limitations on their construction were necessary, etc., etc. And they also related some interesting details. When garden plots were first authorized, it was only permitted to have a storage hut; then they allowed a summer shed, and now a cottage of 25 square meters with a terrace of 10 square meters. So at first illegal
structures were torn down, then the authorities began to look the other way, and finally such buildings were given the right to exist, but with absurd restrictions.

I listen to all of these warnings against possible excesses, and then I return to common sense. Such indulgences in construction do not spoil settlements but enhance the looks of cities and villages. Some of the ugly structures belonging to the state are worse eyesores. Of course any building, whether in a city or a village or a dacha site, must be built according to plans. But why fear such plans? Why not announce for all to hear: build and rebuild citizens; nobody will interfere, and we will endorse your work, as long as you don’t violate the sanitary and building norms and confine your structure to the boundaries of a given plot of land.

In a decision to confiscate a house, such as that of the Mirkins, it would typically be said: "it is necessary to demolish the addition made of heavy beams and replace it with a structure made of boards." I don’t understand the need for such petty requirements, but my guess is that it is assumed that the beams were stolen. I can’t see any other logic in it. So if even just the beams in a house were stolen, confiscate it. Who could object to this? But if everything was honestly acquired? When the Mirkins began to show me the pile of receipts attesting to the legality of their acquisition of every board, I was ashamed. "Why are you doing this?" I asked. "Just to convince you that we are not thieves; we have shown these receipts to everybody who has checked into it." And I wondered to myself why, in judging in a murder case, we remember the presumption of innocence, but we force an honest person to get a notary to attest to the purchase of a couple of boards. I read and re-read the mountain of documents that reflects the decade-long proceedings. Courts, procurators, experts, soviet executive committees, commissions from institutions with complex names. Everyone but a person with a doctorate in mathematics measured the house. I calculate that with the money spent on this investigation a villa could have been built. For the sake of one thing: to affirm the dogma that under socialism nobody should be rich.

After bringing this story to light in Izvestia, letters started to come in. I divided the responses of the readers into two stacks, one very short and the other quite tall.

From the short stack: "I understand you to favor a house with a mezzanine. How could you? Give people the chance, and they’ll become kulaks and then exploiters . . . Didn’t we snatch ourselves away from just this in the revolution? That’s what I and my husband, a professor of history, think . . . First thing you know they’ll be building not just a house with a mezzanine, but baths alongside . . . R.F., Kazan."
From the tall stack: "We didn’t have the revolution in order to make ourselves poor . . . I’m against those who confuse comfort with luxury . . . The most important thing is that whatever a person has was earned honestly. N.I Kalashnikov, Moscow."

The judgments, as you see, are polar opposites. And they are global in their theoretical essence, if one can put it that way. These small samples represent the views of a great many others.

When I was listening to the case as presented by the Mirkin family, I foresaw an unhappy ending. Still it seemed that there was some hope: the situation would be analyzed, it would be examined not in a purely formal way but with interest, and an attempt would be made to find a solution that would be both consonant with the law and in the interests of the people concerned. What was involved here was not the intentional commission of crimes. The fact that honest income had been spent on the house had been demonstrated again and again.

I took my doubts to the USSR Procuracy. Its specialists studied the “Mirkin case” and informed me, and then the chairman of the regional soviet: "We have no basis for protesting the decision of the court. But this does not mean that there is no way out of the situation. The soviet has the court order, and the decision went in its favor; it has the complete right not to take the house and to legalize this act by an official decision -- if it considers this necessary, on the basis of the circumstances."

I went to the Pushkin area soviet and passed on the opinion of the USSR Procuracy to the chairman of the soviet. This was a young, energetic and thoughtful man. The chairman understood that the authority he exercised was above all as a duty to the people. With appropriate respect for the law, of course. And he was genuinely happy that he could legally register the house of the Mirkin brothers. And so it was done.

I present this “house epic” to the American reader with some apprehension. I assume that you will not find it completely absurd, and ask why a person, with his own money and pursuant to both the law and the approval of the authorities, cannot build the house that he wants. How can one explain the standards of Gosstroi (the construction ministry): the measurements of private homes on dacha plots can have a ceiling at 2.5 meters, a cellar with 1.9 meter height and storage space with a 2.2 meter height? Where is the logic in this? And what is a city dweller to do when he buys a peasant home in which the height of the cellar is greater than 1.9 meters (these administrative standards were even higher than the law allowed).

All of this existed in the country of the Soviets just a few years ago. Now everything is changing. Economic reform has come, and capitalism is replacing socialism. All of the restrictions have been eliminated -- you can even build a palace and nobody will inquire as to
your means or where you got the materials. But throwing out the old laws and adopting new ones is not so easy. Recall the two piles of responses, the short and the tall, and the anonymous letters to the authorities about the Mirkins planting the seeds of capitalism. This is where the evil itself lies, in the distorted legal consciousness of the people. And this is why real transformation is so difficult in Russia.

But remember that the stack that contained the demand to level everybody in beggary was the short one...
CHAPTER FIVE: POLITICS GUARDS THE SOCIALIST ECONOMY

Yuri Feofanov

This section contains reports on several criminal cases whose coverage in the press was dictated by, as we used to say, "social direction." In some instances instructions were given directly to judges. But it wasn't just this that determined the sentences. The whole political and ideological apparatus focussed on these issues, placing them beyond the law, even if the economic or entrepreneurial activity in question brought obvious economic gain to society. In these cases the regime did not consider the costs. Typically it demanded punishment more severe than in cases involving "pure criminals." The thief, mugger, murderer were not so frightening to the regime as the intelligent entrepreneur, because by his rational acts the latter could undermine the very basis of communist power, its ideology and its dogmatism.

A Marxian Absurdity

You wouldn't believe this if I couldn't prove it through the court sentence that I am about to describe. It was established by criminal investigators that five persons, one engineer and four builders, made a contract with the directors of a factory for reconstructing a shop that had been destroyed by fire. The factory paid them 14 thousand 496 rubles and 96 kopecks. And of this sum, 58 thousand 780 rubles and 11 kopecks were stolen. In the criminal charge it was stated in black and white: Matvienko stole 8960 rubles, Lavrov, 14,107 rubles, Khachmanukyan 11,286 rubles, Yudin 13,568 rubles, and in addition this brigade of workers was given several thousand as bribes. I reviewed this with the investigators, stating that something was no doubt mixed up, since the figures didn't add up: how could one steal 50 thousand out of 15 thousand?

"It all adds up," they replied in the police bureau that specialized in the struggle with theft of socialist property. "This was group theft, and therefore it is considered that each person in the group, which took 15 thousand rubles total, has also personally taken these 15 thousand. Multiply and you'll see that it adds up."

"But this is nonsense."

"This is the law," was the reply. "Take a look at the statement of the Supreme Court and the instruction of the Procurator General on the subject. And this has been the practice for some time."

It should be said that in this particular case the sentence of the Moscow Oblast Court stated: "The version of the investigators concerning the receipt of bribes by the brigade is absurd in its essence, since according to this reasoning the brigade received 3500 rubles for
what amounted to 1817 rubles that the workers got as their illegal share. . . . The conclusion of the investigators that the workers completed work costing 14,196 rubles and 95 kopecks and committed a theft of 58,780 rubles and 11 kopecks is also absurd." But this absurdity was concocted by the investigator and was approved by the prosecutor, who was convinced that the sums the defendants were accused of stealing would simply be rewritten by the court in the sentence. For decades this had been standard practice. Of course it was not often that such obvious nonsense would be written into the investigation documents. But anyone who was to the slightest degree unprejudiced would be surprised if accusations of theft in large amounts were proven by intricate calculations that would not stand up to simple accounting analysis.

I will return to this case, but first I need to provide some further explanation about the essence of the System that would soon be called "command-administrative," but was officially known as the planned-socialist system.

The fall of Khrushchev and the coming to power of Brezhnev were accompanied by the announcement of economic reforms -- within the framework of socialist property relationships and communist ideology, of course. These were at the basis of everything, and any attack on them would be punished by the full might of the repressive apparatus. During the decade and a half of ideological nonsense that became known as the "Brezhnev stagnation," everything was clear: dissidents were persecuted openly and without fanfare. There was a series of trials of dissidents, healthy individuals were put in psychiatric hospitals, people were exiled abroad and their citizenship was revoked. All of this received world-wide attention.

But economic heresy was a more complicated matter. The independence of enterprises and labor collectives was loudly proclaimed. They were called on to increase the production of goods and raise their quality. But these appeals were empty, pure propaganda, because the socialist economic system itself did not create any stimuli to achieve these goals: no matter how well you worked, or how ingenious an innovation you developed, you wouldn’t receive any more pay. Your pay, whether it was wage or salary, was calculated by the higher planning organs and handed down in the form of a firm directive. The engineer received 150 rubles per month, the worker of a higher grade -- 200, a doctor or teacher -- 120, and regardless how hard you worked, you wouldn’t get any more. There were a few minor variations in pay and awards, but they were very insignificant. They didn’t affect to any great degree the principles of "social justice" or, to put it more simply, wage-levelling. And the goods that were produced also reflected this principle: the shelves were full of them, but there was nothing to buy -- people would pay three times as much for imported goods. I recall how my wife and I bought my teen-age son American jeans for 250 rubles -- more than two months’ salary for my wife, a radiologist working at the highest level.
But let us return to the strange arithmetic of the charge against the five builders.

I. An Event at the Kudinovskaya Plant

In 1982 a new director was hired at the Kudinovskaya Fabric Plant, which is located in the Noginsk Region of Moscow Oblast. He found the plant in complete chaos, full of neglect and unprofitable activities. A particular eyesore was a half burned-out, decaying production unit. It had been a so-called module bought from the Finns for dollars, a four-story structure resembling an airplane hanger. It had been destroyed in one large fire, and the foreign currency losses had somehow been covered up. The skeleton of the module now stood in the middle of the plant territory, like a monument to economic mismanagement or, more precisely, as concrete proof of a crime: somehow three million dollars had burned up. No criminal action had been brought, however. It burned? So it burned. As they say, God gives, and God takes away.

The new director, however, turned his attention to the burned-out module. What should be done with it? It was no good for production, but as a warehouse it would serve very well, especially as raw materials were now sitting out in the open. But who could rebuild it so that it could serve as a warehouse? It would be hopeless to try to finance it through the regular planning channels. The plant had some money, but in the socialist economic system it counted for little. One needed to get permission from the trust, and funds from the state supply administration. And then find workers from a list already on file.

But chance came to the rescue. The director of Kudinovskaya happened to become acquainted with Suren Khachmanukyan, a candidate of technical sciences and an engineer from an organization involved in the purchase of agricultural technology from abroad. At that time, things weren’t going well in his work with foreign firms. His organization was building hothouses and desperately needed a certain kind of metal. The Kudinovskaya Plant had this metal, and in exchange for it the engineer took it upon himself to find construction workers and provide a cost estimate for the work on the plant’s burned-out construction module. This was a common transaction for the time, when, in order to do something useful one had to find a way around absurd prohibitions. The deal itself did not constitute a crime. Everything was done in a way common to thousands of other cases. However, in the process several directives of the planning and finance organs were violated.

In any case, the arrangement proceeded. The estimate came to 164 thousand rubles, of which 15 thousand were for wage payments. The construction workers appeared, and it turned out that they were very good at what they did. Their main job was building the United States Embassy, and it is clear that poor workers would not be hired for that task. The director was
supposed to contract with them for payment per job done, but he calculated that it would be
better to include them as part of the regular work force and pay the regular state wages plus
bonuses. And this was his fatal mistake.

The workers began to restore the module. The whole brigade worked, not as a single unit
but when each was free from his regular job, in the evenings or on days off. The money was
given to the brigade leader and he distributed it according to the amount of work done by each
worker. In addition, he spent money on renting a crane, since the concrete blocks could not be
raised by hand. No-one in the brigade complained about anything. They trusted the brigade
leader, and the paper-work done in the office was of little concern to them. The fact that the
director put the workers on the plant payroll instead of hiring them on the basis of a contract
brought no harm to the state: it was the same 15 thousand rubles as estimated, but it was paid
not through separate accounts but by regular plant wage payments.

The module was re-built early in 1985. Valuable raw material worth many millions was
moved indoors. It remained only to celebrate the completion of the work.

But then the trouble started. Five of the participants in the restoration of the burned
module were indicted. It began when reports were made to the Office for the Struggle with
Theft of Socialist Property (OBKhSS): a force of 4 workers worked on the module, but 8
received wages; this was an obvious abuse, in the opinion of the official in charge of the
struggle with theft of socialist property. A sufficient number of similar violations -- payments
above the designated wage level -- were found to initiate a criminal investigation. When the
case got to this point several officials tried to explain that something important had been
achieved, that the cost estimates had not been exceeded, and that the module now was
preserving the raw material under its roof. Can't this be worked out, it was asked? Where is
there anything criminal? It's very simple, was the reply: workers abandoned their regular jobs,
although they received wages there, and simultaneously worked at the Kudinovskaya Plant, and
received wages there too. The construction workers tried to object that they only worked during
the evening and on Saturdays. Further, they said that although they might be able to absent
themselves from regular Soviet worksites, they simply couldn't get away from the American
construction job, that U.S. Marines guarded entry and exit. And there are the computers that
you can't fool: once you go beyond the gates it reacts automatically and a deduction is made
from your wages, since capitalists consider that time is money.

The answer of those in charge of the struggle against theft of socialist property was
fascinating: "our workers are skilled enough to outwit anything -- including computers and their
marines."
This is what a lieutenant of the police said to me when I embarked on an investigation of the case as a reporter. From the start I met with all of those under investigation and facing trial. I listened to their stories, and then met with representatives of the accusing side. I admit that I did not understand why the five construction workers were being accused of such grave crimes as theft on a large scale and in addition bribery, falsification of documents and abuse of official position. But with the exception of one of them -- the work superintendent Yudin -- all confessed to having committed crimes and for that reason were released from custody until the court hearings. True, their statements of sincere repentance were followed by complete denial of guilt, whereupon they were put back in jail. But a day or two later they confessed and were again released. These vacillations became a pattern.

I began with the fact that the amount of fifteen thousand rubles was multiplied into the stealing of sixty thousand. The answer to my confusion, as noted above, was provided by the police investigator. So then I asked how much the suspects had actually put in their pockets. The question couldn't have been clearer, but they were very reluctant to provide an answer. This was because it would be impossible to claim that the theft committed had been on a large scale, and a case based on that assumption had already been developed and was proceeding according to the tenets of socialist legality. Thus the cooking of the numbers. Why? Simply in order to bring a charge. But the villains were not my interviewees from the regional police station. I had long known one of them as a worthy police officer and the other made a positive impression on me. Were they sadists, then? No, they were simply following orders. They were indifferent to people who fell under the wheels of their machine, although they personally had nothing against them. For them it wasn't important whether there had been a theft or not -- their bosses said to throw together a criminal case and they had to carry out these orders. So what if some of them get 12-13 years for it? As long as the case proceeds. "The organs don't make mistakes" -- that was the dogma of the year 1937.

In court, however, the numbers alone wouldn't do it. It was necessary to get some evidence. The basic evidence -- the rebuilding of the warehouse -- would obviously favor the accused. So experts were appointed. They have their own arithmetic: they take the "unified norms and rates" and apply them to the work actually done. The difference will always amount to theft, in the view of the investigator. In vain the construction workers tried to argue that if one actually examined the volume of work done their rates would be justified. The fire had warped the wall panels, the flooring and the roof, but the experts didn't want to consider this. They took the ideal rates from the manual and came to the conclusion that the investigator needed: that the volume of work had been overstated. It was with this "higher mathematics" that I began my story.
An absurdity? Perhaps. But it was the evidence presented in the case. And the most important thing now was to get confessions.

The most curious thing, and perhaps the most terrible, was that there were no departures from the law in getting the confessions. I put it to each of the five accused: did they beat you or starve you or deprive you of sleep or put burning cigarettes on your skin? No, they answered, nothing of the kind, they didn't touch us.

"Then why did you confess to what you didn't do?"

"Do you know what it's like to be in solitary confinement?" asked Khachmanukyan.

I went and took a look. The solitary confinement ward at the police station was a close stuffy space with bare plank bed, no bedding, and a toilet. Thirty-nine kopecks a day were spent on food. It could be hellishly hot or, in winter, if the window was broken, fiercely cold. Khachmanukyan only had a shirt to wear, and was kept for three days during winter in an unheated room -- nowhere does it say in the law that solitary confinement should be warm.

"Why did you put Khachmanukyan, Yudin and Matvienko in solitary, while Lavrov didn't get sent there?" I asked the officer in charge.

"Why?" answered the upholder of the law with fascinating naivete. "Because he immediately realized why we put him there, and the others did not confess, and so we held them where they were."

Alas, the law puts in the hands of interrogators such powerful means of persuasion of any citizen who is suspected of anything. I imagined myself in this same solitary cell for three days, and if necessary for ten, all according to the law, and it became clear to me that I would confess to anything just to be let out. The construction workers said the following:

Metalworker Matvienko: "They called me in on April 2 1985 and said that I had received income that I had not earned from an enterprise and had given it to Khachmanukyan. You're a hard worker and it's not you we want. We want Khachmanukyan. If you give us Khachmanukyan you can walk. But I didn't give them anything, and so they put me in solitary. On April 5 I sincerely repented and they released me. On April 8 I went to the procurator and said that I had given false testimony, and that evening I was again arrested."

Project superintendent Yudin was jailed for three days. He was asked whom he had bribed in the procuracy. "What could I say? I don't know anyone in the procuracy." They released him after three days without breaking him.

Brigade leader Lavrov was jailed less than three hours because he said immediately whatever was demanded of him. He was released for his good behavior. As soon as he got out he repudiated his confession.
Engineer Khachmanukyan was called home from Poland, where he was working. He was accused of organizing the whole affair, of taking money from the workers and passing it on to the plant director. "This makes no sense. The director should have been giving me bribes for the workers." "Can you testify against him, even about receiving 200 rubles or about being treated at a restaurant? It's the director we want." "Nothing of the kind has happened." "Then think about it for three days." The engineer didn't think of anything during these three days, so they lengthened the term of incarceration to ten days. And then he repented. "Just tell me," he said. "From whom did I receive money to pass on to the director?" "From Matvienko, 1500 rubles." "OK, I'll say that I got it in the woods." "No, better near the metro station "Taganskaya"." "OK, the metro."

The director of the plant was not given solitary confinement and did not make any confessions. They simply told him that he would be summoned to court and charged with large-scale theft and that he had better get a lawyer. Then I asked the investigator why they had been so charitable toward the director. "Oh this doesn't really involve him," he answered. But they still brought him to trial, because without the director the chain of charges would be broken.

When a sadist conducts an interrogation or preliminary investigation, it is terrible, but one can understand what is happening. And when the law is grossly abused it is outrageous. But here we have circumstances that are somewhat different, though not unique. There are no sadists in this case, and it would be hard to find gross violations of the law, because the stable anti-legal system of getting false testimony is covered by the articles of the Criminal Procedural Code. Three days in a cell with a bare-plank bed — this is a legalized bludgeon that beats the necessary testimony out of any citizen, because "by law," any one can be thrown into such a cell. In extraordinary cases one is released from the third day.

For the five accused of stealing 14 thousand rubles at the Kudinovskaya Plant, the threat of prison was not a prospect they looked forward to. They were fortunate, therefore, that their case was heard by a judge well-known for his devotion to principle, Judge Rufim Nazarov of the Moscow Oblast Court. He was a courageous person who saw the evidence for what it was and handed down a verdict of acquittal. Issuing acquittals during the period of the command-administrative system was not done lightly. The more so when the court was hearing so-called "directed cases" — i.e., cases in which the judge was given a direct order or a hint to send the defendants to prison. Nazarov did not automatically give prison sentences in such cases. During ten years on the bench he had handed down about 30 acquittals — an unheard-of occurrence in the USSR.

In 1991 at the Congress of People's Deputies of Russia I met Judge Nazarov in the corridor. He was being considered for membership on the Constitutional Court. Alas, he was
not elected, and I am sure that the Constitutional Court was the worse for not having him in its ranks.

2. A Commanded Verdict

The case described above was not, strictly speaking, "commanded." No official or body took the law into its own hands with regard to the five construction workers. Rather, the system worked according to pre-arranged practice. A flag went up that something wasn’t right, "not according to Marx," that someone earned "extra," and with that, the system proceeded in the manner in which it had been programmed long before.

By contrast, a typical "commanded" case, which arose under the "code of telephone law," was the trial of Kenes Zhandybaev, the chairman of a kolkhoz in Kazakhstan. I was present at the final stage of this whole affair -- at the acquittal of the victim and his release by decision of the highest court of the former Soviet Union. The review of the case concluded with a telegram: "Governmental. To the Head of the Internal Affairs Administration of the Alma Ata Oblast Executive Committee. Zhandybaev, serving a sentence in corrective institution No. 276/4 is to be released immediately. Reply by telegram regarding fulfilling this order. Chairman of the USSR Supreme Court V. Terebilov. 26/09/87." I met with Kenes after his release, when the events and people had returned to normal and the "fantasy period" of this person's life was over.

Zhandybaev, I would say, was a typical representative of the type of entrepreneur who was not afraid of taking risks but understood completely what the consequences might be. Kenes himself had passed through the lower ranks of the party hierarchy and understood how the party worked.

The employment record of Kenes was, as they say, without blemish. After finishing an agricultural institute he worked as an engineer in agricultural administration and also held the position of secretary of the komsomol organization. Soon Kenes was invited into the apparat, and thus began a twenty-year period of climbing the career ladder: secretary of the oblast committee of the komsomol, secretary of the raion committee of the party, head of administration of the oblast soviet, chairman of the oblast planning committee. An enviable career. But it oppressed Zhandybaev.

In 1980 he suddenly requested transfer to "practical work," as we say. Zhandybaev was elected chairman of "Light from the East" collective farm, near Alma Ata. This kolkhoz was not one of the better ones: it was losing about 270 thousand rubles a year and had a debt of almost 5 million rubles. The new chairman decided to get the farm out of its doldrums, I will not try to describe his economic efforts and production innovations. I will note only that the
regional party committee reprimanded him just when the kolkhoz was getting on its feet. They warned him "in a friendly way" to stop his innovations. "HE" doesn't like them, they said, pointing at the ceiling. "HE" was Kunaev (the First Secretary of the Communist Party Central Committee of Kazakhstan and the republic's uncrowned khan). Why should the kolkhoz chairman incur the wrath of the Master?

Coming in 1980 to the kolkhoz, which, as noted, regularly operated at a loss, the new chairman decided to break with the past by stimulating the residents of the farm through incentives. He dared to initiate a simple but untypical arrangement: based on the results of the 1981 production year, in which the farm ran at a loss, he decided to award bonuses to those who worked well. Out of 1500 farmers, about one-third received bonuses. All expenses, including those for bonuses, were authorized not by the chairman himself but by the farm administration, as was provided for by the kolkhoz Charter. Therefore, when the documents of inspection and audit were presented to the procuracy investigator, V. Svechnikov, he refused to bring a criminal charge because he found that the elements of a crime were not present.

They were not present but they should have been! In the "Zhandybaev Case" I read a document dated February 14, 1984: "To the Procuracy of the Kazakh SSR. We vacate the refusal by the regional procurator to bring a criminal charge as having been issued prematurely and without legal basis. [Signed] Head of the Investigation Office of the Alma-Ata Oblast Procuracy G. Vlasov." And another document stating that the investigator for especially important cases of the Kazakh Republic Procuracy [!] was taking the case over personally.

A question nagged at me: what is this case really about? The chairman provided incentives to the farmers, but with the agreement of the kolkhoz administration. What is criminal in this? Even if it is acknowledged that some kind of violation took place, the investigator did not find the elements of a crime. Why did the procurator for the republic at large get so upset? Why was this petty matter taken over by him? An answer to these questions was not to be found anywhere in the documents. The reasons were beyond the documentary record. The party ruler of Kazakhstan, Dinmukhamed Kunaev, speaking at a plenary meeting of the republic's Communist Party, called the acts of the Chairman of "Light from the East" despotic and an encouragement for loafers. But Zhandybaev, instead of repenting, as party ethics demanded, stated at an agricultural meeting that his acts were justified, that thanks to them the kolkhoz had pulled itself out of a tough situation, that people had started to work hard and that the economic situation of the farm was on the upswing. Although he was able to support all of this with statistics, the response he received was unpleasant. Kunaev ordered that he be punished as an example. This might have been limited to a reprimand, and at first that was all that was done. But Kenes Zhandybaev decided to show his temper, particularly since he
believed in the rightness of his acts. In addition, he received the full support of the collective farmers, who sent a collective letter to the Communist Party Central Committee of the republic defending their chairman. Kunaev took this as nothing short of a rebellion against his rule. And when the investigator decided to dismiss the case this just added fuel to the fire. It was then that the procurator of the republic received strict orders to make an example of Zhandybaev. At this point the absurdities of the "case" began to snowball -- the first being the jailing of Zhandybaev.

In the formal accusation, for instance, I read: "Having entered into criminal collusion with Bedelbaev, the chief bookkeeper, Zhandybaev committed large-scale theft" (meaning the 144 thousand rubles spent on incentive bonuses). The chief bookkeeper immediately objected to the charge, and the evidence in the case supported his position. But this didn't stop either the investigators or the judges. Even without "criminal collusion." The "crimes" of the collective farm chairman didn't look very convincing. The formula concerning crimes was plastered across a number of documents without any research to back it up. All that the chairman had received was his regular salary of 421 rubles a month, so they had to find something else. And find it they did!

If you were to believe the charge, the chairman of the kolkhoz sold the farm pioneer camp for one million rubles. Here was the "entering into criminal collusion," but this time with the chairman of the management board of the oblast society for the deaf, T. Mukhamedzhanov. How, one may ask, is it possible to sell a pioneer camp? The society for the deaf requested that the kolkhoz undertake joint use of the camp. The kolkhoz management board agreed, but required that part of the camp's operating expenses be covered by the society. The local government sanctioned this arrangement, and the kolkhoz management board decided to direct part of the money thereby received to the fund for material incentives. Perhaps Zhandybaev profited from this deal? Put some of it in his pocket or took a bribe? Not one ruble. The mechanism for developing criminal charges, now in gear, provided this formulation: "Having entered into criminal collusion with bookkeeper Fedoseeva, he directed the money received into the fund for material incentives in order to create a reserve for theft." Did Zhandybaev draw on this "reserve?" Could one possibly draw on it? Not a word was said about this. Throughout the oblast the rumor spread that "Zhandybaev stole a million." It was necessary somehow to implicate the person before going to court.

On April 27, 1985 the oblast court handed down its decision: seven years for Zhandybaev, and three years each for bookkeepers Bedelbaev and Fedoseeva. They all categorically denied their guilt during the investigation, and in court none of them confessed to anything. No illegal or barbaric methods of persuasion were used on them. But there was no
need, because the sentence was established by the "First Person" of the republic before it was handed down. The defendants could say anything they wanted, they could refuse to admit anything at all. The court merely needed to observe the required judicial procedures. It is clear that the investigators, judges and bailiffs sincerely sympathized with the persons sentenced: after handing down the sentence they did not take the prisoners into custody. The sentence went into effect, but Kenes Zhandybaev was free to walk around Alma-Ata. But his big mistake was that he submitted an appeal. The reply he received was that "the sentence handed down, which took into consideration mitigating circumstances, is commensurate with the act committed." Kenes was advised to stop, not to annoy the authorities further. But again he didn't take the warning, and this time he appealed to Moscow. And reprisal followed quickly. It was unusually severe and unjust.

On the basis of a protest by the Chairman of the Kazakhstan Supreme Court the sentence of the oblast court was vacated because it was an excessively light punishment for dangerous criminals. Within two weeks the oblast court had again reviewed the case and this time Zhandybaev received a sentence of 13 years in prison, while Bedelbaev and Fedoseeva got ten years each.

However, authority was already slipping away from the all-powerful provincial time-servers. A number of developments were making the position of Kunaev shaky, most importantly the beginning of perestroika. The Zhandybaev case had already piqued the interest of Moscow. The First Deputy Procurator General issued a protest against the decision. But the Presidium of the Supreme Court of Kazakhstan essentially rejected it. It introduced several minor corrections in wording but left the sentence undisturbed. Then a protest was registered with the USSR Supreme Court, which culminated in issuance of the governmental telegram that I cited at the beginning.

Speaking about reprisals against people who honestly served "the cause of socialism" but in their practical activity rejected the "absurdities of Marx," I need to raise the question about the role that the "judicial press" played in this process. It is true that the press was not free during the time of the Brezhnev stagnation. It was under the thumb of the ideological organs and was controlled by the censor. Still, it had some degree of independence to expose "individual shortcomings" and to defend particular people. This was particularly true of the major newspapers. They were allowed some leeway, and the highest political levels paid attention to their dispatches. When Izvestiia carried an essay by the late E. Parkhomovskii about a certain factory that had some equipment, purchased from abroad, that had been lying around for years, Leonid Brezhnev himself appended an instruction to this issue of the paper:

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discuss at the Politburo." True, when articles appeared in defense of a person there were no such instructions, but this shows that the leadership paid attention to the press.

The so-called "economic cases" being discussed in this chapter had a great attraction for me, particularly when large amounts of money and ingenious methods of theft were involved or when the charges concerning theft of socialist property seemed obviously unjust. But the whole point is that in "economic cases" these two considerations usually ran together. I recall a number of instances when the defendants had obviously violated laws, but only in this way was it possible to get needed goods to market. For example, an enterprising fellow connected with workshops that employed mentally ill people arranged for the production of the curtain lace often seen for sale on the street and in countless shops in department stores. This was possible only by means of bribing official controllers and inspectors. Millions of rubles passed hands in this way. And of course the press could not bring itself to oppose sentences, even very severe ones.

The first two cases discussed in this chapter did not involve operations in the shadow economy, however, but rather people who simply wanted to work (the case of Khachlanukyan and others) or to engage in enterprise in spite of stupid and harmful prohibitions. These people threw themselves at the gun-mounts, as we say, trying to overcome a system that was destroying everything, and if they didn't save the country, at least they tried to save the enterprise entrusted to them, whether it be a factory, a kolkhoz, or an institute. And for this -- for initiative, achieving real results, and saving the public good from destruction -- they would be punished harshly, because it was done against party directives or planning dogmas. All of this took place very recently. Many are still leading wretched lives in places of exile, without really being guilty of anything. Their cases got stuck in courts of appeal after the disappearance of the USSR, and with it the highest court to which appeal was possible, the USSR Supreme Court. Some of these cases are still being reviewed by the Russian Supreme Court.

After the rehabilitation of some of the chairmen of kolkhozes, enterprise directors and other entrepreneurs who had been convicted. I asked a lawyer acquaintance:

"How were they convicted? How was the case against them even brought? How could it not be clear to judges that these people created real benefit, improved the economy, helped people live? The judges even noted this in their sentences -- that no personal gain was involved? And yet they went to prison. For what?"

"Because this was not according to Marx," my witty friend said with a broad smile. "That was the way things were done." he continued, now serious.

And this was the "principle" on which the judicial conveyor belt worked for all these years, years of prison for what were, in essence, violations of financial restrictions and
administrative regulations. Inspection documents were adopted on the basis of this arrangement. But the real fault, what was at the very basis of the administration of justice, was beyond the written provisions. What we are talking about here -- years in jail without being guilty -- did not involve written laws. It simply amounted to the legal affirmation of dogmas. From the standpoint of preserving the ideology, of course, this was not as absurd as it might seem. Ideological heresy was worse than war and pestilence.

The reprisals of the kind I have described were not completely ignored during the period of stagnation. Some writers, newspapers and public figures wrote about them, defending the entrepreneurs who acted with initiative. The names of Khudenko, Surgutskii, and many others come to mind. And some functionaries who had been responsible for the reprisals were punished, even removed from their jobs, their cases going to investigators and judges. However, nothing really changed or could have changed. Of course there were petty tyrants from the party or state apparatus who ordered well-meaning entrepreneurs to come to their senses. These orders began with edifying conversations in comfortable offices and ended with placing the recalcitrant ones on psychiatric hospitals or in prison.

But this doesn't have to do with Lenin, Stalin, the elders of the Brezhnev Politburo, new Presidents, or the machinations of the KGB. This has to do with the basic divergence of paths that regimes take: the democratic side and totalitarian. And when the second road is chosen, even a Party General Secretary with unlimited power can't turn it around. Mikhail Gorbachev expressed an erroneous conceit when he stated more than once that in 1985 he had received unlimited power. Had he so much as mentioned private property at that time he would have been removed from his post at the first meeting of the Plenum of the CPSU Central Committee.

3. The Case of Johannes Hint

Let us take one more look at the absurdities of the command-planning system. It features alluring slogans about real equality, mainly economic equality, and social justice. Under the slogans, however, the state is in charge, feeding, clothing, and entertaining the populace. Listen to what the creator of this kind of "welfare state," Leon Trotsky, had to say: "In a country where the sole employer is the state, the old saying 'he who doesn't work, neither shall he eat' is replaced by a new one: 'he who doesn't obey, neither shall he eat.'" And, as some shrewd observer added: "If the last resort in a competitive economy is the court, then in a planned economy it is the butcher." Is this too strong, too sharply put? Well, history shows that this is not far wrong. Here is the remarkable "Hint Case," with which I complete this chapter.

Johannes Hint would now be over 80 years old. He was a Ph.D. in technical sciences, winner of a Lenin prize, director of a special construction-technological bureau of the firm
"Disintegrator," a part of a large Estonian kolkhoz construction association. On December 19, 1983 he was sentenced by the Estonian Supreme Court to 15 years in prison, and his property was confiscated. He was convicted of theft, abuse of office, smuggling, and forgery of official documents. He was even charged with treason (official business dealings carried out through foreign trade organizations with an Austrian firm), although this charge was dropped during the investigation. On March 28, 1985 the USSR Supreme Court reduced the punishment, lowering the level of property confiscation assessed against Hint and his fellow-defendants, and finally eliminated it altogether. But it affirmed their criminal liability. Hint was left with a ten-year sentence which, as it turned out, was meaningless, since he died in prison the same year.

We come then to the "democratic" year of 1989, when the USSR Supreme Court reviewed the Hint case in plenary session. After an extremely persuasive report by Supreme Court member R. Ramazanov, as well as the statements of Hint's lawyer, a civil plaintiff, and a representative of the Procuracy -- after all of this -- the 38 judges unanimously ruled that Hint was guilty of nothing, not theft, not abuse of office, not smuggling, and not forgery.

The Supreme Court examined this one case for a whole day. Everything pointed to acquittal, and this was the final ruling. But even so, something about it bothered me. I had the impression all along that the acquittal was in some way devalued. Somehow, it seemed that the charges remained and this was a cosmetic alteration of the sentence. And in the course of my further examination this was persuasively demonstrated: Hint had not put a kopeck of either state or social organization money into his pocket; neither the state nor any of its entities nor, for that matter, any citizen had suffered a ruble of loss. To the contrary, millions of rubles in profit were made.

Why did I have this concern? Because in the court's report and in the statements of its members it was constantly emphasized that Hint's construction-technology bureau was a cooperative organization. Although it was created in 1981, i.e., long before the Law on Cooperatives (which was adopted in 1989), it had all of the characteristics found in the Law. Seven or eight organizations, including three kolkhozes, were shareholders, and for this reason the construction technology bureau operated not as a state enterprise but as a cooperative, which is the general concept on which a kolkhoz operates. All financial and economic questions were decided by the authorized representatives of the shareholder organizations, and all acts of the director were sanctioned by the administration of the cooperative.

But at this point this basis for a not guilty verdict, which had seemed so persuasive, now seemed unimportant. If Hint did not steal and brought no harm to anyone, then what is the need for calling the organization a cooperative? If Hint and his colleagues had done their acts in a state enterprise, then what was wrong with that? I raised this question with the Supreme Court...
Court member who made the report. "At that time they would . . . ." he paused somewhat, groping for words, "they would likely not have been acquitted." I want to emphasize that this conversation took place at the end of 1989. The case didn't begin during the time of Stalin. In every official report one heard ritual phrases concerning the inviolability of human rights and legality in the socialist state, about the initiative of leading workers and the road to innovation. But here we find that all of that was distorted by the instructions, the guiding explanations emerging from the court statements, even if they wanted to carry out their high mission honorably.

When the regular party-administrative measures didn't prove sufficient for restraining entrepreneurs who were doing business "on the left," the article in the Criminal Code on theft was interpreted in such a way that any entrepreneur would find himself at the prison's gates. The term "theft for the benefit of third persons" was interpreted broadly, as was often required by political considerations. A boss would sign a document giving a bonus to one of his units (the Zhandybaev case); or would overpay a hired team of temporary workers, as in the Khachmanukyan case; or . . . . the variations are almost limitless. These people stole nothing, but were accused of being thieves. The judges could not help but know the illegality and amorality of the sentences handed down, nor that they themselves had committed a crime against Justice. But the judges were part of the System. And the System spared no-one.

Criminals were not particularly feared by the party despotism. It struggled against them, of course, but this criminal element of society did not really threaten it. What was really feared was ideological heresy, which Hint represented, even though he never uttered a word against the communist ideology. But he did threaten it with his reasonable entrepreneurial acts, with real economic profit generated on the basis of common sense. This they could not forgive. A winner of the Lenin Prize, a Hero of Socialist Labor, an inventor, the holder of a doctorate in technical sciences, and finally a seventy-year-old man -- none of this made any difference to the judges. And this was in relatively European Estonia! The communist system could not do otherwise; it was defending itself, its existence.

Johannes Hint exercised his right of having the last word in court. I present here fragments from his speech. He spoke for several hours, as if not understanding that he was wasting his time. I also present here the decree of the Plenum of the USSR Supreme Court on the posthumous rehabilitation of Hint, which preceded the present reform period.
NOTES

1. Feofanov wrote about this case in the article "Delo." Izvestiia, September 26, 1987, p.3.


3. Feofanov wrote about this case, including the Supreme Court’s release of Zhandybaev, in "Poslednii list odnogo ugo1ovnogo dela." Izvestiia, December 5, 1987, p. 3.

4. Kunaev was one of the first important leaders to be removed during perestroika. Named First Secretary of the Kazakh Party organization in 1964, he became a full member of the Politburo in 1971. He lost the Kazakh Party leadership position in December, 1986 and was dropped from the Politburo in January, 1987.


6. Vitalii Surgutskii, director of a successful state farm near Moscow, ran afoul of the political authorities in the region for his outspokenness. In 1983 he was dismissed from his job and from the Communist Party and accused of a variety of crimes, including theft of state farm funds and bribery. He was held for twenty months in jail. In 1986 he was acquitted of all charges by the Moscow Oblast Court. A year later the same court awarded Surgutskii 22,359 rubles in damages for his wrongful arrest and detention. Izvestiia covered the Surgutskii case in a number of articles: June 25, 1987, p. 3; October 3, 1987, p. 2; January 7, 1988, p. 3; June 30, 1988, p. 3.

7. Feofanov analyzed this case in the article "Lezvie britvy," Izvestiia, June 29, 1989, p.3.
CHAPTER 5A: THE LAST WORD OF JOHANNES HINT

It is clear that I, an old and sick man, do not have many days to live. Therefore in recent years and also during these days in court I have thought not so much about myself as about my children, my grandsons, and their children.

I think about the fact that for decades and more to come they will be able, with others, to be gladdened by the fact that their grandfather and great-grandfather remained faithful to the truth in his court statements and was not afraid to expose the great injustices committed by criminal investigators against so many people and, in the process, against society. This is relevant both to the present situation and to the future development of our society and of humankind.

I have the obligation to speak as well for the sake of the memory of my late wife Helga, with whom I lived for 42 years. Because of the arrest order issued by investigator Villimyae, I could not visit during the 12 days before her death, to give her psychological support and possibly in this way substantially prolong her life.

On December 20, 1981 I listened from prison to a short radio address by L.I. Brezhnev, when he spoke at a reception on the occasion of his 75th birthday. He said that for the further development of our economy the most important thing was to provide stimulation to workers through material and other means in order to increase labor productivity.

This we did in line with decisions of meetings of authorized representatives of our shareholder-organizations and meetings of the administration of the construction-technology bureau "Dezintegrator." We achieved real and significant success. As a result we are now in jail and we stand before the court largely because of the bonuses we paid to workers.

I am accused because I provided stimuli to workers through bonuses, sold the instrument known as the AU-8 for a discount price while paying higher wages, and brought the construction-technical bureau enormous economic harm. This was designated as theft.

If we had done things differently, then it is possible that there would not have been the large economic effect that was achieved. Thus, instead of the 8.5 million ruble profit achieved in 1980 it might have been 3 or 4 million, or perhaps even nothing. Was this really theft?

According to the logic of the investigators, in all of the institutions where this took place, grave crimes were committed. The present charge amounts to nonsense from beginning to end. I constantly asked the higher organs of the Estonian SSR to discuss the work of "Dezintegrator." The Chairman of the USSR Gosplan said to me that he was personally
disappointed with the workers of the Communist Party Central Committee of Estonia. But none of this had any result.

It may be that only after 30 years the worth of our work will be recognized -- the achievement of technological revolution takes time. But this revolution will be achieved. The new technology that we set in place is so much more powerful, rational and economical than what is in use at present that in 30 years it will overcome any conservatism that exists, but by that time many of us, and I in particular, will not be among the living. It will be clear then that these innovations began with our work, on which the court is now completing its judgment. Perhaps then the majority of scientific-technological institutions of the USSR will work as cooperatives. Under this arrangement the enterprises for which these organizations work and where they introduce the results of their research will be shareholders. These enterprises will then also hold meetings of authorized representatives, which will operate as the directing bodies of the cooperatives.

In 1980 and 1981 alone (I was arrested on 13 November 1981) we formulated the following new terms and hypotheses: the theory of the essence of the fourth basic component of technology; the hypothesis concerning the formation and repairing of cells by means of "bio-blockbuilding" and the hypothesis concerning the essence of "bio-blockbuilding" itself; the hypothesis concerning the formation of anomalous cells based on the theory of error; the hypothesis regarding aging and the onset of death of the coded biological instruction of the organism, which is realized by means of changing the function of the digestive tract of certain biological organisms.

... My arrest and the present trial have undoubtedly received wide attention not only in Estonia but also beyond its borders. That is because the issue being decided is of great importance. The basic issue being examined, not taking into consideration the broad range of related problems, can cause serious difficulties to the interests of society. The nub of it is whether the way is open for developing something essentially new. Our cooperative scientific organization is the only one of its kind in the USSR. No legislation was adopted which might regulate its activity in a reasonable manner. So often we had to run things by intuition and act according to reason in the interests of the development of science and in the interests of society.

The essence of the case, procurator-investigators, is not that we learned to work in a new way and successfully, but that other institutions can work in the old mode and often poorly, and you are perfectly satisfied with their work. The truth is that it is necessary to pay for understanding. Only what one pays dearly for is really valued. Now there are many who are
fighting for a new way of thinking, but only those who have paid for it, at least once, will really value it.

... It would be stretching a point to say that in the 94 volumes of investigatory materials, in addition to official documents, there is 5% truth. This means that the truly objective content of the documents of interrogation of the accused and witnesses could have been contained in fewer than 5 volumes.

... I'm ashamed that I was so weak and out of sorts that I did not resist the pressure of the interrogators and declared myself guilty of performing socially-useful work in an original way, of creating a progressive scientific-cooperative organization of a new type and of working according to the by-laws of this organization; that is, declaring myself guilty of what, basically, I am being accused of. I am ashamed that I yielded to the influence of these people, the investigators, who designed the accusation; and that I believed them when they said that if I confessed fully they would release me from prison so that I could visit the grave of my wife; and that they would give me medical care. I think that the reasons for my weakness were the depth of the pain from the death of my wife and my own poor health at the time.

... Why keep people in prison for two years? In the course of this two years of incarceration I saw many people whose isolation from society caused them irreparable harm and hurt society as well. This has been true, no doubt, of homo sapiens since the beginning, whatever the social structure. But only in our system do people who do useful things for society end up in prison, unjustly suffering. On the surface this may be the result of a false complaint or of the intentional behavior of investigators, and the unwillingness of the court to put things right. But the deeper reasons for our sufferings and injustices -- these lie in the basic laws of the society which we have served with our knowledge and our labor...
CHAPTER 5B: SPECIAL RULING NO 340-89 OF THE PLENUM
OF THE USSR SUPREME COURT
OF 25 APRIL 1989

The Plenum of the USSR Supreme Court, chaired by Acting Chairman of the USSR Supreme Court, S.I. Gusev;
with the participation of Acting Procurator General of the USSR, O.V. Soroka;
in the presence of Acting Secretary of the Plenum, member of the USSR Supreme Court,
V.S. Vodovozov;

having reviewed the protest of the USSR Procurator General in the case of J.A. Hint and others:

determined:

That by a sentence of the Criminal Collegium of the Estonian Supreme Court of 19 December 1983 the leaders of the special construction-technological bureau (SKTB) "Dezintegrator," headed by its director, Doctor of Technical Sciences and Lenin Prize winner J.A. Hint, were sentenced to long terms in prison for large-scale theft of state and public property, abuse of official position, repeated bribery and attempted bribery, smuggling and other crimes.

By the ruling of the Plenum of the USSR Supreme Court of 25 April 1989 the sentences of J.A. Hint, Kh.Ya. Tyakhiste, Ya.A. Kydar, and I.P. Ploom are vacated and they are fully rehabilitated (Hint posthumously).

Innocent people have been brought to trial without legal basis and have been convicted, which is a gross violation of socialist legality. This was possible because the investigatory group headed by T.Kh. Gdylian, the investigator for especially important cases under the USSR Procurator General, ignored the legal status of SKTB "Dezintegrator." That institution, according to its By-Laws and Statute, is a cooperative organization which possesses wide economic independence and operates on the basis of full cost-accounting and self-financing. During the investigation, in spite of the demands of article 19 of the Criminal Procedural Code of the Estonian SSR concerning the comprehensive, full, and objective investigation of all aspects of a case that have relevance to either implicating or excusing the accused, submissions put forward by the accused were not considered. In addition, the investigators failed to consider the absence of personal gain or other personal interest in the acts of the leaders of SKTB, which were connected with the distribution of products and disposal of the monetary resources.
These actions were carried out in the interests of the cooperative and of the state, and do not comprise the elements of criminally-punishable acts.

From beginning to end the investigators conducted their inquiry into the case of Hint and others with an accusatory bias.

Evidence of the accusatory bias in the conduct of the investigation was evidenced by the numerous facts presented by Hint and the other accused during questioning and in their statements of innocence, which were not checked.

A point of particular importance in this case is the fact that the actual conditions of the institute's operation (the sale of biodispersers at reduced prices and providing them free of charge, in consideration of bonuses, in addition to other practices) did not require any special arrangements, since they were all provided for in relevant documents of SKTB. In their numerous interrogations (Hint was questioned 40 times) the investigators basically compelled the accused to confess that the factual circumstances were criminal (theft, smuggling, abuse of position, etc.).

In court all of the accused retracted the "confessions" made during the preliminary investigation, declaring themselves innocent.

In support of the charge against Hint and others of illegal calculation and payment of bonuses to the cooperative workers during 1979 and 1980, a Standard Statute on awarding bonuses to workers in the republican economic association "Estkolkhozstroi" was introduced. This had been adopted on 24 March 1973 and provided for the payment of bonuses up to the amount of a monthly salary. In spite of the fact that the Standard Statute contradicted other normative acts with regard to the size of bonuses, the investigative organs did not bring these contradictions to light and did not indicate that the Standard Statute had long since lost force.

An accusatory bias was particularly clearly manifested in the early stages of the investigation, when no reliable evidence for making the charge and arrest was assembled.

On 13 November 1981 at the Tapa [Estonia] railroad station, on his return from Moscow, Hint emerged from a train in his way to giving some medicine to his wife, who was suffering from cancer. He was arrested as a dangerous criminal. The need to choose this means of apprehending Hint, 67 years old and ill, who had at this point been accused of nothing, was that "being at large, he could hide himself from investigators and seriously complicate matters."

The artificiality of this motivation is obvious, since Hint was a famous scholar who permanently resided in Tallin with his gravely ill wife. The investigators offered no evidence to show that he might flee.

By the same far-fetched reasoning I.R. Ploom, Kh.Ya. Tyakhiste, A.A. Kydar and others were arrested.
Hint was held for over a year, without sufficient basis, until his case went to court. His frequent requests to be released on the basis of a signed promise not to flee were not granted.

Soon after Hint’s arrest his wife died. Showing a harsh, inhuman attitude toward the accused which is foreign to Soviet criminal procedural law, the investigators not only did not allow Hint to say his goodbyes to the deceased, they didn’t even inform him of her death.

Hint was deprived of his right to defense as guaranteed by article 158 of the USSR Constitution.

On the day of his arrest he was accused without sufficient evidence of large-scale theft and smuggling. After more than ten months, on 23 September 1982, he was again charged, in a 27-page accusation, with committing crimes covered in ten articles of the criminal codes of three union republics, including the theft of state and public property in the sum of 1,152,272 rubles, smuggling, numerous counts of bribery, forgery of official documents, and other crimes.

The investigators knew that the 67 year-old Hint had long suffered from heart problems, in connection with which he had been hospitalized before his arrest several times, including being placed in the hospital’s critical care unit. And during the investigation he had twice been committed to the prison hospital. In addition, his psychological condition had worsened.

In presenting the charge investigators got a statement from a physician that Hint’s health allowed him to participate in the investigation. They questioned Hint in the prison hospital while he was ill.

Basing his request on his advanced age and worsening health, Hint petitioned the USSR Procuracy on 27 July 1982, requesting that he be permitted to have a defense lawyer, since he couldn’t independently exercise his right to defense. However, the head of the investigatory section, G.P. Karakozov, improperly declined this request, stating only that there was no basis for granting it.

Hint, because of his physical condition could not fully exercise his right to defense, and for that reason, pursuant to part 2 of article 38 of the Criminal Procedural Code of the Estonian SSR the organs of preliminary investigation were required to provide him the opportunity to use the services of a defense lawyer from the moment of the presentation of the accusation. However, this was not done, which constituted a gross violation of the law entailing an unconditional quashing of the sentence on this basis alone.

The gross violations during the investigation and the review of the case by the Supreme Court of the Estonian SSR were made possible by the lack of proper procuratorial supervision over the investigation on the part of the leaders of the investigation section of the USSR Procuracy.
The Collegium for Criminal Cases of the Supreme Court of the Estonian SSR, in reviewing the case, did not become conversant with the essence of the problem, treated the materials of the preliminary investigation in an uncritical fashion, blindly followed the state's version, and handed down an unjust sentence. The errors committed by the court deserve an appropriate reaction.

The presiding judge in the case, Estonian Supreme Court member Kh. Tammistu was discharged from his duties in 1984 and retired. At the present time he is an invalid, and in this connection the question of his possible liability is not raised.

However, the Plenum determines that the material set forth above should be brought to the attention of the USSR Minister of Justice.

The Plenum of the USSR Supreme Court believes that the facts regarding the violation of socialist legality committed by investigators headed by T.Kh. Gdylian in investigating this case and the absence of appropriate procuratorial supervision over the investigation and court review deserve special significant response on the part of the Collegium of the USSR Procuracy. The elimination from investigatory practice of activities of this kind, and the discussion of the question of the further use of T.Kh. Gdylian in such important aspects of investigatory work as an investigator for particularly important cases in the office of the USSR Procurator General are also called for.

Governed by article 22 of the Law on the USSR Supreme Court, the Plenum of the USSR Supreme Court

DECREES:

That the attention of the USSR Procurator General be directed at facts of violation of socialist legality committed during the investigation and court review of the case of Hint and others, in order that appropriate steps be taken.

A copy of the present decree will be sent to the Minister of Justice of the USSR for the adoption of necessary measures to improve the training of judges in the principles of independence and subordination only to the law.

Acting Chairman, USSR Supreme Court, S.I. Gusev
Acting Secretary, Plenum of the USSR Supreme Court and Member of the USSR Supreme Court, V.S. Vodovozov

NOTES

1. The text of this special ruling, omitting only the names of the participating judges, was published in Izvestiia, May 7, 1989, p.4. The full text of the ruling was obtained by Feofanov.
CHAPTER SIX: THE TRANSITION YEAR OF YURI ANDROPOV
Yuri Feofanov

The death of General Secretary Leonid Brezhnev was not unexpected -- even on the television screens it was obvious that the party and state was being led by a person with one foot in the grave. And although the system as a whole seemed relatively strong, it was clear to all that a serious crisis was approaching: foodstuffs, even grain, was being purchased abroad, and this was not the fault of the harvest but of the system. The store shelves were full of cheap domestically-produced goods, but the people were willing to pay three times the price for American jeans. But, as the popular song of the time put it, "we make rockets, and in ballet too we lead the whole world."

Everyone felt the crisis. KGB Chairman Yuri Andropov, to whom information was available on the true state of affairs, knew that the great power was already suffering a coronary. And when he replaced Brezhnev he tried to revive the doomed organism. The method he used was a typical one, only he changed the subject of repression. He left in peace "those who thought differently" (the dissidents) and went after those who thought correctly but stole from the system. The appearance had to be given that the party and its leaders were going after the "boyars," those party functionaries and state bureaucrats who had compromised their positions. Naturally this was done selectively and carefully so as not to endanger the regime while at the same time covering over its problems and strengthening it in the eyes of the people. The "first citizens," even at the oblast and republican levels, naturally, were not made liable for theft and bribe-taking. And even the middle-level functionaries did not have to be particularly worried. Only a few individuals, whose crimes were particularly obvious, were seized.

I was present at several of these trials and want to tell something about them. Not everything started during the Andropov period, nor was everything completed then. But he gave the push. To save the sinking ship, he shot a gaping hole in it.

Catastrophe in the Bold Trumpets

The defendant, a driver by profession named Yevgenii Sukhov, gave the following testimony:

"Viktor Ivanovich invited me to his office and said: 'Sergei, it seems, has a problem. So listen: if they ask you about this, you need to answer in this way. And when the discussion is
about this. Then you say this. Both of you must stick to your stories for the rest of your lives. For me personally, as you can understand, there is no threat: it won’t get to my level.”

The former driver had long held a secure and well-paying job in Rostov-on-Don. Viktor Vishniakov, his former boss who had urgently summoned him to Moscow by telegram, now held the post of deputy minister at the all-union level. But his instructions as to how to avoid liability had done no good. The former driver, along with the occupant of the large ministerial office, had both been arrested. The latter’s arrest had caused a sensation, coming as it did after the long years of security for leaders, important and less important, of the Brezhnev stagnation. The nomenklatura had long since been secure from the fear of the Stalinist repressions and had forgotten the capriciousness of the Khrushchev period. The bureaucrat’s chair now provided not only material benefits but also personal inviolability. Any crime by an official from a certain rank up was beyond the reach of the legal system. In an extreme case an official might be pensioned off “for deserved rest,” but otherwise a functionary’s immunity was complete. And suddenly, everything collapsed with the departure of Leonid Brezhnev.

And Sukhov and his cousin, Sergei Slavin, wisely decided not to “stick with their stories for the rest of their lives.” When one was arrested and then the other, they immediately said to the investigator, “Yes, this happened, and this, and this . . .”

“But who got these thousands and thousands?” asked the investigator in seeking a precise answer.

“What do you mean who? Viktor Ivanovich, of course.”

“Are you sure about what you say? You passed on money to the secretary of the oblast committee of the party?”

“Of course, to him personally, from my hand to his.”

Viktor Vishniakov himself was pleased by the thought that his service had raised him above the level of other mortals. That at age 56 other suitable work awaited him after he left this office. Hadn’t he loyally served the party and Motherland his whole life?

Yes, Viktor Vishniakov had moved easily up the career ladder. But honestly, on the basis of service. He had made a good businesslike career.

Now I am looking at this man sitting on the defendant’s bench. He has an attractive appearance: a large bald spot with “noble grey” at the fringes which, it seems, just makes his face more attractive; well-spoken, with a haughty carriage that he had not yet lost from being constantly under guard.

“Do you think,” — the standard question of the prosecutor — “that when your driver passed on five thousand to you it was simply a gift of thanks?”

“Of course not. It was a bribe. How can it be justified now? Anyway, my life is ruined.”
Viktor Vishniakov's life was hard at the beginning. During the war, when the occupiers arrived in Taganrog, young Viktor, from a worker's family, was 13. He recorded and distributed communiques from the Soviet Information Bureau; he did assignments for his uncle, who was connected with the partisans, including crossing the front lines; he was even wounded. He was taken by the occupiers in a roundup at one point, but escaped. He bravely and even recklessly aided the partisans and the underground. After the liberation of the city he went to work in a factory as a rolling mill operator. He enrolled in a technical college, became a brigade leader in his plant, and finished a correspondence course at the Leningrad Industrial Institute. He was promoted to deputy shop foreman at the Taganrog Metallurgical Factory. He wrote and defended a dissertation on "Increasing the Stability of Metals . . ." for which he received the degree candidate of technical sciences. Honors, awards, and all for services performed.

This was an honest career. He was forced to give up a lot. He was ashamed when he was with women at the shabbiness of his clothes, and his life was somewhat monotonous. But Viktor stuck firmly to the path he had chosen. And in time he was noticed, and trusted, and put forward for promotion. And finally he was not just one of the others, and things were available to him that others were denied.

"Maybe," he stated in court, "it happened the first time I bought something in a special store, an "AKKA" tape recorder."

In Russian fairy tales the hero proceeds through three ordeals: fire, water, and brass trumpets, meaning through danger, the performance of a difficult task, and adulation. Viktor Vishniakov's ordeal with "brass trumpets" was beginning — with honor, applause, and a special job. He was applauded when he said high-sounding words from the podium of party forums. His orders were carried out in a flash, and he heard them speaking behind his back, in words deliberately meant for him to hear: "Oh, Viktor Vishniakov, now this is a firm leader, a man who can get things done." How comforting were these words of praise and applause, which accompanied his move up! And the feasts and saunas became ever more frequent, and now the flattering words were said not in a whisper, and the doors of the special storehouses with scarce goods were opened wider. And people began to turn to Vishniakov with personal requests, not in his office but in the environs of the sauna or the restaurant table.

"Could you help me, Viktor Ivanovich, in getting a car," his driver once said during a business trip, the driver now having become also a friend and a kind of valet. The chief promised that he would, and soon the uncle of his personal driver was able to buy a "Volga."

And on the next trip (the secretary of the party oblast committee always sat in the front seat alongside the driver) there was a package lying on the seat. "What is this?" said Viktor
Ivanovich with surprise. "This is for you for the "Volga," and for goodness sake don’t refuse it. It’s just to show my thanks," Vishniakov, according to what he said in court, blushed, thought for a while . . . and took the package. "In the end, it seemed to me that people can show their thanks. Zhenka, after all, was almost a relative."

In the package was 4 thousand rubles.

"Before this," said Vishniakov in court. "I never had broken the law. I didn’t even think that this was . . . wrong. Basically, I had a very vague idea about the criminal code, and it was only when I got here . . . ."

"But after that you discussed transactions in advance?" one of the people’s assessors asked. "You arranged for cars and apartments, and accepted payment for this?"

"That’s what happened. I took. You see, I became careless, with regard to the circle of people around me. The relatives of my driver were pure dealers — his wife traded in beer, his mother also; and Slavin was a crook. And from them I became acquainted with Batiuk. He came to a reception that I attended, and said that he would be happy to work in my employ, and then invited me to a restaurant. He made a very good impression. This circle of people drew me into illegal acts . . . ."

I have been to so many court cases of this kind, and they’re all the same: they drew me in and I, you see, was almost an innocent child. But it wasn’t that the group encircled him. He provided the circle with cars, apartments, and jobs. And they brought bribes to him — to hotels, the sauna, and his office. Both his first driver, Zhenya, and his second, Seryozha, brought him the bribe money. Sometimes he received a thousand rubles, sometimes five thousand, sometimes eight thousand. He set the price at thirty thousand for getting a criminal charge dismissed. Vishniakov led a surprising dual life. While holding a high position, he was in close relations with people whom he now describes in the most scathing terms. His swift moral decay proceeded apace with an equally swift movement up the career "production line."

What took place was a "fall to the top," as has been noted. The "brass trumpets" were already blaring loudly, drowning out the call of conscience and the dictates of honor. Vishniakov was invited to Moscow, to become deputy minister of agricultural machine construction. This loyal driver-valet Zhenya stayed in Rostov, and his place was taken by the faithful Seryozha — with the same dealing relatives that his cousin had. And so again Vishniakov arranged for apartments, cars, and jobs, but this time on a much larger scale.

In his work Vishniakov was as always energetic, resourceful, and hard-working. He visited worksites and resolved problems regarding reconstruction, social amenities, and scientific-technical progress. And while he was at it he might say something like, "by the way, you’re about to open a housing complex and we’re very much in need of a three-room
apartment for the ministry -- we need to encourage our best construction workers." "What you say will be done, Viktor Ivanovich."

It would be boring to review the dozens of instances of bribe-taking, forgery and speculation that constituted the charge against Vishniakov, for which he was convicted. But a few of them merit further attention because they indicate something about the man, and even more about the system that tempted and corrupted all who worked their way to its higher echelons and that protected them against punishment.

The envelopes with money for arranging cars and apartments were already discussed. In the beginning the requests came from Zhenya and Seryozha. But when there weren’t any more requests, Vishniakov made arrangements with the enterprises under his jurisdiction to set aside apartments and cars for leading production workers, and he gave orders to his subordinates: “find someone who wants a ‘Volga’ or a three-room apartment, but only someone who can pay . . .” And someone would be found. This became his personal system. Naturally, this tempted him to live high, particularly since it had been a long time since Viktor Ivanovich had been a model husband. When he moved to Moscow he very much wanted a particular girlfriend from Rostov, whom on the basis of her professional associations we will call the Actress, to come with him.

"Nothing will come of it," Seryozha said to his "boss," who was entrusted with arranging things for the Actress. "They’re really stingy with residence permits in the capital, even for the most needed specialists."

"But this is for me," said Vishniakov, who had long since concluded that with his position anything was possible. "Here’s what you do, Seryozha. Find me a young bachelor. I’ll get him an excellent job, give him an apartment, and he’ll even get a ‘Volga’ without having to wait in line. And we need just one thing from him: his willingness to enter into a fictitious marriage. . . ."

"That’s not too bad!" responded Seryozha. "But under those circumstances, Viktor Ivanovich, I could do it . . . I’m sorry I’m already married."

"Then get divorced."

And Sergei told the court how he pressured his wife, how she agreed to a divorce, how they divorced and he was given the job of head of the supply section and then a “Volga,” without waiting his turn; how he received a letter from the ministry to get an apartment without waiting, how he registered to marry a woman whom he met for the first time at the entrance to the marriage registration office. Slavin related all of this with a small smile, and he did not spare his former boss in the least.
"For me he was the ideal boss. I admired his simplicity and skill, and I never had a thought that Viktor Ivanovich was capable of doing anything bad."

But he did not shrink from saying what he no doubt always felt about Viktor Ivanovich, his neighbor on the defendant’s bench: "he was the same kind of swindler as we, his subordinates, were; in no way different. The talk was that he was a person who could ‘do anything’. And he did everything."

One of the people who testified in court was a woman whose father, a doctor, had been convicted of bribery. And through Seryozha this "suffering person" appealed to a high power in Moscow who could "do something." And he set out to get the briber out of the clutches of the law. He took an advance of 12 thousand rubles (in all he demanded 30 thousand when the case was in Rostov and 20 thousand more when the case went to the USSR Supreme Court). He called here and there and the case was dismissed. Soon he got a new advance to put in his safe -- 25 thousand rubles -- to get a case dismissed against businessmen who were planning to open an illegal business producing lemonade. The talk of the invincibility of Vishniakov continued apace. And then someone called Guram, a swindler with no particular occupation, who had, incidentally, been convicted and punished, but had not spent time in prison but had served in correctional construction gangs, was working in the personal office of Vishniakov. He asked for an exchange of apartments, one in Kuibyshev for one in Moscow. Fifteen thousand rubles was offered. Could it be done? "We’ll try."

When Viktor Vishniakov, deputy minister, was called in for questioning by the procurator, and they explained why, he became indignant. "I assert categorically that I have committed no crimes, that I have been slandered, and that you will answer for calling me in."

But in the following sessions he began to talk about his crimes, calling a spade a spade. A bribe was a bribe and not a gift, not a gesture of thanks and not an innocent souvenir, as such presents are often termed by the accused. But Viktor Ivanovich made no moral judgments about his acts. People, he said, seduced me, corrupted me, tempted me. Yes tempted. Directly by the crooks who surrounded him, and indirectly by the honor and position which, as he himself said, turned his head and gave him the feeling of immunity that goes along with a high post.

Vishniakov fell far. Much lower than the level indicated by the words "dangerous criminal." In this respect I was shocked by one criminal act which was insignificant in amount -- it “cost” only 500 rubles.

The sister of the wife of his closest subordinate, his former driver Zhenya, took sick (Zhenya, meanwhile, had become director of the store “Gifts of the Don.”) It was an extremely serious illness. They appealed to Viktor Ivanovich to get her into a hospital in Moscow. "I’ll try, but 500 rubles will be needed for the doctors," "Of course, whatever is necessary." It was
arranged. As he himself said in court, "the doctors didn’t get bribed." But nothing could be
done for the patient, and she died. Vishniakov kept the 500 rubles.

"You didn’t give the money back," the prosecutor observed in passing. The
unscrupulousness which in the end led to the defendant’s bench for Viktor Vishniakov and his
seven colleagues had become habitual, and in the end only one thing connected them -- their
criminal machinations.

The court examined the many criminal acts in careful detail. In his opening speech the
prosecutor made a legal assessment of the assembled evidence, talked of the absence of
financial controls that existed in a series of state institutions where Vishniakov had worked, and
which undoubtedly constituted one of the main reasons why the matter got to court. The
violation of elementary procedures, the irresponsible phone calls "from the party oblast
committee or the ministry," the total confusion among officials -- all of this created the
conditions in which the abuses could take place. The prosecutor did not and could not speak, in
these "Andropovist" times, about the basic nature of the system which, with a kind of fatal
inevitability, was ruining the country and corrupting its people.

Of course political assessments are not required of the prosecutor in a criminal trial. The
guilt of the defendants had been proved, and Viktor Vishniakov was sentenced to 15 years
deprivation of freedom.

The case of Viktor Vishniakov, party oblast committee secretary and deputy minister on
the USSR level, was just one of a number undertaken by Yuri Andropov when he took over
from his "complacent" predecessor. Vishniakov was not the highest ranking official from the
corrupted party hierarchy. However, this "middle party class" was the fulcrum of the system.
Andropov decided to offer some sacrificial lambs to the public in order to save the system and,
in the process, to undermine its rotten fulcrum.

One interesting detail. I covered the Vishniakov case for Izvestiia, reporting right from
the courtroom. The censor did not object to the fact that a deputy minister was convicted, but
mentioning the fact that the defendant had been a secretary of the oblast committee of the party
was not allowed.1 The party as an institution of power and authority was still beyond the law
and beyond criticism. During this transitions period between Stagnation and Perestroika there
was a whole series of cases against "untouchables." A real sensation was the trial of the duty
secretary of the late general secretary.

A Call From The Reception Room

The arrival of the commission from Moscow, from the People’s Control Committee, hit
like a clap of thunder in a clear sky. And at the very prestigious Store No. 1 for industrial
goods, in Rostov-on-Don, they found hidden in storerooms scarce goods worth 188,000 rubles. The director tried to explain in vain that these goods were not in any sense being kept for speculative purposes. The goods were set aside "to fill an order." For uniformed personnel, deputies, and other activists, including outstanding milkmaids and mechanics, builders and lathe-workers coming to rallies, congresses and conferences.

"I can't allow the aktiv to be poorly dressed in Moscow," the director told the commission.

The commission was silent. But the director, Larisa Belkina, did not get the feeling that she usually got from silence. Nothing can be done about it: Moscow doesn't believe in tears, but in orders... and it is Moscow that gives the orders.

The Commission left, and, in the words of Larisa, panic gripped the city. This was 1981, when a certain Budnitskii ran the trade system in the city of Rostov-on-Don. He reassured the director of Store No. 1:

"A way needs to be found, the boss said at that time," Larisa remembered, "and I began to look for one. But this person (she points toward the defendants' bench) I didn't know, had never seen, and had not even heard of. I wanted so much to keep my job that I was grasping for straws. I was told that 25 thousand rubles was needed, and that's what I gave."

"Who named this sum?"

"Next to my store is a sewing complex. The general director there was Gevorkyan. She said that she had a person in the ministry who had a person somewhere..."

Gevorkyan was summoned as a witness. She basically confirmed Belkina's story, saying that the money was given to "a person from the ministry," not directly, but through her deputy Pogodin. And he confirmed this statement, saying that he passed on the money to the deputy head of the ministry section, a man named Babaev. Babaev was one of the defendants, who said that he had received the money and had promised to "arrange a phone call."

And there had been a phone call, actually two. To the Rostov party oblast committee secretary. And later to the chairman of the People's Control Committee. The person who called was named Brovin, who was also now a defendant. He didn't ask for anything, and didn't give any orders. He just phoned and casually showed interest in the "Belkina matter." He showed interest in the sense of wishing the best for her. This was in 1981. The people and the circumstances changed. But on the day after the court heard the case, Belkina was still the director of Store No. 1 in Rostov-on-Don.

That phone call came from on high. Brovin was a secretary to Leonid Brezhnev. But now he, Brovin, was sitting, as court reporters love to say, on the hard bench. Gennadii Brovin, age
53. the father of two, member of the CPSU, was accused of accepting bribes. Beside him were his co-defendants.

The trial proceeded efficiently, without any particular surprises. Except that Babaev, who was already convicted in another case, and was now charged in this one, has confessed to what he had earlier denied, that he gave a 20 thousand ruble bribe.

Here I experienced some disappointment because I had expected sensational revelations regarding large sums of money, if not in the millions then at least shocking amounts, along with other compromising information. But there was nothing of the kind. When this hearing was finished, Brovin was taken to the Supreme Court, where a case of larger proportions concerning theft and bribery in the Ministry of Light Industry was heard. The charge against him was in three parts, amounting in all to receiving 19 thousand rubles and a sheepskin coat. He confessed to everything during the investigation, and stuck to his story in court. No ties to “higher-ups” were established, either during the investigation or in court. It appears that Brovin did not enter into any deals with the top-ranked leaders. He had a relatively modest position — one of three duty secretaries. His job was to report on the evening mail that had been received, to make phone calls that had been requested to an oblast or a republic and receive the requested information from there, and to handle the paperwork. These were his duties, which he learned to do through oral instruction. But as a shady character I once met said in discussing the government communications apparatus, “I’d love to do that kind of telephone work.”

Brovin used this telephone access in calling I. Bondarenko, the first secretary of the Rostov-on-Don oblast party committee. He called on business, to get information on the harvest, on plan fulfillment, on the needs of the oblast. In the course of these discussions of business he raised the Belkina matter: “no, I don’t know her personally, have never even seen her. She’s coming up to getting her pension, has just one year left, they say. No, it’s your case, decide it as you think necessary.” “We’ll see about Belkina” was the reply, and then the conversation returned to plans and harvests.

This is how Brovin explained the episode to the court. Former First Secretary Bondarenko, testifying as a witness, essentially confirmed everything: “I didn’t know Brovin personally. He called about Belkina. Then it was reported to me that the violations of trade practices were disguised as concern about providing goods for activist workers. In addition it was planned to present an award to Belkina. Yes, I remember calling the Chairman of the Committee of People’s Control to get him to send me the Belkina case. We always tried to review such cases ourselves. I forget now how the discussion turned out. She remained on her job.”
Bondarenko, of course, did not suspect that for his efforts on behalf of Belkina, Brovin received 6 thousand rubles (by the way, out of the 25 thousand that she paid, the rest "got lost" as it moved through the chain to Brovin). He did not tell the court how he interpreted Brovin's call, why he immediately called the People's Control Committee and why the decision to dismiss Belkina, which had already been properly made, was suddenly reversed and replaced only by a censure. Basically the court did not ask the witness to testify about any of this. But still let me be so bold as to ask why such a high functionary as the first secretary of the oblast committee forgot both the responsibilities of his high post and of the party's principles.

He clearly understood that there were not and could not be any "orders" regarding the store director. He knew that the request was absolutely non-obligatory. He was confident that if he did not act on the phone call, there would not and could not be any unpleasant consequences. But still he played the part of the team-member and said, in effect, "it will be taken care of." Stronger than the honor of the organization he headed and his own honor was the desire to please the powerful and those close to the powerful. He acknowledged, nor could he do otherwise, what he owed his high position to. But he keenly felt the "spirit of the times," the heavy atmosphere of toadying and leader-worship. No, in the case not of refusing to do something, but simply politely and silently ignoring the call, nothing would happen. But still, anything could happen. How would it be reported there? And no thought about what the law might provide ever visited anyone who was firmly tied to the principle of doing things "quietly."

The period of stagnation created not only the "shadow economy" but also the "shadow administration." I thought about its power and influence while listening to the testimony of one of its representatives. Anonymity, I would say, was its strength. It, the shadow administration, gave birth to the notorious phrase "an opinion exists" (est' mnenie). This expression rained down from the podium at sessions and conferences, was used at various meetings in resolving business and personnel matters; it was pronounced when innocent people were made to suffer, and when the guilty avoided punishment. "An opinion exists" cast a spell, concluded arguments, wiped out one's own opinions. Whose opinion? To ask this was strictly tabu. Just as in other cultures mentioning the name of the almighty is subject to the most grave punishment, so where the shadow administration operated, the question of who in particular, and why a given opinion was held, could not be asked. It simply "exists," and that determined everything.

This is what saved Larisa Belkina from dismissal. No one thought to seek the origin of the "opinion," much less to discuss it. It is unlikely that in Rostov they knew that Brovin called the then-chairman of the USSR People's Control Committee and in the course of the discussion
mentioned the "Belkina case." And also expressed interest in whether the matter could be handled locally, rather than discussing it in the Committee. And so everything proceeded in this manner.

It would be incorrect to judge too harshly those who knew about the call from above and did nothing. They felt no obligation to report it and therefore risked nothing by ignoring it. It would be easy for someone not involved to condemn such practice. But try to imagine yourself in the position of an honest and conscientious official receiving a semi-hint, semi-request, semi-order from above. Even if only from an aide's office. And then later one needs to reach the top leader himself, through the person who made the call. But even if that need doesn't arise, still there is some discomfort for not having paid attention and heeded the request.

Half of the responsibility, or even more, lies with the top leadership. No doubt in any state in the world the sphere of activity of aides, consultants, and secretaries to high officials is only vaguely understood. Who are they and what do they do? What powers do they exercise? At the trial, incidentally, lawyer L. Magid, in defending Brovin, raised the question as to whether her client was an official (dolzhnostnoe litso). The question is not an idle one. An illegal gift is a bribe under the law only if it was received by an official, that is, an employee charged with administrative-management functions. A fitter or a milkmaid may be given money illegally for services performed, but this will not constitute a bribe. What is the status of a secretary or aide to a high supervisor? They are not accorded any legal powers, yet they can do everything. This fact was fully confirmed by the defendant.

The court determined that Brovin was an official who had occupied a responsible position. But my concern was not so much with the legal side -- "has the right" -- as with the actual -- "can" -- the real status of the significant army of aides and secretaries to supervisors at the upper and local levels.

We won't discuss who these aides are and how they carry out their duties. They are described in various terms, sometimes not very flattering. They do an enormous amount of work, often involved in the routine of paperwork. They are not well-known, even those who do a good job. The newspaper articles or the conference reports that they write appear under the authorship of others.

But to be frank, in the eyes of those on the lower level of the apparatus, the figure of a secretary, aide or consultant merges with the figure of his boss. Although they have no legal authority, they have an extremely broad range of possible action, including abuse of their positions. Their acts must be controlled by their conscience. But as has been noted, the tarnishing of the conscience begins where the fear of punishment ends. No doubt this category of workers is recruited with particular care. With regard to Brovin's job, one must assume that
nothing was missed in terms of his application. But how does one elicit the moral qualities of a person? How can they be judged? Certainly not by the standard entry on the recommendation form for “morally stable.” I heard Brovin give a brief description of his biographical data. Everything was clean and unblemished. Is this what leads one astray -- the flawless application?

He held his position for 13 years. And he got it without any favoritism or pull. The son of peasants, he became a worker and then studied to become a lawyer. Efficient, intelligent, and with no black marks in his background. And without any kind of friends in high places or influential mentors. And then, as close as he was to real power, there began a process that once was called “degeneration.” For some reason this word carries negative connotations for me. Possibly this is because it was often used by Stalin in his many victories over so many opponents. But it fairly precisely describes the essence of what happened to this man.

Basically, the fall of Brovin began when he did a good deed. The cast of characters in this episode had gone to court. A woman from Vladivostok with a hopelessly ill child came to Moscow with her parents after her husband left her. All of her legal efforts to get a residence permit proved fruitless. And then she started trying to do it by other means. Through a series of contacts she found her way to Gennadii Brovin. One call from him and the matter was resolved. He didn’t ask for anything for this service, and expected nothing. But the “chain” that led to him had taken on a life of its own. The father of the woman who had sought his aid said, “payment needs to be made.” They were told that two sheepskin coats should be bought, which they did. One was given to Brovin.

“I never asked for anything, never set any conditions, and was surprised to discover a sheepskin coat in the package,” he said in court. And I believe him. But when he then asserted that he wanted to return it but never found the opportunity -- this is hard to believe. If you want to refuse something, you have to refuse flatly. “I wanted to return it but thought about it and kept it” would be just about right.

And next there was a request to help a graduate of a military college stay in Moscow for his service. Again the chain of contacts was complicated. “I phoned a general, not requesting anything, but simply asking if it was possible for him to stay in Moscow . . . and was surprised when a package came.”

“And what was in the package?”

“Three thousand rubles” (the parents had paid four thousand).

Only Brovin himself knows whether he expected anything for his services. The fact is that he took what was given. By stretching the point to an extreme, one could consider the sheepskin coat just a present for help to an unhappy woman (not in the legal sense, of course,
but on some "purely human" basis). But three thousand rubles, from the parents of an officer, acquired after rendering a service: could this be a token of gratitude? No, this was a bribe!

But still, how easy it was. A phone call and everything turns around; all of the rules are broken, and at the other end of the line they all immediately stand at attention. What laws can counter the acts of the shadow administration? "The word," handed down from on high, immediately becomes "the deed." Moreover, it engenders a kind of "snowball" effect of abuse, condoning violations of the law and their cover-up.

It is true that on one level holding out against evil is impossible. Degeneration, having gotten a start, corrupts from the bottom up. One of the witnesses in the Brovin case was also brought to court under guard -- a former deputy minister. Like Belkina, he abused his position and was threatened with dismissal. And again, by means of a complicated chain of contacts that went through one Petrosyan (who was also brought to court under escort), the former director of a prestigious restaurant in Sochi, it led to Brovin. This time he was promised right out that he could be saved from dismissal for ten thousand rubles.

A call was made to the appropriate place, and a mild hint was offered: "Does he have to be fired?" And Brovin got five thousand rubles. "I thought we talked about ten," he reminded the client. And immediately the other five came. And there would be more. For he was a person in the higher reaches of power.

The last episode in the charge against Brovin was the Belkina case.

"In all there were four episodes," said the prosecutor in his statement to the court. But behind these four was a picture of complete degradation. This was one of the cases that grew out of the period of stagnation. But the accused parties, first and foremost Brovin, had created an atmosphere of scorn for the law and morality. The lack of principles became the guiding principle of life.

Brovin received a sentence of 9 years deprivation of freedom with confiscation of property. Before the pronouncement of the sentence, he was given the chance to make a final statement, as is the common practice. During the whole trial I watched him, trying to understand something about his personality. He represented, after all, both the times and the "privileged class." As is clear, when making judgments one needs to allow for the circumstances a person finds himself in at the time. One could feel how he was overwhelmed by events, and he confirmed this in his final statement. He said that he had been given an extremely harsh sentence, that his shame was enormous, that he had relied on the humanism of our society and of Soviet courts, and the prosecutor had chosen excessively harsh words in his accusatory speech.
Against the background of so many crimes which have been the product of the period of glasnost, the four episodes involved in this case, and the 19 thousand rubles in bribe money may not seem very significant. But the heart of the case cannot be expressed in quantitative terms. Through this person a wave of fraud and corruption spread with a force directly proportional to the distance it reached. The stealers of public funds and the bribers found in those like Brovin a reliable protection against the force of the law and public outrage. I kept returning to the “chain of corruption” leading to Brovin intentionally. And to the fact that witnesses were brought in under escort. They were not convicted in this case, but in others. Confident of the protection of Brovin, they became criminals. Having been able to keep their positions, they damaged public faith in truth, justice, and legality.2

NOTES

2. On this case see Feofanov’s book O vlasti i prave (Moscow: Iuridicheskaia literatura, 1989), pp. 4-16.